

LESSON 4.3 UMBRELLA POLICY STRUCTURE

In this lesson, the Personal Umbrella Policy, not Excess or Hybrid Policies, will be our focus as we discuss its structure. We will concentrate on the Personal Umbrella Policy structure because, as we learned previously, the Excess Liability policy, or follow form, reflects the structure of underlying policies exactly. On the other hand, Hybrid policies are not so predictable and have too many differences for a meaningful discussion. An agent must review structural details for each carrier-provided hybrid product to ensure proper advice is given to clients regarding the differences in these forms.

Recall that the Personal Umbrella Policy is the policy which offers broad additional coverage above what the underlying primary policies cover. Please pause to consider this and name some of the primary, or underlying coverages added to by the Personal Umbrella Policy.

The Insuring Agreement in the Personal Umbrella Policy makes the promise that it will pay in addition to any “underlying insurance” or applicable Self-Insured Retention for “bodily injury” and “property damage” losses for which an “insured” is legally liable. Some of the underlying coverages we have looked at that the Personal Umbrella Policy adds coverage to are the Homeowners Policy, the Personal Auto Policy, the Watercraft Policy, and the Recreational Vehicles Policy.

As with the Personal Auto and the Homeowners Policies, the Personal Umbrella Policy starts with the Declarations. While the Declarations Page is usually a company-specific form, most contain essential policy information listed in a schedule or “quick-view” format. The Declarations Page lists the Policy Period, the Named Insured, Policy Limits, and Self-Insured Retention (if a claim is not required to be covered on the underlying coverage), and Underlying Requirements, including Limits of Liability.

The policy period is the time period in which a policy is in effect. If a Personal Umbrella Policy has a policy period that is different from the policy period on the underlying coverage, there are two potential problems.

First, the Personal Umbrella Policy requires underlying coverage, always responding as though the required “underlying insurance” is in place, so a lapse in coverage on an underlying policy potentially causes a gap in coverage for which the “insured” is personally responsible.

Second, some coverage in an underlying policy may have an aggregate limit. An aggregate limit is the maximum amount an insurer will pay for covered losses during a policy period. For example, ISO now offers a personal injury endorsement for the Homeowners Policy that has an aggregate limit. Keeping track of different policy periods and limits is challenging. If there are multiple claims, the policyholder may not meet the personal injury underlying limit

requirement (if there is one).

The Personal Umbrella Policy and the underlying policies should name the same “insureds.” There is a reason why this makes sense. If someone isn’t listed as a named insured on the underlying policy, then that person cannot be named on the Personal Umbrella Policy.

It is possible, however, for someone to be a named insured on an underlying policy, but not be named on the Personal Umbrella Policy.

All Umbrella Policies have a per occurrence limit shown on the Declarations, although some may have an aggregate limit. The per occurrence limit is the most a Personal Umbrella Policy will pay for all claims regardless of the number of people involved. Repeated exposure to the same general conditions will be classified as one “occurrence.” For example, say an individual causes a major wreck that involves ten individuals. Each person makes a claim. Although there are multiple claims, this is still considered one “occurrence.”

As mentioned, some excess or Umbrella policies may have an aggregate limit. If an aggregate limit is shown in the Declarations, the aggregate limit is the most the policy will pay over the policy period regardless of the number of occurrences. It is also possible for the aggregate limit to only apply to a specific coverage, such as personal injury.

When we discussed additional coverage policies, we mentioned that most Personal Umbrella Policies do not provide first-dollar claim coverage. That first-dollar amount comes from the underlying coverage. In cases where a Personal Umbrella Policy provides broader coverage than the underlying policy, the insured must retain or be personally responsible for a portion of the loss. This amount is called the Self-Insured Retention. It works like a deductible and is a set amount. Some insurers call this amount the Retained Limit while others may simply call it the deductible.

The Personal Umbrella Policy has a Definitions section, just like in the Homeowners Policy and other underlying policies. Many of the definitions found in an ISO Personal Umbrella Policy are the same or similar to those found in the Personal Auto or Homeowners Policies. However, because a Personal Umbrella Policy is not always written by the same company as the company that writes the underlying coverage, it’s necessary to compare the definitions among policies.

Here are some of the key definitions in the ISO Personal Umbrella Policy. Find the Definitions section in the copy of the Personal Umbrella Policy in your Student Learning Guide.

“You” and “your” refer to the insured person or persons shown in the Declarations and a resident spouse. Note that the Personal Umbrella Policy does not give “you” or “insured” status to a spouse who has recently moved out, whereas the Personal Auto Policy gives up to 90 days of “insured” status.

The definitions for “Aircraft Liability,” “Hovercraft Liability,” “Recreational Motor Vehicle Liability,” and “Watercraft Liability” INCLUDE liability arising from the ownership by an “insured,” maintenance, occupancy, operation, use, loading, and unloading by any person, entrustment, that is trusting supervision to another, and negligent supervision by an “insured,” of these craft, and vicarious liability for the actions of a child involving these craft.

