



OFFICE OF COUNTY COUNSEL

PUBLIC SERVICES BUILDING
2051 KAEN ROAD | OREGON CITY, OR 97045

May 14, 2015

Stephen L. Madkour
County Counsel

Board of County Commissioner
Clackamas County

Kimberley Ybarra
Kathleen Rastetter
Chris Storey
Scott C. Ciecko
Alexander Gordon
Amanda Keller
Nathan K. Boderman
Christina Thacker
Assistants

Members of the Board:

Adoption of a Board Order in the Matter of Electing Lower Limits for
Uninsured/Underinsured Motorist Coverage

| | |
|--|---|
| Purpose/Outcomes | To adopt lower uninsured/underinsured motorist coverage as permitted by Oregon statute. |
| Dollar Amount and Fiscal Impact | If not adopted the County could face liability limits for uninsured/underinsured motor vehicle benefits up to \$667,700 (the general bodily injury limits), depending on damages awarded in the case. If adopted the County will limit its exposure to \$25,000 per person/\$50,000 per accident, a savings of \$641,700 to the County. |
| Funding Source | No new funding |
| Safety Impact | N/A |
| Duration | Effective upon passage. |
| Previous Board Action | N/A |
| Contact Person | Kathleen Rastetter, Sr. Legal Counsel and Dwayne Kroening, Risk Manager |

BACKGROUND: The County is self-insured for general liability insurance coverage, including automobile coverage. Oregon law permits an insured to elect limits of uninsured/underinsured (UM/UIM) motor vehicle coverage lower than bodily injury liability limits. In 1998 the Board of County Commissioners delegated authority in insurance matters to the manager of the newly-created Risk and Benefits Division. Pursuant to that authority the risk manager elected lower limits for the County's UM/UIM motor vehicle coverage.

In 2010 an employee was injured in an automobile accident while driving a County car. He sued the county and argued that the county's election of the lower UM/UIM limits was not effective because it did not contain all of the elements required by Oregon statute, some of which do not apply in a self-insured context. The county successfully defended against this argument in the trial court, but the employee appealed the decision. The appellate court reversed and held that the County must make an election of lower limits which contains all of the statutory elements. This board order is necessary to comply with the elements of Oregon law for electing lower UM/UIM motor vehicle coverage

RECOMMENDATION:

Staff recommends the Board of County Commissioners adopt the attached Board Order.

Respectfully submitted,



Kathleen Rastetter
Sr. Legal Counsel

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF CLACKAMAS COUNTY, STATE OF OREGON**

**In the Matter of Electing Lower Limits
for Uninsured/Underinsured Motorist
Coverage**



Order No. _____
Page 1 of 2

WHEREAS, this matter has come before the Board of County Commissioners at its regularly scheduled business meetings, and the Board is fully apprised; and

WHEREAS, Clackamas County is the named insured on a motor vehicle liability insurance policy issued by Clackamas County (the self-insurer); and

WHEREAS, Oregon insurance law requires that all motor vehicle liability policies provide Uninsured/underinsured Motorists Bodily Injury coverage with limits equal to the Bodily Injury Liability limits unless the insured selects Uninsured/underinsured limits that are lower than the bodily injury limits, but not lower than \$25,000 each person / \$50,000 each accident split limits or \$50,000 single limit; and

WHEREAS, Clackamas County elects to have its motor vehicle liability insurance policy contain lower limits for uninsured/underinsured motorist coverage than for bodily injury liability coverage. The lower limits selected are \$25,000 per person, \$50,000 per accident. Clackamas County, as the insured, acknowledges that it was offered uninsured/underinsured motorist coverage with the limits equal to those for bodily injury liability coverage, but Clackamas County elects the lower limits; and

WHEREAS, the comparison of prices for coverage is as follows:

\$0 is the price per insured vehicle for uninsured/underinsured motorist coverage with limits equal to the named insured's bodily injury liability limits under the insured's self-insurance.

\$0 is the price per insured vehicle for coverage with the lower limits for uninsured/underinsured motorist coverage, which we, the named insured has requested.

NOW, THEREFORE IT IS HEREBY ORDERED that based on the above, the Board finds that it is in the best interest of the County to elect limits on uninsured/underinsured motorist coverage in the lower limits elected amount of \$25,000 per person, \$50,000 per accident.

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF CLACKAMAS COUNTY, STATE OF OREGON**

**In the Matter of Electing Lower Limits
for Uninsured/Underinsured Motorist
Coverage**



Order No. _____
Page 2 of 2

In signing and dating this Order, on behalf of Clackamas County, the County acknowledges that it has been offered uninsured/underinsured motorist bodily injury coverage limits equal to the bodily injury limits of the policy and that the Board of County Commissioners has made a deliberate decision to select the limits shown above.

Clackamas County does not provide Personal Injury Protection benefit coverage for any County-owned vehicles.

DATED this ____ day of May, 2015.

CLACKAMAS COUNTY BOARD OF COMMISSIONERS

Chair

Recording Secretary

Summary of coverages:

Uninsured motorist coverage insures you the insured, and others covered under the uninsured motorist coverage, for all amounts that you are legally entitled to recover as damages for bodily injury or death caused by accident and arising out of the ownership, maintenance or use of an uninsured motor vehicle, subject to the terms of the policy.

Underinsured motorist coverage insures you the insured, and others covered under the underinsured motorist coverage, for your damages to the extent that your uninsured motorist coverage benefits are greater than the amount recovered from other motor vehicle liability insurance policies.