

A CONSUMER'S GUIDE TO AUTOMOBILE INSURANCE IN MARYLAND¹

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Introduction

We represent many clients who have been involved in car accidents, whether they are asserting claims for serious injuries or are being sued for causing injuries to others. Often, after hearing our assessment of their case, our clients remark, "But I have full coverage." They, like many others, mistakenly assume that having "full coverage" means that they are adequately insured. We have been involved in many cases where our clients' lives have been adversely affected because they lacked adequate insurance coverage, or because they were seriously injured by someone who had no insurance or not enough insurance. We have therefore prepared this guide to explain the many aspects of automobile insurance in our State, and to educate you about this often confusing issue so that you can protect yourself, your family, and your loved ones from the devastating physical and financial effects of a serious accident.

Serious Automobile Accidents - They Will Likely Happen To You or Someone You Love

Serious motor vehicle accidents happen every day in Maryland. The sheer number of serious accidents creates a significant possibility that sometime during your lifetime, you, a member of your family or someone you love will be affected by a serious accident. Such accidents are devastating to persons injured in the accident and their families, but they can also be financially devastating to persons who cause the accidents.

The following are examples from actual cases:

An elderly woman was driving her car and collided with a motorcyclist, requiring the motorcyclist's leg to be amputated. The motorcyclist, in turn, sued the elderly woman for his injuries and damages. The elderly woman, who had never married and who lived alone on a waterfront property, only had \$100,000 of automobile liability insurance. In other words, the most money that her insurance company was obligated to pay on her behalf was \$100,000, regardless of the amount of the claim made against her. Eventually, she settled the motorcyclist's claim for almost \$1,000,000. As part of the settlement, the elderly woman lost her home, which at the time was valued at \$650,000, and also paid the motorcyclist \$210,000 in cash, which would have brought her financial security for the rest of her life. The insurance company paid its \$100,000 policy.

The elderly woman then sued her insurance agent, claiming that the agent should have advised her to buy more insurance. In that case, the elderly woman testified that, although she knew her insurance policy was for only \$100,000, no one had explained to her that she would be liable for

¹ This guide is for informational purposes only and should not be construed as legal advice. In order to determine what coverage is appropriate for you, please discuss your concerns with a licensed and qualified insurance professional.

more than the amount of the policy. When asked who she thought would pay any claim over \$100,000, the elderly woman replied: "I never thought about it because I never dreamed that I would be in an accident like that." Tragically, she was wrong. It is equally tragic that the elderly woman could have obtained \$1,000,000 of coverage for an additional annual premium payment of approximately \$200, thereby saving her money and her home. The elderly woman lost her claim against the agent.

In another accident, a driver struck a woman in her thirties at a high rate of speed. She developed neck pain and numbness in her arms. She was diagnosed with a severely herniated disc in her neck and was required to undergo surgery. As a result of the accident, she incurred substantial medical expenses, lost time from work, and has a permanent injury to her spine. Unfortunately, the other driver only had \$50,000 of insurance coverage. He was a young man who, unlike the elderly woman in the first example, had no assets, and had little apparent capacity to earn substantial income in the future. The cost of suing him to obtain a judgment was considered to be too high given his lack of assets, and, therefore, the claim against him was essentially and practically limited to the amount of his insurance.

Before the accident, the woman had an opportunity to protect herself against injuries caused by drivers with little or no insurance by purchasing what is called uninsured or underinsured motorist coverage, which would pay for her own injuries if she was hit by a driver who did not have insurance or did not have enough insurance, as was the case here. Unfortunately, she did not have uninsured motorist coverage, and, therefore, her only recourse was against the other driver's insurance policy. Her case was worth a substantial amount of money, but she only recovered \$50,000.

Having enough insurance coverage can make a significant difference. For example, a drunk driver struck a teenager as she was crossing an intersection in a crosswalk. She suffered head injuries. The drunk driver only had \$20,000 of liability coverage. The young woman's parents had the foresight to obtain uninsured/underinsured motorist coverage for their family, and the young woman was able to recover \$250,000 from her own insurance company to compensate her for medical bills and injuries. If her parents had not paid a small premium for additional coverage, her recovery would likely have been limited to \$20,000, the limits of the drunk driver's insurance policy, which would have covered only a small portion of her medical expenses.

At Ferguson, Schetelich & Ballew, we have handled hundreds of cases where insurance has been inadequate to cover our clients' damages, or, conversely, where our clients' insurance was insufficient to guarantee that their assets would be protected after they caused an accident. Unfortunately, Maryland law does not require insurance companies or the Motor Vehicle Administration to ensure that drivers understand insurance coverage before they register their vehicle or obtain a driver's license. As a result, many people with good jobs and assets drive every day thinking that they have "full coverage", when in fact their futures and their families' financial security are substantially at risk.

What Can You Lose If You Don't Have Enough Insurance?

In a nutshell: everything!