While many umbrella policies do not define the term “Auto,” the ISO Personal Umbrella Policy broadly defines an “Auto” as:

- A private passenger motor vehicle, motorcycle, moped or motor home;
- A vehicle designed to be pulled by a private passenger motor vehicle or motor home;
or
- A farm wagon or farm implement while towed by a private passenger motor vehicle or motor home.

Did you notice differences between this definition and what you may recall about the Personal Auto Policy Definition? The umbrella policy adds a motorcycle or a moped to the definition while the Personal Auto Policy does not. A motorcycle or a moped should be covered on a motorcycle insurance policy because underlying coverage needs to be present for the Personal Umbrella Policy to respond. This is one of the reasons why it’s necessary for insurance professionals to understand the differences in definitions. Their knowledge offers clients appropriate protection.

Other definitions like those of “bodily injury,” “business,” and “family member” are the same across the Umbrella and other personal policies. Again, it is important for insurance professionals to know similarities, as well as differences, and understand specific definitions. Coverage from one insurance company may not be available with another company simply due to the differences in definitions or because coverage may be removed by exclusions that incorporate the defined terms.

A good example of a definition difference is coverage for “personal injury.” “Personal injury” is a welcome addition to coverage but is only covered on an underlying Homeowners Policy WITH the Personal Injury Endorsement. However, it IS covered, without endorsement, on a Personal Umbrella Policy and IS a specifically defined term. It is also one definition that may vary from company to company. “Personal injury” as defined in the ISO Personal Umbrella Policy, includes:

- False arrest, detention or imprisonment;
- Malicious prosecution;
- Wrongful eviction; Wrongful entry; Invasion of private occupancy of a room;
- Slander and Libel;
- And an oral or written statement that violates a person’s rights.

However, another carrier may define “Personal Injury” as including all these ISO terms but may add:

- An oral or written statement that violates a person’s right of privacy.

An agent, particularly if using an umbrella policy with a less comprehensive definition, should go over this personal injury definition with a client, especially when the client feels they may have an exposure to this liability.

Here’s another example of a difference in definitions that is important to note. A definition of “Retained limit” is not found in underlying policies, but it does appear in the Personal Umbrella Policy. It is the TOTAL LIMIT of any underlying coverage that is available or should be available except in cases when the insurer is insolvent or bankrupt. If the loss is covered by the Umbrella Policy, but not the underlying coverage, the “retained limit” is the Self-Insured Retention or deductible amount as stated in the Declarations of the Personal Umbrella Policy.

It is possible that differences in definitions result in some things being covered on the Personal Umbrella Policy that are not covered on the underlying policy. If this occurs, one of two things can happen. If there is a requirement for underlying coverage, the client is responsible for paying the claim if coverage is not in place or is less than the amount stipulated by the umbrella policy. If there is NOT a requirement for underlying coverage, a smaller amount for which the client is responsible, the Self-Insured Retention deductible, comes into play. Either way, clients need to be aware of how different claim scenarios might work.

The ISO Personal Umbrella Policy coverages set forth provisions just as in other insurance policy formats. For instance, Prejudgment interest is covered on the Personal Umbrella Policy. A judgment is a legal ruling that assigns an amount of payment for damages to a third party. This means that if a judge says an insured must pay interest on the amount owed, based on the time that passed before judgment was made, the prejudgment interest is covered by the insurance.

As touched on in the Definitions we looked at, the Personal Umbrella Policy also pays for damages from “personal injury” if an “insured” is legally liable.

Defense coverage is provided if a claim or suit is brought against an insured that is covered by the Personal Umbrella Policy. However, If the claim is covered by underlying insurance, the insurance company is not obligated to provide a defense. Also, the insurance company is not obligated to provide a defense if the underlying insurance is not in force, and the damages are less than the Deductible, or Self-Insured Retention amount. The ISO Personal Umbrella Policy pays defense costs IN ADDITION to the Limit of Liability. This means cost of defense will not impact and is not limited to the Limit of Liability. This is a good thing. Other Personal Umbrella/Excess Policies may cover defense INSIDE the Limit of Liability. For proper understanding, be sure to determine whether defense costs are available inside or outside of

the Limit of Liability.

The ISO Personal Umbrella Policy offers additional coverages like:

- defense expenses covered by the insurance company,
- premiums on bonds required in a lawsuit that the insurance company defends,
- reasonable expenses incurred by an “insured” at the company’s request, and
- interest on the company’s share of the judgment between the time judgment is awarded and the time the company pays out (as long as the awarded judgment does not exceed the limit of liability). Remember, a judgment is a legal ruling that assigns an amount of payment for damages to a third party.

Under the ISO Personal Umbrella Policy, these coverages are in addition to the limit of liability; other Personal Umbrella/Excess Policies may provide coverage for these additional items inside the limit of liability.

Finally, the insurance company has the right to investigate and settle claims as it sees fit. An insurance company’s Duty-to-Defend ends when the Limit of Liability has been exhausted, either by judgment or settlement.

As you can see, the Personal Umbrella Policy is structured in a similar way to other types of policies. It has the main policy parts you have become familiar with, the Declarations, the Agreement, Definitions, and Additional Coverages. Next, we will look at the Exclusions found in the ISO Personal Umbrella Policy.

Please complete the assigned activities that go with this lesson on Personal Umbrella Policy structure.