



Creating a Company Auto Policy

When discussing Commercial Auto insurance with companies, it is often discovered there is no written company auto policy in place. This is often an overlooked component of the corporate policy, but one that is essential to avoiding employee issues and contentious claims scenarios. The following provides a guideline for developing an internal policy, as well as examples of the four claims scenarios as it relates to liability.

1) Develop an Approved Driver List

Businesses should not allow employees with poor motor vehicle records and insufficient auto liability insurance to drive for business purposes. By reviewing your employees' motor vehicle records (MVR's), requiring that they have auto insurance with appropriate policy limits, and ensuring that they meet age requirements to drive for work can help reduce your company's exposure to loss.

Check applicants' motor vehicle records before making final job offers.

Avoid hiring someone with multiple moving violations.

Studies have shown that habitually careless drivers are more likely to become involved in accidents.

2) Communicate your company vehicle policy and afforded coverage

Every business needs to have a driving policy that is clearly communicated to any employee who may drive for company business. While employers may already have rules that forbid workers from drinking and driving, not all have considered other road risks. Your business should establish rules on cell phone/mobile device use while driving a car and limit the number of passengers an employee can drive at one time.

When an employee is required to use his or her personal vehicle for work-related activities, the company's commercial auto insurance will provide coverage if "Non-owned Auto" is purchased. Coverage does not include the use of a personal vehicle to commute between home and work. Similarly, if an employee goes on a side trip or errand (dropping off dry cleaning, visiting a friend in the area) then the applicability of Commercial Auto and Worker's Compensation coverage for the employee's injury may come into question.

As it relates to Workers' Compensation coverage, if an employee is on company business, then the injuries from an auto accident generally arise "out of and in the course and scope of employment." To further complicate things, the rules for establishing "course and scope" are affected by the specific facts surrounding the employee's activities at the time of the accident. As such, an employee post-accident discussion should happen to obtain a clear understanding of the purpose of the trip and to determine what the employee was doing at the time of the accident.

3) Obtain appropriate liability insurance

If you compensate your employees for driving their vehicles for work, you should ask for a copy of their insurance certificate on an annual basis and request that their auto policy not have a business exclusion clause. Commercial liability policies do not cover any injuries an employee causes to a fellow employee; Workers' Compensation protects the employer from this type of claim.

Require employees who drive for work to carry a personal auto policy [CA state minimum is \$15,000 (Bodily Injury - per person) / \$30,000 (Bodily Injury - per accident) / \$5,000 (Property Damage)]. Consider increasing minimum requirements. Be sure to notify employees that if they are involved in a work-related accident, their policy will respond first and the company auto policy will be excess coverage.

Require employees to submit proof of insurance and make continuing coverage a condition of the job.

4) Employee Reimbursement and Payment of Deductibles

Employers should maintain written policies that address reimbursement of their employees' necessary business expenditures. Under federal tax laws, employers have several options to reimburse an employee for using his car on the job (e.g. mileage reimbursement, monthly car allowance, actual cost method).

A few companies have policies that voluntarily, or partially, fund an employee's personal auto deductible. However, most companies do not reimburse deductibles because they have already provided the cost of incremental insurance through reimbursement programs. Embedded in this mileage rate is the cost of automobile insurance. So, when a company provides mileage reimbursement, especially at the IRS published rate, employees have been partially reimbursed for their insurance costs. The company has no further premium or deductible obligation for the employee's use of their personal auto.

5) Claims Scenarios for HIRED (Code 8) & NON-OWNED AUTOS (Code 9)

As insurance brokers, we often find that employees, and even employers, are unaware of how claims situations will affect the company and/or employee's personal auto insurance. When developing a company auto policy, it is important to inform all employees of how their insurance could be affected in the event of a claim. The following provides examples of how, and whose, coverage responds.

A. When an employee is driving their own car on company business

- An employee is hit by another party who is at fault, then the other party's insurance should respond. When an employee driving a company vehicle is injured due to the negligence of another driver (a third party), the employee is entitled to damages under his employer's Workers' Compensation policy AND under the other driver's liability insurance policy. However, unlike Workers' Compensation benefits, which only pay a portion of an injured employee's lost wages (and nothing for pain and suffering), the third party's liability insurance should pay all the employee's lost wages, and an amount for pain and suffering. If the employee-driver receives Workers' Compensation AND gets compensation from the third party's liability insurance, the employee will likely have to reimburse payments received by Workers' Compensation.
- An employee hits another party and is at fault, the employee's personal auto insurance would need to be used to repair any damage to their vehicle. The employee's own auto insurance would be the first insurance to apply if the other party suffers any Bodily Injury or Property Damage. The Commercial Auto policy would apply if the employee's personal auto insurance has inadequate limits and/or there is a suit brought against the company.

B. When an employee rents a hired auto in corporate name for company business

- An employee is hit by another party who is at fault, the other party's insurance should respond.
- An employee hits another party and is at fault. The Commercial Hired Auto coverage would apply for Bodily Injury and Property Damage to other party. If Hired Auto Physical Damage is also on the Corporate Auto policy, then this coverage would pay for damage to the hired auto subject to the Hired Auto Physical Damage deductible. If Hired Auto Physical Damage has not been added to the corporate policy, then the rental car physical damage coverage should be purchased.
 - If theft coverage is not included by the rental company, consideration should be given to a Loss Damage Waiver that will provide additional coverage for theft protection