If you are injured in a car accident, you can suffer permanent injuries. These injuries can be physical, mental, or both. You can incur hundreds of thousands of dollars in medical bills that may not be covered fully by insurance. Your ability to earn an income can be severely impaired. Serious injuries have also fractured families by placing substantial financial stresses on marriages and other relationships.

If you cause a car accident, you can be sued. If the claim against you succeeds, you can be required to pay for the injured person's medical expenses, future medical expenses, lost wages, future lost wages, and pain and suffering. If you kill someone in a car accident, you can be responsible for medical expenses, lost wages, funeral bills, as well as damages claimed by the deceased's kin. These damages can be in the millions of dollars. Like the elderly woman in the example above, you can lose your home and your savings. You can also be forced to pay up to 25% of your wages or salaries to the injured person until the claim is paid off. The injured person's lawyers can also freeze your bank accounts and ask that the money be transferred to the injured person. You may choose to file bankruptcy to protect yourself, but recent changes in bankruptcy laws make discharging these types of debts more difficult. Even if your debt is discharged, your credit rating would likely suffer.

What Are The Different Types of Automobile Insurance Coverages?

This article generally addresses the types of available automobile insurance coverage under Maryland law. This is not intended as a comprehensive review. Furthermore, some insurance policies differ in the types and terms of coverage they offer. You should therefore talk to your insurance company, your lawyer, or a qualified insurance representative about available coverages and what they mean. The following should provide a general explanation of the protection that various insurance coverages can provide to you.

1. Bodily Injury Liability Coverage

Bodily Injury Liability Coverage provides you with insurance coverage if you are legally responsible for causing bodily injury damages to others. In other words, your insurance company will provide you with a lawyer if you are sued and will pay any damages, up to the amount of the limits of the insurance policy, that you are legally obligated to pay another for bodily injury damages such as medical expenses, lost wages, and pain and suffering. Of course, as with any insurance coverage, the most that the insurance company is required to pay is the amount of coverage that you buy and you must timely report any accidents or claims to your insurance company and cooperate with the insurance company in the handling of the claim. Under Maryland law, every registered motor vehicle must carry at least \$30,000 of bodily injury coverage. A substantial number of people carry only \$30,000 of coverage. Some, in violation of Maryland law, have no insurance coverage whatsoever and drive uninsured cars.

2. Property Damage Liability Coverage

Property Damage Liability Coverage provides you with coverage if you are legally responsible for causing damage to property of others, such as damage to other automobiles, personal property of others, guardrails, mailboxes, homes, or anything else that you damage with your car. In other words, your insurance company will provide you with a lawyer if you are sued and will pay any damages, up to the amount of the limits of the policy, that you are legally obligated to pay another for property damages. Under Maryland law, every registered vehicle must carry at least \$15,000 of property damage liability coverage. If you carry only \$15,000 in property damage liability coverage and you cause an accident that damages another driver's car, you will be personally responsible for the difference between the cost of replacing or repairing the other car and the amount of your insurance. For example, if you cause the total loss of an \$80,000 Mercedes, your insurer would be responsible for paying \$15,000 and you would be personally responsible for paying the \$65,000 balance.

3. Uninsured/Underinsured Motorist Bodily Injury Coverage

Uninsured/Underinsured Motorist (UM/UIM) Bodily Injury Coverage protects you, including your family and occupants of your vehicle, in the event you are injured as a result of an accident for which the driver of another vehicle is liable, so long as the other driver is uninsured or has insufficient bodily injury liability insurance to cover your damages. In other words, the coverage is considered to be "uninsured" motorist coverage if the other driver has no insurance at all, and it is considered "underinsured" motorist coverage if the other driver has liability insurance, but the amount of his coverage is less than the amount of coverage you have obtained for UM/UIM.

For example, let's assume you are involved in an accident with another driver. You are injured, and your case has a value of \$70,000. The other driver has \$30,000 of bodily injury liability coverage, and you have \$100,000 of UM/UIM bodily injury coverage. The other driver's insurance company would pay \$30,000, which is the full amount of his insurance coverage, and your insurance company would pay \$40,000, which is the difference between the \$70,000 value of your case and the \$30,000 that the other driver's insurance company has paid. Of course, your insurance company will have the right to sue the other driver to recover - from his personal assets such as his home, his paycheck, etc. - the \$40,000 that it paid to you. Therefore, the other driver cannot hide behind the fact that he carried only the minimum insurance.

Maryland law requires insurance companies to offer you UM/UIM bodily injury coverage in the same amount as your bodily injury liability coverage. You can choose to take less, but that is at your peril. Insurance companies will not allow you to carry UM/UIM bodily injury coverage in an amount greater than your bodily injury liability coverage.

4. Uninsured/Underinsured Motorist Property Damage Coverage

Uninsured/Underinsured Motorist (UM/UIM) Property Damage Coverage provides protection to you for damage to your property caused as a result of the negligence of another driver. This coverage works in the same manner as UM/UIM Bodily Injury Coverage, but covers damage to your property instead of damage to your person.

