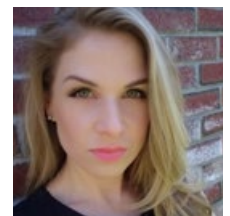




RIDESHARE FRAUD IS HERE:

What Insurers Need to Know



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Rideshare is Here

A new technology has developed in response to America's growing dissatisfaction with taxis – Uber, Lyft, and newcomers Chariot and Fasten are offering riders an alternative, claiming less expense and superior product. The hidden risks accompanying these lower costs are vast and insurers must take caution. Uber, the largest “transportation network company” (“TNC”), is now operating in 371 cities and alleges 50,000 new drivers a month – and it keeps the identities of these new Drivers in strict confidence.

Drivers, too, keep their Rideshare activities hidden in insurance applications and also during the claims process, fearing policy cancellation or higher rates. As TNC Insurance is confusing, not comprehensive, and the industry remains largely unregulated, insurers must act proactively to protect themselves.

How Rideshare Works

In pro-TNC jurisdictions, TNCs are designated as non-taxi, are not subject to the same licensure requirements, and are prohibited

from picking up hailing fares. Drivers and Riders connect with each other using a TNC cell phone application for “Pre-Arranged Rides.” Drivers are independent contractors, and both Drivers and Riders, in their use of the App, disclaim liability against the TNC: Drivers hold the TNC harmless for all claims; Riders agree the TNC is not liable for damages. These disclaimers, in addition to gaps created by TNC insurance, produce extensive opportunity for fraud.

“We will not pay or defend...for accidents while your auto is being used as, or is available for use as, a public or livery conveyance, including a vehicle for hire though a ride-sharing program [or TNC].”

How TNC Insurance promotes PAP fraud

TNC Insurance coverage varies by the “Period” a Driver is in when an accident occurs. Offline, when the TNC App is OFF, the Driver is covered by his Personal Auto Policy (“PAP”). Period 1, when the App is ON but the Driver is without passenger, TNC Insurance affords state minimum coverage (Uber’s coverage is secondary; Lyft’s is primary.) Periods 2 and 3, when the Driver has been matched and is En Route to pick up, and when a Rider has entered the vehicle, respectively, TNC Insurance affords primary coverage of \$1 Million liability and contingent Collision.

Issues with this seemingly straight-forward schematic include:

- A. Drivers intentionally turning off their App after an accident to claim:
 - a. Lower-deductible collision coverage under a PAP
 - b. PIP coverage for Driver under a PAP
- B. Drivers losing TNC coverage for:
 - a. Picking up a hailing passenger
 - b. Operation outside of “applicable laws” (Drivers are not policy holders, but Additional Insureds: any violation of the TNC contract may void coverage. This is particularly important as Drivers regularly operate in unlawful areas)
- C. Collisions in Periods 1 & 2 occur without a passenger, prompting Drivers to submit claims under PAPs because:
 - a. Uber’s Period 1 coverage is secondary
 - b. Fear of losing a job with TNC
 - c. Driver’s ease and time
 - d. Insurers do not ask about potential TNC activities
- D. Periods 2 and 3 afford primary coverage, but:
 - a. TNC policy does not afford PIP/MedPay for Driver
 - b. TNC Collision deductibles are much higher than most PAP deductibles (Uber’s deductible is \$1,000; Lyft’s is \$2,500)

In addition, TNC Drivers regularly omit TNC activities in their

PAP applications to be afforded PAP coverage. SIUs should also be aware of the risks of double dipping against both the TNC and the PAP, as well as staged accidents and jump-ins. As Drivers and Riders are matched due to GPS proximity, staged accidents and jump-ins are easily arranged, and TNC documentation can be used to provide manufactured evidence for “paper” accidents.

Industry and Legislative Reactions to TNCs

Typical livery exclusions must be changed to protect insurers sufficiently as, traditionally, there is no BI or PIP livery exclusions, and UM is only capped not denied. Further, the term “livery” is often not specifically defined in a PAP, leaving room for interpretation of this “non-taxi” activity.



Some jurisdictions have attempted to rewrite livery exclusions. The language reported to be included in the upcoming Massachusetts Advisory Policy reads, “We will not pay or defend...for accidents while your auto is being used as, or is available for use as, a public or livery conveyance, including a vehicle for hire though a ride-sharing program [or TNC].” While this type of language provides a much clearer basis for denial of coverage, it still does not address Driver fraud.

Further, any hope state legislation will correct these issues is unfortunately misplaced. The TNC Model Bill, which many states have begun to adopt, fails to address UM/UIM, MedPay, Comprehensive, Collision coverages, Secured lender rights, and alarmingly, Period 1 liability.

For a list of suggested questions to ask during application and investigation, please visit Parr Law, P.C.'s website at www.parrlawpc.com and select TNC Questions for Insurers in our Publications section.



I. Options for Insurers going forward Consequently, Insurers must be proactive. Effective courses of action include:

A. The creation of a company-wide stance on TNC activities. A denial based on a material misrepresentation of TNC activity is based on the increased risk of loss to the Insurer. This increased risk may be evidenced by showing TNC activities would either 1) increase a premium; or 2) result in an Insurers' refusal to issue a policy at all. Therefore, an Insurers' stance on TNC activities at the time of issuance is imperative.

B. Training of adjusters, SIUs, customers, and management regarding TNC activities. As TNC fraud is often reduced to Period analysis, adjusters, SIUs, and management must understand how TNCs work. Educating customers about livery exclusions, claim denial, and the Company's TNC stance will deter a percentage of fraudulent claims.

C. Changing the standard PAP to address TNC activities, including both application and livery exclusion language, is necessary. Current application language is archaic and not specific enough to prompt a customer to disclose TNC activities – livery exclusions are likewise too vague, as discussed above.

D. Development of hybrid policies, business classifications, endorsements, or the use of commercial insurance are inventive approaches some Insurers are taking as they work to adapt to the challenges this new industry brings.

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