

What is hired and non-owned auto coverage?

Typically, hired and non-owned auto coverage is part and parcel of a commercial auto policy. It is liability and property damage insurance for a vehicle that is owned by an individual other than the company, but is used on a company's behalf. It is intended for those "incidental" accidents—such as those that might occur when you send an in-house employee on an errand to buy lunch or go to the bank. If that employee were to be involved in an auto accident and the limits of their own private policy are exhausted, the employer's hired and non-owned auto coverage would pick up "as excess" where the other policy left off. In the past, commercial insurance carriers have been willing to provide this coverage—particularly on an excess basis—because they believe that the employer exercises direct control over an in-house employee and possesses a greater understanding of their reliability and responsibility.



However, in recent years, this coverage has been called upon to respond in some unusual and unanticipated circumstances, bringing a whole new twist to the interpretation of coverage and when and where it responds. It is safe to assume that as the parameters of this coverage are being reconfigured, hired and non-owned auto coverage will be more costly and less available than ever before.

WHO'S IN THE DRIVER'S SEAT?

When it comes to assuming liability, staffing services are likely to discover that placing drivers is almost as high risk a placement as medical personnel—with one crucial exception. As a rule, medical personnel are trained professionals with licenses and/or certification attesting to their abilities and capabilities. On the other hand, virtually anyone can seek employment as a driver. In fact, it's been noted that there is often a higher standard of care applied to checking a clerical worker's abilities than there is validating a driver's credentials. So, whether you're putting someone behind the wheel of your client's two-ton truck or having them use their own vehicle for a company errand, it's up to you to ensure that every possible safeguard is firmly in place.

FOR INSTANCE:

- Do you verify backgrounds, including driving record for the past five years, even if worker lived in another state?
- Have you established set criteria to keep individuals with certain driving offenses off your payroll, at least in a driving capacity? Are all of your sales people and recruiters aware of this criteria and do they know how to handle an applicant who does not meet the minimum requirements?
- Do you avoid placing youthful drivers (under the age of 21) or those with more than one moving violation or accident during the last five years?
- Have you verified that the criteria you use is in compliance with all applicable federal and state statutes?
- Have you reviewed with your attorney the possible consequences of hiring a driver who has drug-related offenses or DUIs on his record?
- Do you advise your clients of the precautions that you have in place? Does your client require that you confirm the safety records of all your employees? Even if they don't, wouldn't it be reasonable for them to assume that you would only provide them with drivers who have "clean" records?
- Who in your firm is responsible for checking backgrounds? How often do you update/review the information to confirm that there have been no subsequent offenses that could impact your liability? If you do become aware of new offenses, do you immediately remove that driver from the road?
- Do you confirm insurance is in place when you hire an individual and have them use their own vehicle? Do you advise your insurance carrier that you have these types of workers?
- Do you agree to assume the liability resulting from the actions of these workers when placed with a client?
- Do you confirm that your client has insurance coverage for the vehicles your employees are driving, and that the coverage will apply to the employees?

Staffing firms routinely hire individuals to use their own vehicles to transport other temp workers to and from job sites. Regardless of how these drivers are paid—whether hourly by the staffing firm or by the number of people they transport—their circumstances are like that of a taxi/livery service. Be aware that this type of activity is not covered by a hired and non-owned auto policy.

Even with staff employees, placement firms must exercise a high degree of caution. Whether you have an associate going to the bank or a college intern dropping off a bid, you are responsible for the consequences of their driving. Be certain that you know the individual you are assigning to these tasks and that you know the tasks you are assigning them to. It isn't always as simple as it may seem. Claims resulting from these types of situations can cost as much—if not more—than lawsuits involving medical placements.

In some jurisdictions, an accident involving a temporary worker on his/her way to a client may trigger coverage on the staffing firm's policy.

The bottom line is this: if any of your employees are involved in an accident where lives are lost or devastating injuries occur, someone—in many cases, you—will ultimately have to pay! Make sure your insurance "air bag" is ready to be deployed.