5. Personal Injury Protection Coverage

Personal Injury Protection, more commonly known as PIP coverage, is no-fault insurance that covers you, your family, the occupants of your vehicle, and any pedestrians or bicyclists that you hit regardless of fault. PIP does not cover or provide benefits to the driver or occupants of any other motor vehicle. Fault is not assessed in determining whether PIP coverage applies. The coverage is strictly for medical expenses and lost wages up to the amount of the coverage. Lost wages claims are paid at 85% of your wage or salary. Under Maryland law, your insurance company must offer you at least \$2,500 of PIP coverage. If you are involved in an accident, you can make a claim for PIP benefits whether or not it is your fault. There are substantial advantages to PIP benefits, among them: (a) you need not establish fault; (b) the benefits are usually paid very quickly; (c) you receive lost wage benefits even if your employer pays you sick leave; (d) you can use the PIP benefits to pay your medical bills directly; and (e) if you make a claim against the other driver, you can still claim against the other driver all the medical bills and lost wages that were already paid through PIP. Most insurance companies will offer PIP coverage up to \$10,000. Although insurance companies are required to offer PIP, you are not required to carry it. However, before you waive your right to PIP coverage, you should know that PIP premiums are ordinarily inexpensive and can provide you with substantial benefits if you are involved in an accident.

6. MedPay Coverage

MedPay coverage is similar to PIP, but is limited to medical payments. Lost wages are not covered by MedPay. Many insurance companies in Maryland do not offer MedPay coverage. A person may carry both PIP and MedPay, using the MedPay as supplemental medical coverage after all the PIP benefits are paid. As with PIP, fault is not a prerequisite. The advantages that apply to PIP, as listed in paragraph 5 above, apply to MedPay, except for lost wages.

7. Collision Coverage

Collision coverage is optional and covers damage to your car in the event of an accident with another vehicle. Typically, if the accident is your fault, or fault cannot be readily determined, your insurance company will pay for damage to, or loss of, your vehicle. You are responsible for the deductible amount, which is the amount of your loss for which the insurance company is not responsible. The higher your deductible is, the lower your premium will be because you are bearing a higher amount of the risk. If another person negligently damages your vehicle, the other person's insurance policy will cover your damages. You will not be required to pay a deductible in that situation. Sometimes, your insurance company will pay the damages to your vehicle and will require you to pay the deductible while the insurance companies work to determine fault. If the other driver is determined to be at fault, his insurance company will pay for the damages, and your deductible will be reimbursed on a pro rata basis.

8. Comprehensive Coverage

Comprehensive coverage is optional and covers theft and damage to your vehicle caused by certain events other than an automobile accident, such as vandalism, flood, fire, or hitting a deer. A deductible will apply, and the amount of your deductible will greatly influence the premium you are required to pay.

9. Umbrella Coverage

Umbrella coverage is inexpensive insurance obtained through a separate insurance policy to provide you with extra coverage for liability claims made against you. The insurance company will likely require you to carry a primary automobile liability policy with high limits of coverage, usually \$250,000 or more, before you can buy umbrella coverage. The coverage is inexpensive because the insurance company is ordinarily not required to pay any money until the primary or underlying coverage is paid. Umbrella coverage of an additional \$1,000,000 over your primary coverage can sometimes be purchased for a relatively small sum, usually a few hundred dollars. Umbrella coverage can often also be structured to provide additional coverage for claims made under a homeowner's insurance policy.

10. Other Optional Coverage

Many insurance companies offer additional coverage types that you can purchase for an added premium, such as rental reimbursement and roadside assistance. Rental reimbursement is commonly added and provides you with coverage for a rental car while your vehicle is being repaired or replaced after an accident. The length of time is limited, as is the amount the insurance company will pay per day. Most insurance companies work with specific rental car companies in an effort to reduce their cost and to expedite the rental process. We will not address other optional coverages in this article. However, when you are purchasing insurance, you should look at all available coverages and make a decision whether they meet your needs.

How Do You Determine What Type and How Much Coverage to Get?

The two primary issues to consider are: (1) how much coverage do I need to protect against claims made against me and members of my family; and (2) how much coverage will my family and I need to compensate us if we suffer damages as a result of the fault of others? If you choose to talk to a qualified insurance representative about these and other questions, be sure to ask him or her to give you advice about the amount of coverage you should get given your financial status, including the assets and income that you are trying to protect. You should always make an assessment of your assets, income, and willingness to risk your assets before purchasing insurance. Cost will also be an issue, so be sure to request quotes for high coverage amounts and compare them to your current level of coverage. You will likely find that the cost of additional coverage is less than what you expect. Of course, premiums depend on many factors, including location, age, sex, and accident history. Exercise great care when choosing the type and amount of coverage; you may regret putting yourself or your family at risk for the sake of saving a few dollars in premium payments.