Manager/Supervisor Risk Management
#9– 12/1/2011

TOPIC: AUTO PHYSICAL DAMAGE

Up until now we have been talking about auto liability -- claims by third parties for injuries and damages caused by our employee drivers. Auto physical damage is damage to our entity's own vehicles; it is the equivalent of the collision and comprehensive coverage that you have in your own private auto policy. YCPARMIA's property program includes a vehicle physical damage element. Subject to a $10,000 deductible per accident, our members list the vehicles that they want covered under the program. We do not pool any of the risk for physical damage; our excess pool drops down to the $10,000, and pays all losses above that amount. There is no insurance!

<u>It is important for supervisors to recognize that their entity retains a significant exposure for vehicle damage; the first $10,000 of any loss comes directly from the entity as it retains the risk for all damage to their vehicles below the deductible.</u>

But what happens when an employee's vehicle is damaged while being driven in the course of work? It is not listed on the YCPARMIA property program which only covers vehicles owned <u>and</u> listed by our members, so the employee's vehicle damage is not covered by their employer's participation in the program. Instead the coverage would come from the driver's private insurance policy under the comprehensive or collision coverage. Of course those coverages come with a deductible of anywhere from $100 to over $1,000 per accident, so the next question is, who pays the deductible?

The answer is in the California Labor Code which basically states that the employer is responsible to pay the incidental costs that its employees incur on the employer's behalf, and that would probably be the answer if the employer was not reimbursing for mileage. Instead, the reimbursement for mileage, an amount to offset the cost of operating the vehicle, is deemed to include monies for insurance and any deductible costs that might be incurred by the employee.

Occasionally an employee will make the decision not to purchase physical damage coverage on their vehicle. In the simplest of terms they are retaining the risk of damage to their vehicle. The lack of private insurance does not change the result; if the employee is being reimbursed for their business mileage, they are responsible for any physical damage to their vehicle (which is no different than if the vehicle was damaged during non-business use). The same is true of the rental costs for any temporary replacement vehicle while repairs are being made.

A last issue that occasionally comes up is what happens when the employee's vehicle is a total loss, and the insurance proceeds will not cover the purchase of a new vehicle? Again, as long as mileage is being reimbursed at the federally approved rate, the risk falls on the employee.

Next topic: Auto coverage limits