

A Handy Tip for Avoiding Coverage Denial Based on Policy Exclusion In Renewal Policy: Confirm That Insurer Complied With Applicable Renewal Notice Requirements

Article By:

Seth Lamden

The recent decision in [*Cincinnati Insurance Co. v. Chapman*](#), 2016 IL App (1st) 150919, illustrates how an insurer's failure to comply with an insurance renewal statute potentially could bar the insurer from denying coverage. At issue in *Chapman* was whether a TCPA exclusion added to a renewal policy precluded coverage for an underlying TCPA class action. There was no dispute that the insurer did not notify the insured that it was offering a renewal policy with a TCPA exclusion that was not contained in the expiring policy. A dispute arose, however, regarding whether Illinois law or Indiana law applied to the policy. At the time of the renewal, Indiana law did not require an insurer to notify the insured in advance of a reduction in coverage in a renewal policy (Indiana subsequently enacted a renewal statute), but Illinois law required the insurer to give advance notice of the reduction in coverage or provide renewal coverage on the same terms of the expiring policy. See 215 ILCS 5/143.17(a). After performing a choice of law analysis, the court found that Indiana law applied and, therefore, the TCPA exclusion was enforceable. Had Illinois law applied, however, the TCPA exclusion would have been unenforceable due to the insurer's failure to comply with the Illinois renewal statute.

The insurance codes in many states require insurers to notify their insureds of material changes in coverage in a renewal policy prior to the expiration of the policy that is being renewed. Depending on the jurisdiction, an insurer's failure to provide timely notice of a material change in coverage (e.g. an exclusion or more restrictive condition) in a renewal policy could preclude the insurer from denying coverage based on the new exclusion or condition. The purpose behind the rule is to give the insured sufficient time to procure a renewal policy from another insurer that is willing to offer the same coverage as the expiring policy.

The notification requirements in renewal statutes vary from jurisdiction to jurisdiction. *Compare* Ala. Code § 27-14-20 (insurer must provide notice of new "coverage restriction" in renewal policy at least 120 days prior to the date on which the current policy is set to expire) with Neb. Rev. Stat. § 2-101 (advance notice of reduction of coverage or more restrictive condition in renewal policy is required, but statute does not specify number of days prior to renewal that notice must be sent).

The consequences of an insurer's failure to comply with a renewal statute also vary from jurisdiction to jurisdiction. In Illinois, for example, an insurer's failure to provide timely advance notice that it is

offering a renewal policy with “changes in . . . coverage that materially alter the policy” is required to “renew the expiring policy under the same terms and conditions for an additional year or until the effective date of any similar insurance is procured by the insured, whichever is earlier.” 215 ILCS § 5/143.17(a). A “material change” in coverage includes the addition of a new exclusion to the renewal policy, and the insurer’s failure to provide notice of the new exclusion will void the exclusion. See *Perry v. Economy Fire & Cas. Co.*, 311 Ill. App. 3d 69, 71-72 (1st Dist. 1999).

© 2025 Neal, Gerber & Eisenberg LLP.

National Law Review, Volume VI, Number 147

Source URL: <https://natlawreview.com/article/handy-tip-avoiding-coverage-denial-based-policy-exclusion-renewal-policy-confirm>