

Kids, Cars, and Insurance

Turning age 16 is, for most kids anyway, a banner day --- the moment in time when they are eligible to obtain a driver's license and gain the ability to venture out from mom and dad with newfound freedom. For mom and dad it's usually a day of mixed emotions. On one hand it is perceived as good that the child can now transport himself around town giving mom and dad a break from the taxi service, and on the other hand it's a day filled with fear and apprehension. Enter the insurance agent who is the one to give everyone the bad news: "Get a big box of money and come to see me!"

Often the parents will purchase a car for the child, an act that is often preceded by a call to the trusty insurance agent asking the question, "Should I title this car in my name or the name of my kid?" (Answering that question may at times seem more difficult than, "Please explain the meaning of life?") The parent is usually asking an economic question, with a true question of "What's the cheapest way to get by?" So, from an insurance standpoint, how is the best way to survive the teen driving years?

Recommendation

It's unusual to see a recommendation somewhere other than at the conclusion of an article. Out with tradition --- the answer to the question is, "Title the car to mom and dad and insure it on their policy." It's not a "cheap" solution, but then again with a teenager and a car in the equation, there is no cheap answer. This recommendation will result in the best coverage for all family members, no coverage gaps, and in most cases will be the least expensive way to provide coverage. However, what if the parents insist on not following this advice and instead title the car in the name of the child, and purchase the child his own policy? Further, what if the policy covering the child is (as is all too often the case) for lower limits of liability than the parents carry? The end result of such alternative could easily be "A giant sucking sound" of cash leaving the parent's bank account to pay a claim not covered by their auto policy.

What the Statutes Say

Before any insurance decision is made it's important that the parent, child, and insurance agent understand that Florida statute 322.09 addresses financial obligations of the parent when a child obtains a driver's license. The statute states in part:

FS 322.09

(1)(a) The application of any person under the age of 18 years for a driver's license must be signed and verified before a person authorized to administer oaths by the father, mother, or guardian, or, if there is no parent or guardian, by another responsible adult who is willing to assume the obligation imposed under this chapter upon a person signing the application of a minor. This section does not apply to a person under the age of 18 years who is emancipated by marriage.

(2) Any negligence or willful misconduct of a minor under the age of 18 years when driving a motor vehicle upon a highway shall be imputed to the person who has signed the application of such minor for a permit or license, which person shall be jointly and severally liable with such minor for any damages caused by such negligence or willful misconduct.

To put this in plain English, when mom or dad signs for the child to get his license the person who signed the application will be responsible for paying for any injury or damage caused by the child while the child is driving any motor vehicle. If the child's car is in the name of mom or dad then mom and dad pay when the child is negligent. If the car is in the name of the child, mom and dad pay. If the child is driving a borrowed auto and is negligent, mom and dad pay. The bottom line is, no matter how the car is titled mom and/or dad are on the hook for payment when the child is driving. So, suppose that after all this is explained to mom and dad they still decide to title

the car to the child and write a "minimum limits" policy. With mom and dad at 100/300/100 limits of coverage and the child at 10/20/10 where are the problems?

Problems and Gaps With Separate Policies

LIABILITY

The liability coverage gaps are the biggest problem with a child having a car in his own name.

Both their own policy and the child's policy cover mom and dad when they drive the child's car. The coverage on the child's car is primary.

When the child is driving mom and dad's car both policies respond, with mom and dad's being primary.

Now for the problems. When the child is driving his own auto only his own policy will respond to protect him, mom, and dad. The parent's policy will not respond. The same is true if a sibling is driving the child's car and mom or dad get sued --- no coverage under the parent's policy. For example, Bob and Karen have two cars insured with 100/300/100 limits of liability. Junior has his own car insured at 10/20/10 limits. He is out one night and negligently hits a pedestrian who is awarded \$250,000. Recall FS 322.09 requires mom and/or dad to pay when the child is negligent. The child's policy will respond on behalf of the child as well as for mom and dad since they are legally responsible for his actions. Once the \$10,000 limits under the child's policy are exhausted it's logical to assume the parents will look to their own policy for coverage, only to find none. They wind up with a hefty judgement not paid by their auto policy.

