

## ADDING A YOUNG DRIVER TO YOUR INSURANCE

By Michael J. Garris

All families with children face a dilemma once their child reaches the age where they are eligible to obtain a driver's license. The main questions people ask are: (1) Do I need to add my newly licensed child on my insurance policy? (2) If so, when do I need to add my child? and (3) What are the consequences if I do not add my child? Needless to say, these are not easy questions to answer.

Various insurance companies treat each of these issues very differently. When your child obtains their driver's permit, some insurance companies do not require the new driver to be added to the insurance policy, while others do. However, when your child obtains their driver's license, you are contractually obligated to notify your insurance company so that they may add your child as an additional insured. Some insurance companies want the child added immediately, while others want you to add the child within 30 days of obtaining their license. Obviously, this will increase your insurance premium significantly, since the young driver is a high risk, at least in the eyes of the insurance company.

A possible economical solution is that once you add your child to your insurance policy as an additional insured, you may want to purchase an older vehicle for their use, and obtain only liability and uninsured/underinsured coverage. This may help to reduce your premium. A major portion of the cost of your premium is for comprehensive and collision coverage. Thus, you may want to avoid adding these coverages to the older vehicle. When there are many young drivers in the household, sometimes it is best to add them on as an occasional driver.

### **Insurance Companies May Already Know Your Child Has a License**

It is important that you add your children with licenses to your policy because your insurance company may already know your child has one. Some insurance companies run what is called a C.L.U.E. Auto report. This report provides a seven year history of automobile insurance losses associated with an individual or for all claims made on any policies in the household. The following data will be identified for each loss: date of loss, type of loss, amount paid along with general information such as policy number, claim number and insurance company name. Some insurance companies will run this report when you are a new insured with their company, while some insurance companies will run this report once a year on renewal of your policy. Others may randomly run it whenever they choose.

Some insurance companies can run what they call an ADD report. The State of Michigan has a list of driver's licenses by the address on the license. The ADD report will then show all of the driver's licenses at the insured's address. The actual name of this report may vary by insurance company.

Other insurance companies will run the driver's license and/or Social Security numbers of the individuals in the household when taking a new application for insurance. The insurance companies will inquire as to identity of the individuals who are living in the household, their ages, who are the licensed drivers, and if there are any past claims and tickets of any potential drivers.

Insurance agents are also supposed to inquire of their insureds regarding all of the individuals that are driving and/or have driver's licenses in their household. As you will notice, an insurance company may learn of additional young people who should be added to the policy by many different means. Most, if not all, insurance policies have language that requires you to notify the insurance company when you add a new driver to the household. It is not an acceptable excuse under Michigan law to claim that you have not read the insurance policy or do not know the terms of the policy. The insurance companies in Michigan do not have a legal obligation to verify or ascertain the accuracy of the information regarding who the drivers are in the household. Therefore, the simple answer is, in the eyes of the insurance company, you are to timely report the new drivers in order for them to be listed in the policy. In turn, this is directly related to the calculation of the premium.

### **The Consequences of Not Adding a Child**

What if you do not timely report your additional young driver and they are involved in a motor vehicle crash as a driver? Again, the way this issue is handled by the different insurance companies varies greatly. The real danger is that the insurance company can deny the claim by asserting that there is no insurance coverage for the motor vehicle crash and/or the young driver. The insurance company may also argue that there was fraud and/or a material misrepresentation and attempt to void or rescind your policy. Even minor increases in the potential premium as a result of an undisclosed driver can form the basis for rescission of the policy based on a material misrepresentation. Obviously, this can have extremely serious ramifications.

If your child caused the crash and there is no coverage, the young driver and all owners/registrants of the vehicle can be sued by the injured party for all damages. This can include the physical injuries sustained by others, as well as damage to the other vehicle involved in the crash, without any threshold applying. MCL 500.3135. *Smith v Sutherland*, 93 Mich App 24 (1979).

The injured party's insurance company can also sue the young driver and the owners/registrants, for any No-Fault First Party benefits they paid to the injured party, plus the cost of handling the claim, costs and attorney fees. MCL 500.3177. This is true even if the other party was completely at fault for the crash. If you don't pay within 30 days of the insurance company obtainment of a judgment, the registration for the vehicle and driver's license can be suspended or revoked, MCL 500.3177(1). Additionally, the insurance company that pays any collision damages for the injured party's vehicle can sue your young driver. Also, if you are listed as an owner/registrant of the vehicle that your child was driving and it is uninsured, then the insurance company can sue you for these damages.

If your young driver is injured in the crash and there is no insurance coverage, they are ineligible to receive No-Fault First Party benefits per MCL 500.3113(b), which include medical bills, wage loss, replacement services, attendant care, and mileage. Your uninsured injured child driver is precluded from bringing a Third Party claim against another at-fault driver for any non-economic losses [MCL 500.3135(2)(c)]. There is an exception that allows an uninsured injured driver to sue for economic damages in excess of the No-Fault statutory maximums as listed in MCL 500.3135(3)(c). You can also be barred from making a claim against the other driver for uninsured property damage to your vehicle (also known as a mini-tort claim), even if the other driver is at fault for the crash [MCL 500.3135(4)(e)]. Therefore, the risk of not informing the insurance company of your new driver can be economically catastrophic to the family.

Some insurance companies may choose to pay the claim of the child who has not been listed as an additional driver and/or a named insured, but then may go back and recalculate the increase in the premium had they known about the new additional driver, and then collect the excess premium from you.

One other scenario needs to be discussed. If your child is 18 or older and not living at the home, and if you give them permission to borrow your car on a very sporadic basis, the insurance company may decide to provide coverage in case of a crash, as long as the young driver is not driving the vehicle on a regular basis. However, if the young driver is operating the vehicle on a regular basis with permission of the parents and is not living in the home, then there is a possibility that the insurance company will deny the claim. In this case the insurance company may make an argument that the car is constructively owned by the child.

### **Conclusion**

Needless to say, the potential consequences can be extremely catastrophic for those parents and young drivers that choose not to inform the insurance company on a timely basis of the newly licensed driver in their household. The family needs to ask themselves whether the potential savings on the premium is really worth the risk of the young driver being involved in a motor vehicle crash, the insurance company ultimately denying coverage, and the repercussions that may follow. It is this author's opinion that the potential for any savings on the premiums is not worth the risk of the young driver being involved in a motor vehicle crash and the insurance company ultimately denying coverage.

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