



445 East Capitol Avenue  
Pierre, South Dakota 57501-3185  
Phone: 605-773-3563  
Fax: 605-773-5369

### **Bulletin 10-03**

DATE: March 25, 2010  
TO: All Property Casualty Insurers  
FROM: Merle Scheiber, Director  
RE: Medical Payments Coverage in Automobile Policies

It has come to the Division's attention that many automobile policy forms have language limiting the types of motor vehicles for which coverage may apply when an insured is struck as a pedestrian. Common restrictions include vehicles owned but not covered by the insured and vehicles available for regular use by the insured or other persons residing in the insured's household. These restrictions are invalid.

Under SDCL 58-23-8, the law explicitly provides coverage "through being struck by a motor vehicle while a pedestrian". The term motor vehicle is broadly defined in law (SDCL 32-35-1) as

"every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails;"

Therefore any restriction relative to the type of motor vehicle other than contained in the definition above as it relates to being struck as a pedestrian is impermissible.

Claims must be adjudicated in compliance with the statute notwithstanding policy provisions to the contrary. All such claims must be processed in accordance with the medical payments statute regardless of when the date of loss occurred. However, insurers are not required to review any claims which occurred more than 5 years prior to the date of this Bulletin. Insurers with policy language that does not conform to this bulletin must make a policy form filing that is in compliance within a reasonable period of time following the date of this Bulletin.