

August 2016

## Liability Protection for Volunteer Driver Programs

Liability is one of the biggest reported concerns when creating a volunteer driver program. No matter what liability insurance organizations purchase, drivers who use their automobiles in the course of volunteer service are covered by their own personal auto insurance policy first, with an organization's policy providing secondary coverage. This toolkit contains information about insurance options for volunteer transportation programs.

The Federal Volunteer Protection Act<sup>1</sup> provides liability protection for individuals acting in service to nonprofit organizations and governmental agencies. However, incidents involving the operation of motor vehicles by volunteers are expressly excluded from this protection, making specific volunteer coverage a good idea for transportation programs that use volunteer drivers. In addition, a recent survey of 53 organizations in 24 states found that none of the organizations had suffered liability losses over the course of providing transportation through volunteer driver programs – in all cases, insurance had covered all claims that arose from vehicular crashes.<sup>2</sup> This highlights both the importance and the efficacy of having comprehensive insurance coverage.

Insurance requirements vary depending on whether the volunteers drive vehicles owned by the organization, or drive their own cars. In general, organizations hosting volunteer driver programs should have a general liability policy; if the organization owns vehicles, it should also have auto liability policy on each vehicle.

### Insurance Coverage for Volunteers Driving Organization-Owned Vehicles

When volunteers drive vehicles owned by the organization, those vehicles should be covered by a commercial auto policy. A commercial auto policy does not distinguish between the organization's staff and volunteers, but the cost will increase as the number of covered driver increases. Commercial auto coverage does not change with the type of vehicle – as long as the volunteer is qualified to drive the type of vehicle owned by the organization. A Commercial Driver's License (CDL) is required to drive any vehicle that holds 16 or more passengers (including the driver).

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<sup>1</sup> Full text of the law here: <http://www.gpo.gov/fdsys/pkg/PLAW-105publ19/pdf/PLAW-105publ19.pdf>

<sup>2</sup>Richard Smith. (2013) *Risk, Liability and Loss Experience of Volunteer Driver Services: Is the Widespread Belief Warranted that Volunteer Driver Services are Inherently Risky?* Independent Living Partnership, Riverside CA Also available at this link: [http://ilpconnect.org/wp-content/uploads/2013/06/Risk-Liability-Loss-Experience-in-Volunteer-Driver-Services\\_REPORT.pdf](http://ilpconnect.org/wp-content/uploads/2013/06/Risk-Liability-Loss-Experience-in-Volunteer-Driver-Services_REPORT.pdf)

## **Insurance Coverage for Volunteers Driving Personal Vehicles**

When the volunteer drives a personal vehicle, it is a good idea for the organization to take steps to ensure that the volunteer's vehicle is adequately covered<sup>3</sup> by personal insurance. In Massachusetts, the mandatory minimum coverage for personal auto policy is \$20,000/person and \$40,000/crash. Some organizations ask for a proof of adequate insurance from a prospective driver. Other organizations offer to pay the difference between the mandatory minimum insurance required in Massachusetts and a policy with higher limits to make sure that passengers will be covered in case of an accident.

## **Insurance Coverage Specific to Volunteer Activities**

In addition to commercial auto policy, policies exist to specifically provide insurance coverage for volunteer activities. CIMA,<sup>4</sup> an insurance company based in Virginia, has a special program for insuring volunteers called the Volunteers Insurance Service Program (VIS). This program is available nationwide and includes four types of coverage:

- Accident insurance,
- Volunteer liability insurance,
- Excess automobile liability insurance, and
- Volunteer/employee dishonesty coverage.

Of these coverages, the volunteer liability and excess auto liability are particularly of interest to transportation-providing organizations.

Some municipalities also have umbrella policies that have the same coverage. If you are a municipally-run organization, such as a Council on Aging, check with your town administrator or city officials about the town's umbrella policy to see if it would cover your volunteer drivers.

Volunteer liability policy has a \$1 million limit, and auto policies have a limit of \$500,000. These policies require that volunteers carry adequate insurance on their vehicles. Policies provide for coverage over and above the volunteers' personal auto policy – they do not replace the personal policy for damage to the volunteers' vehicles.

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<sup>3</sup> Different organizations define 'adequate' coverage differently. We recommend carrying at least \$100,000 per person/\$300,000 per accident coverage for bodily injury and \$50,000 in property damage coverage.

<sup>4</sup> <http://www.cimaworld.com/nonprofits/>

In 2016, per-volunteer costs for these policies are \$1.72/year for volunteer liability and \$6.34/year for excess automobile liability coverage. These policies have a \$100 minimum premium per policy, which covers up to 10 volunteers. In addition, organizations must pay a yearly fee of \$140 for membership in the VIS program.<sup>5</sup> When selecting these policies, organizations must cover all of their volunteers – partial coverage for some volunteers but not others is not available. CIMA recommends that organizations insure for the maximum number of volunteers they expect to have over the course of a year. CIMA does not require organizations to specify volunteers individually on the policy.

### **Risk Management**

Although a risk management plan is not required, organizations can find it helpful to have one when looking for an insurance policy. A comprehensive risk management plan functions as an overview of where the organization is vulnerable and can be used to determine what kind of insurance the organization needs. A risk management plan for a volunteer driver program should include protocols for reporting a crash or incident with a passenger, passenger release forms, and the volunteer screening/evaluation process.

### **Insurance Best Practices**

- If your organization uses volunteer drivers, cover them separately with a volunteer policy in addition to the commercial or personal auto policies that apply.
- For vehicles used to transport passengers, whether owned by the organization or a volunteer, the mandatory insurance coverage levels in Massachusetts may not be sufficient to cover expenses in the event of an accident. It is recommended that volunteer-owned vehicles carry at least \$100,000-\$300,000 and organization-owned vehicles carry \$500,000-\$1 million in liability coverage.
- Municipal vehicles may be covered under the municipal insurance policy. Liability limits for these policies are often around \$1 million. Check with your town administrator if your program uses a municipally-owned vehicle.

The perceived risk associated with volunteer driver programs is often greater than the actual risk. Organizations that screen their volunteers and have adequate insurance coverage do not need to worry about liability when using volunteers as part of their transportation programs.

## **RESOURCES**

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<sup>5</sup> If an organization were to purchase both volunteer liability and excess auto liability coverage, the total cost would be \$340, plus \$8.07 for each volunteer after the first ten. Virginia state tax also applies, so there would be a small charge on top of the base fee.

*Resource Guide for Volunteer Driver Programs* provides you helpful tools for everything from driver training, volunteer screening, liability protection, to launching a new program. It also provides you links to local best practice models and national organizations focusing on volunteer transportation.

#### **USEFUL CONTACT INFORMATION**

Please contact [rachel.fichtenbaum@state.ma.us](mailto:rachel.fichtenbaum@state.ma.us) with any further questions about volunteer driver programs, or if you would like to join the statewide email list for volunteer driver program staff.

Reference: Theadora Fisher. (2016) *Liability Protection for Volunteer Driver Programs*. Executive Office of Health and Human Services, Human Service Transportation Office, Quincy, MA