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Automobile Injury

Automobile Insurance: A Possible Unaffordable Commodity in the Wake of Economic Downturn

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With each passing day we hear more negative news brought on by the downturn in the American economy. Virtually every industry and every individual in America will be impacted by a recession whose grip shows no signs of weakening any time soon. As the economy continues to deteriorate, and more jobs are lost, people will look for ways to cut the costs of daily living. Sometimes, those cost-cutting choices can have dangerous consequences for innocent parties, especially when automobile insurance is involved.

With the nation's unemployment rate exceeding 7 percent and rising, more consumers are looking to scale back on purchases. Experts predict many will look to cut expenses by reducing the amount of their automobile insurance coverage, thus reducing their premiums. In more extreme situations, as reported by the Insurance Research Council (IRC), a nonprofit division of the Insurance Institute of America, many drivers may simply choose not to renew their coverage and take the risk of going uninsured.

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A recent study by the IRC concludes that the percentage of uninsured drivers on the road may reach a record high by the year 2010 as unemployment increases and the recession deepens. "As more people become unemployed because of economic conditions, they face tough choices," says David Corum, vice-president of the IRC. "Some people choose to go without car insurance." The recently released study, "Uninsured Motorists, 2008 Edition," estimates the uninsured driver population by using a ratio of insurance claims made by individuals who were injured by uninsured drivers to claims made by those injured by insured drivers. The study finds a correlation between the unemployment rate and the rate of uninsured drivers. The IRC reports that for every percentage point increase in the unemployment rate, you can expect to see the rate of uninsured drivers increase by .5 percent.

During past periods of economic stability, the IRC reported that nationally 13.8 percent of all drivers operated their vehicles without insurance. Accordingly, there was a one in seven chance that someone would be injured in an accident caused by an uninsured driver. That ratio is likely to increase. The IRC study projects that as many as one in six drivers, or 16.1 percent, may drive without insurance in 2010 based on current unemployment rate projections.

From 1999 to 2003, New Jersey mir-

rored the national averages with approximately 13 percent of its drivers going uninsured, despite compulsory insurance legislation. However, in 2004 the rate of uninsured drivers dropped to 9.4 percent. Experts believe the decrease was due to regulatory reforms that created more competition in the insurance market and the introduction of the Special Auto Insurance Policy or the "Dollar a Day" policy introduced as part of New Jersey's 2003 comprehensive auto insurance reform legislation package. Since 2004, New Jersey has reported that the rate of uninsured motorists on its highways has been as low as 8 percent. It remains to be seen how the changes in the economy will impact those statistics.

Despite New Jersey's recent regulatory and policy reforms, the state still ranks second in the nation for the highest car insurance premiums according to data released by the National Association of Insurance Commissioners for the year ending 2005 (the latest figures available). Only the District of Columbia ranks higher in average cost for automobile insurance. State unemployment figures show New Jersey's jobless rate increased from 5.4 percent at the end of May 2008 to 7.1 percent by the end of the year. January statistics released by the New Jersey Department of Labor and Workforce Development show unemployment increased statewide to 7.3 percent

and 7.6 percent nationally. The high cost of automobile insurance, coupled with the rising unemployment rate, may result in an increase in the number of New Jersey drivers either reducing premiums by lowering coverage or canceling their insurance altogether. If the IRC's findings are correct, the rate of uninsured drivers in New Jersey will likely increase significantly and will continue to rise throughout the present recession as companies continue layoffs and the number of unemployed rises.

Some analysts suggest that most consumers looking to cut costs are likely to scale back on other purchases before lowering or canceling insurance coverage. Certainly, in New Jersey and 47 other states, auto insurance is mandatory and the decision to drive uninsured is a decision to break the law. The penalty for driving without insurance in New Jersey for a first offense includes a fine of between \$300 and \$1,000 along with a one-year loss of license and a period of community service to be determined by the court. N.J.S.A. 39:6B-2. The penalty also includes surcharges of \$250 or more and additional costs imposed by insurers to reinstate cov-

erage. Subsequent offenders are subject to a two-year license suspension along with 14 days in jail and 30 days of community service.

The criminal penalties can pale in comparison to the civil liabilities when an uninsured driver is involved in an accident resulting in personal injury. Obviously, if the uninsured driver is at fault, he or she becomes financially responsible for all the damages they caused, including medical expenses, past and future lost wages and pain and suffering. This could result in the loss of personal assets including their home. Many times the amount available under an injured party's own uninsured motorist endorsement is insufficient to cover all the damages they sustained in an accident, leaving open attempts to execute on personal property and assets of the at-fault but uninsured driver. Significantly, individuals knowingly operating a motor vehicle without insurance are not entitled to PIP benefits if they are injured in an accident even if the accident was caused by an insured driver. N.J.S.A. 39:6A-7(b)(1). This exclusion also applies to an uninsured claimant who is injured while a passen-

ger in an insured vehicle. See, *Dziuba v. Fletcher*, 382 N.J.Super. 73, 80-82 (App. Div. 2005), aff'd o.b. 188 N.J. 339 (2006); *Kennedy v. Allstate Ins. Co.*, 211 N.J. Super. 515, 519-520 (Law Div.), aff'd o.b. 213 N.J.Super. 137 (App. Div. 1986), certif. vacated as improvidently granted 107 N.J. 624 (1987). Further, uninsured individuals are precluded from filing suit for personal injuries. N.J.S.A. 39:6A-4.5(a).

Only time will tell the number of New Jersey drivers who will reduce or even cancel their automobile insurance coverage in the face of increasing economic pressures. These reductions can include the lowering of liability coverage to the statutory minimum of \$15,000 per person and \$30,000 per accident, and lowering PIP and other benefits. Other drivers may make the extreme decision of allowing their policies to lapse. While increasing personal UM/UIM coverage is likely the best option for drivers to protect themselves in the event of an accident with an uninsured or underinsured individual, it is questionable whether this additional cost can be absorbed in the current economic climate. ■