If we were to replace Junior driving his car with his sister, Sissy, the result is the same. Junior's policy responds for him, Sissy, mom, and dad. The 100/300/100 policy written for mom and dad does not enter the picture.

As illustrated, the unfortunate news is mom and dad's policy will not respond for liability coverage when Junior or Sissy is driving Junior's car. This is due to an exclusion in mom and dad's policy stating there is no coverage while a family member is driving an auto owned by that family member. By exception to the exclusion though, mom and dad are covered by their policy when they drive Junior's car. Complicated? You bet it is. (For you PAP readers out there, look on page 3 of the policy, exclusion B.3. to see this language.)

What endorsements are available to remedy this situation? One word: none!

One slight advantage to separate policies is that all household members would be protected by both policies while driving a non-owned auto. The policies would be excess to coverage provided by the auto being driven. This slight advantage is more than offset by the gaps outlined above though.

PERSONAL INJURY PROTECTION

(PIP) is probably the coverage with the least problems.

When the child owns and insures an auto he gets his own PIP no matter what vehicle he is occupying. This is true even if the child is in mom and dad's car.

Mom and dad would get their own PIP in the child's car.

Even though there are two auto policies in the household the benefits can't be "stacked" and only the \$10,000 limit per person is payable.

The only "problem" (and it's really not much of one) would be for a sibling. Suppose Sissy from above is in Junior's car and injured, she would get Junior's PIP. With Sissy in mom and dad's auto she would get their PIP. With Sissy in a friend's auto inside Florida there is a good argument to be made that her PIP benefits are split 50/50 by Junior's policy and mom & dad's policy since she is a "family member" under both policies.

In any event, there are no exclusions unique to the "kid's car" situation and each family member would benefit only to \$10,000 in total for PIP benefits.

MEDICAL PAYMENTS

Medical payments coverage gaps are similar to the liability gaps.

Mom and dad can get medical payments from both policies while in Junior's car, with Junior's being primary.

Junior can get both medical payments coverages while in mom and dad's car.

Junior and Sissy can't collect medical payments coverage under the parent's policy while occupying Junior's car.

As in liability coverage, all family members benefit from medical payments under both policies while occupying a non-owned auto.

UNINSURED MOTORIST

UM can be summed up with two words: write stacked!

If both policies are written on a stacked basis then all family members can get all the UM in the household while occupying any auto. For example, mom and dad have 100/300 stacked UM on two cars and Junior has 10/20 stacked UM on his auto. Mom, dad, Junior, and Sissy all can collect up to \$210,000 per person and \$620,000 per accident while occupying any auto, owned or not. (\$200,000 from mom and dad's policy and \$10,000 from Junior's policy.)

If the UM is non-stacked on both policies all family members get the UM limits applying to the auto they are occupying whether the auto is owned by mom, dad, or Junior. For example, mom, dad, and Junior are all in Junior's car and are injured by a hit and run driver. Only Junior's 10/20 UM limits apply – the 100/300 UM on mom and dad's policy will not apply.

If any family member is occupying an auto not owned by someone in the household then the injured person can select the one highest limit of UM applying to any policy where that person is "an insured." For example, Junior is in a friend's car, injured by a hit and run driver. Junior can collect \$100,000 of UM since that is the highest limit under any one policy where he is an insured. Keep in mind too that if one of our family members is in a non-owned auto they can collect the UM applying to that vehicle, plus the UM of their own PAP --- whether their own UM is stacked or non-stacked. Confused? We hope so! Remember our two words: write stacked!

PHYSICAL DAMAGE

Physical damage coverage also contains exclusions pertinent to the kid's car situation. Simply stated, physical damage coverage of mom and dad's PAP won't respond for damage to the kid's auto, and vice-versa. This is easily remedied by purchasing physical damage coverage on all cars, should that intent be desired.

If the child does not elect to purchase collision coverage (in a cost saving move perhaps) mom and dad's policy will not respond for damage to the child's auto, no matter who is driving.

