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DRIVING ON THE JOB: USING PERSONAL VEHICLES FOR BUSINESS

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Requiring employees to use their personal vehicles for business errands or daily business transportation is a tried and true method of reducing organizational overhead. Some employers opt to pay allowances or mileage to employees, avoiding the considerable cost of owning a fleet of vehicles and associated maintenance, insurance, registration, and fuel costs. Both employers and employees need to understand their respective responsibilities and the potential risks involved in this operating model.

Organizational policies regarding employee use of personal autos should be thoughtfully considered; auto risk exposures are significant and can result in very severe claims. Employers transfer some of these risks to their employees when they require or allow them to utilize personal vehicles for business use. It is crucial for employers to educate employees on the responsibilities they are assuming, and the potential implications to their personal lives.

WHICH COVERAGE RESPONDS?

Although similar in some ways, business auto policies (held by the company) and personal auto policies (held by the employee) are meant to cover different exposures.

The business auto policy (BAP) is designed to protect an organization and does not provide complete protection when employees use their own vehicles for work. The personal auto policy (PAP), on the other hand, is intended to provide coverage for individuals driving for personal use; some PAPs specifically exclude business use.

A vehicle that is owned and driven by an employee in the course of business is considered a "non-owned auto" under a BAP. Regarding non-owned autos, the BAP's coverage is excess over any other collectible insurance; this means the employee's policy would be the first to respond to a loss resulting from a claim - even if the loss occurs while the employee is driving for work.

In the event of an injury, accident, or collision, where an employee is driving their personal vehicle for work purposes:

First Party Claims:

The BAP will not provide any physical damage (comprehensive or collision) coverage for employee-owned autos being used for business purposes. This exclusion is common to all BAPs. Employees must understand that the BAP will not cover any physical

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damage loss that occurs while they are driving their personal autos, and they must instead go through their PAP, provided there is no exclusion for business use.

- Injuries to employees are covered by workers' compensation.
- Physical damage to the vehicle is covered by the employee's PAP - if they purchase this coverage. Again, the BAP will not provide physical damage to an employee-owned vehicle

Third Party (Liability) Claims:

The BAP explicitly provides coverage for third party liability losses arising from the use of non-owned autos – excess over any other collectible insurance, and up to the policy limit. However, this coverage is intended to protect the organization, and may not cover claims against the employee if their PAP (responding on behalf of the employee) is inadequate. Once the BAP is engaged, the employee may receive some benefit from the insurer's defense of the organization by association, but the insurer's duty is only to the organization.

- Bodily injury to third parties is first paid under the employee's PAP. If the employee's PAP limits are exhausted, or the policy cannot respond, the BAP will step in and provide coverage for the employer.
- Property damage to third parties (which could include their vehicle or any other property) is first paid under the employee's PAP. If the employee's PAP limits are exhausted, then the policy cannot respond, and the BAP will step in and provide coverage for the employer.

ADDITIONAL CONSIDERATIONS:

Ultimately, the decision whether or not to provide coverage for personal auto use is up to each employer. Regardless of

the final policy decision, there are several other considerations that companies and employees should bear in mind when discussing personal auto usage:

- Employees should maintain adequate liability limits on their PAP – the cost of healthcare, vehicles, and auto liability claims continue to increase. From a risk management standpoint, employers should require employees to provide proof of their PAP, if driving is part of their job.
- Organizations allowing employees to drive their personal autos should have a robust driving policy with associated risk management controls. Some organizations require employee drivers to acknowledge and sign the policy, which should outline PAP limit and driving record requirements. Employers may face claims of negligent entrustment if unqualified drivers are allowed on the road.
- Insurance costs can increase as a result of claim activity. Employees may see increased insurance rates, or have difficulty finding coverage if a significant accident occurs.
- As mentioned previously, some PAPs exclude coverage for business use; this could cause an employee's insurer to deny coverage if a vehicle was being used for work when the claim occurred. Employees should review this with their insurance agent.

Allowing employees to use their personal vehicles for work may be the logical choice for your organization, but it is important to consider your company's risk profile and communicate openly with your employees. If you still have questions, reach out to an experienced risk manager or insurance broker to discuss your strategy.

Additional Resources from the Parker, Smith & Feek Library

1. Business Auto Policy Considerations, <https://www.psfinc.com/articles/business-auto-policy-considerations/>
2. Addressing Organizational Liability in Your Volunteer Program, <https://www.psfinc.com/articles/organizational-liability-volunteer-program/>
3. Risk Management: Negligent Entrustment Video, <https://www.psfinc.com/blog/negligent-entrustment/>