



Case Study

UM/UM Benefits

How are Offsets for Workers' Compensation Benefits Calculated?

—by **Kyle Riley and Jennifer Krumm**

In Oregon, an insurer is entitled to offset workers compensation benefits against the amount payable under the uninsured or underinsured coverage. How the offset is calculated depends on whether the plaintiffs' total damages exceed the UM/UM policy limits.

If the claimant's total damages exceed the UM/UM policy limits, Oregon courts have held that the workers' compensation benefits should be offset against the policy limits. This acts to the benefit of the insurer. For example, assume that a claimant's damages are \$1 million, the UM/UM policy limits are \$50,000, and the insured obtains \$45,000 in workers' compensation benefits. The insured would only be entitled to \$5,000 in UM/UM benefits (\$50,000 policy limits - \$45,000 offset for workers' compensation).

On the other hand, if the claimants' total damages do not exceed the UM/UM policy limits, the workers' compensation benefits should be offset from the claimants' total damages. This also works to the advantage of the insurer. For example, imagine that a claimant's damages are \$50,000, his UM/UM policy limits are \$100,000, and he receives \$40,000 in workers' compensation benefits. The claimant would only be entitled to \$10,000 in UM/UM benefits (\$50,000 total damages - \$40,000 in workers' compensation benefits).

In closing, it is important to note that the workers' compensation offset is not limited to benefits that have been paid. Rather, the offset includes all benefits that are payable under workers' compensation. For this reason, it is important to obtain any and all relevant compensation files prior to settling any UM/UM claim. ❖