If both policies provide physical damage coverage then both policies would respond for damage to a non-owned auto while being driven by any member of the household. Again, this slight "benefit" of duplicate coverage is far outweighed by the numerous gaps in coverage resulting from two policies in the household and with different limits of coverage.

What About When Junior Turns 18 Years of Age?

When the child turns 18 years old, are mom and dad off the hook? Unfortunately not.

Recall that F.S. 322.09 imposed parental liability when the child was under age 18, but even after the age of 18 mom and dad can still be "on the hook" so to speak. Suppose that Junior turns 18 (or 28, or 38, or 48) and still lived at home. One Saturday dad asks Junior to run a few errands and gives Junior a list of things to accomplish. They include using Junior's car and picking up the mail from the post office, stopping by Home Depot, making a grocery stop at Albertsons, and returning the yard tiller that was rented from the Rent-All Shop. On the way from Home Depot to Albertsons Junior runs a light and injures someone. It's possible (and likely) that mom and dad would be sued since Junior is "on a mission" for them. (The auto policy refers to this as "anyone legally responsible for the conduct of an insured.") The principle here is the same as a situation where an employee uses his auto for business purposes to benefit the employer, such as a real estate agent transporting potential buyers. Just like the real estate agent is "on a mission" for the real estate agency, so too is Junior "on a mission" for mom and dad. The good news is that in such a situation Junior's PAP does defend mom and dad as "a insured." The bad news (a double whammy) is Junior has low liability limits, and mom and dad's PAP will not defend them.

The bottom line is, as long as Junior can be tied to mom and dad they can be sued and the only defense is Junior's PAP. So as long as Junior is in the house mom and dad should have concerns about being sued and should insist that Junior carry liability coverage adequate to protect them should they get sued.

What if the Parents Persist?

If, after your best to convince the parents to put the car on their policy, they still want separate policies the advice has to be (don't laugh) to have the child's limits of coverage exactly match the limits on the parent's policy. Good luck getting a parent to agree to limits of 100/300/00 on a 16-year-old child! (Of course, document all conversations with the parents, and if they refuse to title the car in their name or if they refuse to carry high limits on the child's policy a signed waiver will come in handy in the deposition!)

Title the Car in Both Names?

Perhaps due to a loan being cosigned by the parent, (or perhaps to some other reason) the car is titled in both the name of mom/dad and the child. This is probably the worst way to approach the issue and should never be suggested by the agency. With mom or dad on the title to the car, they (in addition to the child) will be the ones to get sued when the car is driven by anyone and an injury is caused.

If the car is written under a separate policy in the name of mom/dad and Junior then all the same exclusions and gaps referenced above apply. If the company would permit such, it would be possible to add that car to mom and dad's policy, but make certain to change the named insured to include the child too. If this approach is used there would be no gaps in coverage.

The real problem with this "dual title" arrangement may be after the child leaves home and takes the car. In this situation the title to the car would still be with mom or dad, while Junior may be a city or state away. Again, who gets sued when Junior (maybe 3000 miles away) has an at fault accident? The vehicle owner --- Junior and mom/dad.

Remember, the person(s) on the title get sued, no matter the age of the driver!

Confused Yet?

At this point if you're saying, "How can anyone keep all this straight?" then you know what to do. Follow our recommendation and put the kid's car on mom and dad's policy, titled to mom and/or dad. Even in the event that we've made this complicated issue easy to understand for an insurance professional, just try and imagine what your client will be thinking!

The gaps in coverage are monumental when separate policies are written with different limits. If asked by the parent, "What are the odds of our getting sued because of our child" we'd suggest you reply, "I'm an insurance agent, not an odds-maker."

Recommendation, Again

Title the car to mom and/or dad and insure it on their policy. Following this recommendation will result in the best coverage for all family members, no coverage gaps, and in most cases will be the least expensive way to provide coverage.

(Editor's note: The references to the Florida Statute, and the discussion of uninsured motorist coverage and personal injury protection are unique to Florida. Other states may differ in imposing parental liability for the use of an auto by a child.)