Avoid Replacement Policy Traps

A carrier notifies you that it is non-renewing your longtime client. Perhaps your client's claim history finally is catching up with him, or maybe the carrier is pulling out from this particular market. Whatever the reason, you want to do your best for the client and help him get coverage with a new carrier. But the client's policy expires before you can obtain replacement coverage, or the new policy fails to cover certain situations that the prior policy covered. To compound the unfortunate situation, the client experiences a claim and is without coverage for the loss.

How can your agency reduce the chances of this happening and, in turn, reduce the odds of a professional liability claim? When attempting to obtain a replacement policy, an agent needs to:

Be proactive. A diary system can remind agents to follow up with prospective carriers or clients to ensure customers' continuous coverage. Use the diary system to remind yourself that a client's policy is about to expire and that there is only a certain amount of time to obtain a replacement policy. Absent such a system, it is extremely difficult to remember every important due date and follow up with every client and on every policy, as appropriate. Part of being proactive includes being creative. Agents should be willing to go outside their own network of carriers, for example, if they are having trouble obtaining a replacement policy. Be aware that working with brokers and non-admitted markets can create a whole new set of E&O considerations.

Communicate often. Communicate to your clients what you are doing to secure their replacement policies. Make frequent phone calls to keep clients properly informed. Support the calls with a detailed phone log that contains all calls' dates, times and subjects discussed. Also, utilize e-mail, fax and letters to document your efforts to secure coverage.

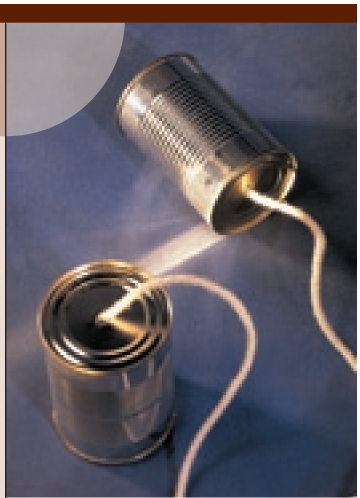
If you are having difficulty securing a replacement policy, it is especially important to document in writing, via a letter to the client, the status of your attempts to secure coverage. Do this as far in advance of the renewal date as possible. Also, try to meet in person with your client to explain what is transpiring with your attempts to secure coverage. In preparation for the meeting, be prepared to answer all questions and be willing to admit to the client that you are unable to secure coverage, if that's the case. Don't oversell or make promises that you cannot keep—and be willing to suggest that your client check with another agency about obtaining a replacement policy if you are experiencing difficulty. Keep all communications as simple as possible.

Document thoroughly. Have—and use—a good file note system to document all phone calls, conversations and developments. Send the client a letter, keeping him advised of important developments. This letter can be sent via e-mail, fax or certified mail. The key element is to confirm that the client received the letter. If e-mailed, request an affirmative response. If faxed, keep the fax cover sheet to show that the fax went through to the dialed number. If mailed, a certified letter requires the client's signature, showing he received the letter. If the matter is extremely crucial, consider hand delivering the letter and having the policyholder sign it, indicating they read and understand the letter.

Follow up. Use your diary system on a regular basis to follow up and check on the efforts to secure the replacement policy so your client has time, if necessary, to look elsewhere to obtain coverage. Also, make sure that your staff is well trained on how to be proactive, communicate, document and follow up.

Follow these guidelines to minimize the anxiety surrounding obtaining a replacement policy, to make sure clients are completely served and to reduce the potential for a professional liability claim in this area of its business. IA

J. Brian Butcher (**brian_butcher@swissre.com**), JD, CPCU, SCLA, is a claim specialist at Swiss Re.



Clear Communication

When procuring a policy, communication problems often arise in two areas: First, the agent obtains a replacement policy, but fails to carefully review the policy to make sure it covers everything the prior policy covered. Invariably, a claim then arises out of the newly uncovered area. Hence, it is extremely important to carefully examine the new policy and advise the client in a detailed manner if the policy does not completely match the old policy's coverage. Communicate—and carefully document—this via phone calls and written correspondences. It might also help to obtain the client's signature, indicating that they understand the differences in coverage. The other common problem, which is not limited to obtaining a replacement policy, occurs when the agent sends a proposal to a client with suggested optional coverages, such as flood coverage, stop-gap coverage, etc. The client elects not to obtain the optional coverages. In that case, the agent should always confirm, in writing, that the client has declined the suggested optional coverages.

—J.B.