Category: No-Fault Policies and Clauses

Protect Your Family: Beware the "Step-Down" Insurance Clause

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Before you turn the page, stop. This is not another article that matters only to injury lawyers. If you want to protect your family from a possible insurance nightmare, please read on.

While we frequently find ourselves on different sides of legal issues, we all agree that we want nothing but the best for our families. Part of taking care of our families means obtaining adequate amounts of insurance to protect them in the event of a disaster. We likely also all agree that there is perhaps no greater disaster than one of us doing something that hurts one of our loved ones. But what if you learned that you may have auto insurance that effectively eliminates coverage for your loved ones if they are hurt by you or another family member?

Behold what injury lawyers call the family "step-down" provision. These provisions apply when one family member pursues a claim against another. The purpose is to reduce liability coverage to the state-mandated minimum of $20,000, regardless of how severe the injury, the degree of negligence, or the amount of insurance purchased in the first place.

Take, for example, the case of *Ruzak v. USAA Ins. Agency*, unpublished opinion *per curiam* of the Court of Appeals, issued June 24, 2008 (Docket No. 274993). In *Ruzak*, the plaintiff-passenger was seriously injured when her husband-driver lost control of his vehicle and collided with a tree. The wife made a liability claim under her husband's USAA policy that provided $300,000 in liability coverage. USAA then denied nearly all of the wife's claim, citing an exclusion in the policy that allowed for no more than $20,000 in coverage for claims by "family residing in the covered person's household."

The trial court refused to uphold USAA's step-down provision, calling it "repugnant, reprehensible, and unconscionable." The Michigan Court of Appeals, however disagreed, noting that the policy still provided $20,000 in coverage and that the husband and wife could have bought insurance from a different carrier.

This author submits that the trial court in *Ruzak* was right. Family step-down provisions are repugnant and reprehensible. Why should a child who is catastrophically injured by a parent's negligence be treated differently than a child who is injured by a stranger's negligence?

Unfortunately, many insurers have no problem hiding step-down provisions in their policies. This author has seen these provisions recently in “standard” policies issued by Progressive and Farm Bureau, just to name a few. Sadly, families do not learn about what step-downs mean until it’s too late.

Relief from this problem will not come from the courts. The Michigan Supreme Court has said that it will not apply principles of equity to undo the harm caused by Draconian insurance clauses. *See,* e.g., *DeFrain v. State Farm Mut. Auto. Ins. Co.,* 491 Mich. 359 (2012). So we’re own our own. Thus, as lawyers, we should reach out to our friends and family members. Tell them about step-downs provisions, and ask them if that’s a risk they are willing to take.