

Underinsured Motorists

Underinsured motorist insurance is insurance that will pay you for damages that you are legally entitled to recover from an at-fault driver in an accident who does not have an adequate amount of liability insurance.

If you are in an accident and injured and the at-fault driver does not have adequate insurance coverage to pay your damages, underinsured motorist coverage will pay for some or all of the damages you are entitled to recover from the other driver above the driver's insurance limit. Damages that injured persons are entitled to recover in accidents from at-fault drivers include past and future medical bills, loss of income, loss of earning capacity, and pain and suffering.

In Arkansas, underinsured motorist insurance coverage is different than uninsured motorist insurance coverage. Uninsured motorist coverage applies if the at-fault driver does not have liability insurance required by state law. If the at-fault driver has no insurance, then underinsured motorist insurance coverage does not provide any benefit.

Last year, Bob Johnson came to see us after being seriously injured in an accident that was another driver's fault. The at-fault driver had minimum insurance limits (\$25,000 per person) that were too low to pay for all of Bob's damages. Bob had purchased uninsured motorist insurance coverage that would pay up to \$100,000 in damages if the other driver did not have insurance. Unfortunately, Bob had waived underinsured motorist insurance coverage.

Oddly, if the other driver would not have had any insurance coverage, then Bob would have recovered \$100,000 under his uninsured motorist insurance coverage. However,



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because the other driver did have minimum insurance limits (\$25,000 per person), Bob recovered only \$25,000, which wasn't even enough to pay his medical bills. This is because the at-fault driver was not uninsured, but underinsured.

In Oklahoma, uninsured motorist insurance coverage generally includes underinsured motorist insurance coverage. If Bob Johnson had purchased his policy in Oklahoma, then he would have been entitled to recover under his own uninsured motorist insurance coverage. Again, Oklahoma is different from Arkansas on this issue.

Your agent should explain underinsured motorist insurance coverage to you. However, many people tell us that they don't understand the explanation provided by their agent. While you might think that you have "full coverage," we often find that people who believe they have full coverage have little more than liability insurance that covers them if they injure someone else in an accident through their own fault.

To find out if you have underinsured motorist insurance coverage, you should review the Declarations Page of your insurance policy, which will typically be the first page of your insurance policy. Look at the Declarations Page to see if you have underinsured motorist coverage or if such coverage is either shown as being waived or rejected or that it does not appear at all on your Declarations Page. Unless the Declarations Page says that you have underinsured motorist insurance coverage, then you do not generally have such coverage available to you in the event of an accident.

The cost of underinsured motorist insurance is typically only a small percentage of the total cost of your insurance premium. The cost of underinsured motorist insurance coverage is a good investment for any driver.

Arkansas law requires that you must reject underinsured motorist coverage in writing if you don't want the coverage. If you have an accident and haven't signed a written



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rejection, then you may be covered by underinsured motorist insurance.

It's also important that the limits of liability of your underinsured motorist insurance be adequate to cover your damages. The limit of liability is the maximum amount that your insurance company will be required to pay to you if you are damaged by an underinsured motorist.

Arkansas and Oklahoma law requires that coverage of at least \$25,000 per person injured in an accident, with a maximum of \$50,000 per accident, be offered to you. However, in many instances, this amount is not adequate. Increasing the limits of your underinsured motorist insurance coverage is generally a small cost for major increases in coverage that will benefit you if you are damaged by an underinsured motorist.

To find out more about underinsured motorist coverage, talk to your insurance agent. Tell your agent that you want to have an adequate amount of underinsured motorist coverage to pay your medical bills and lost income if you are seriously injured by someone who has only minimum limits of liability insurance (\$25,000 per person but not to exceed \$50,000 per accident).

If you don't get answers from your agent or if you need additional information, call us at McCutchen Sexton Strunks. We'll be glad to look at your insurance declarations page to see whether you have underinsured motorist insurance coverage.

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