

FAQs Regarding West Virginia PIP and UM/UIM Coverage

FRANKLIN & PROKOPIK
A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW

West Virginia PIP:

Question:

Does West Virginia require Personal Injury Protection (“PIP”)?

Answer:

No. Personal Injury Protection (“PIP”) is not available in West Virginia.

West Virginia Med Pay:

Question:

Does West Virginia require Medical Payments Coverage (“Med Pay”)?

Answer:

(“Med Pay”) is available in West Virginia; however, there are no statutory requirements that govern Med Pay coverage. Thus, the language of each individual policy will determine what coverage is available, as long as the same is plain and unambiguous on its face. If said policy is ambiguous, it will be construed by the applicable rules of construction. The West Virginia Supreme Court of Appeals has held that Med Pay stacking may be precluded by the applicable policy; that Med Pay may be subrogated; and that Med Pay can be excluded by the work exclusion. (See Generally, *Hamric v. John Doe, et al.*, 499 S.E.2d 619, 201 W. Va. 619).

West Virginia UM/UIM Coverage

Question:

Does West Virginia require mandatory Uninsured Motorist (“UM”) Coverage?

Answer:

Yes. By default, UM coverage is the same as the mandatory minimum limits of coverage in West Virginia (25/50/25). Optional coverage must be offered to the Insured, and the Insurer has the burden of proof of an offer and a knowing informed rejection. (West Virginia Code §§ 17D-4-2 and 33-6-31 b).

Question:

Are you allowed to “stack” UM coverage from separate policies?

Answer:

“Stacking” of UM coverage policies may be precluded by the applicable policy. (West Virginia Code § 33-6-31)

Question:

Are there any exceptions to the UM coverage requirements?

Answer:

Yes. The UM policy of insurance shall not apply to the extent that it covers the liability of an employer to his or her employees under any workers' compensation law. (West Virginia Code § 33-6-31 h).

Question:

Can a company waive UM coverage?

Answer:

No. West Virginia requires mandatory minimum UM coverage. (25/50/25). A company can waive optional coverage, which must be afforded, and any waiver must be in writing on a form required by statute.

Question:

Are you allowed to have UM limits that are greater than limits of liability coverage?

Answer:

No, UM limits must be equal to or less than your liability coverage.

Question:

Can UM claims be subrogated?

Answer:

Yes. UM coverage allows for subrogation up to the amount paid under the UM endorsement. (West Virginia Code § 33-6-31 f).