

INSURANCE FOR RESTAURANT DELIVERY DRIVERS DURING COVID-19

GUIDANCE FOR AGENTS



On March 23, 2020, the Office of the Commissioner of Insurance (OCI) issued a [Bulletin](#) directing the insurance industry to remove any insurance barriers that may prevent a restaurant from beginning delivery service with its employees.

MUST EMPLOYEES CONTACT THEIR PRIVATE AUTO CARRIER AND INFORM THEM THAT THEY ARE USING THEIR VEHICLE FOR DELIVERIES?

No, employees do not need to contact their carriers to inform them. For drivers using their personal auto policy, all terms and conditions effectively remain the same; however, the carriers are prohibited from utilizing an exclusion contained in the policy that excludes coverage if the insured/driver engages in commercial activity to deny a claim.

MUST EMPLOYERS STILL CONTACT THEIR INSURANCE CARRIER AND INFORM THEM THAT THEY WANT THIS COVERAGE?

For the hired and non-owned auto coverage, the employer/insured would need to contact their carrier to request this coverage. The coverage will be added at no charge to their current commercial liability policy, but a request for coverage must be made by the employer/insured.

CAN CARRIERS DENY THE COVERAGE IF THE DRIVER HAS A RECORD THAT DOESN'T NORMALLY QUALIFY, SUCH AS DUI, EXCESSIVE SPEEDING, PAST LICENSE REVOCATION?

No, a carrier cannot deny a claim for these factors. Generally, these factors would be considered during the underwriting process and would impact the pricing of the policy or whether a policy is issued. They should not have any effect regarding a claim on an in-force policy. Alternatively, if a delivery driver is currently seeking a new policy, the carrier would still have the right to deny to issue the policy; however, if the policy is issued, the carrier would have to provide coverage for commercial activities regardless of these factors under the order.

I'M CONFUSED ABOUT THE WORDING OF THE ORDER REGARDING THE COST OF BUSINESS LIABILITY COVERAGE. IS IT TRUE THAT THERE WOULD BE NO PREMIUM COST TO THE EMPLOYER FOR THAT COVERAGE?

That is correct. The business liability coverage is supposed to be covered at *no additional cost* by the carrier. It is not specifically referenced in that portion of the order, but that was OCI's intent and is our current position.

OUR GROUP PROVIDES UMBRELLA COVERAGE ON PERSONAL AUTO. IS THE UMBRELLA POLICY REQUIRED TO PROVIDE THE DELIVERY COVERAGE FOR DRIVERS OR CAN IT BE EXCLUDED ON THE UMBRELLA?

The Commissioner's March 23 Order applies to umbrella coverage on a personal automobile policy. While the umbrella policy provides excess coverage, the coverage directly applies to liability claims paid out on the personal automobile policy and is therefore subject to the order.

DOES THIS NEW ORDER APPLY TO SURPLUS LINES INSURERS OR ONLY ADMITTED INSURERS?

It applies to all insurers offering the types of insurance specified in the order, including surplus lines insurers. There is no distinction between the kind of insurer offering the coverage, rather if the coverage is being provided, the order applies.

