Apples to Apples: Common Errors in Remarketing Accounts

The phrase "apples to apples" often comes up when comparing coverage. And it is guaranteed you will hear it again if you remarket an account and your customer ends up with an uncovered loss.

Whether you remarket an account at the request of your customer (shopping for price), due to the carrier (non-renewing policyholder or exiting a business) or out of the agency's necessity (i.e. have agency contracts with different carriers), the first thing that will happen if a loss is not covered by the new policy will be determining whether it was covered by the prior policy. If it was, you can bet that your customer will contend that he wanted "apples to apples" coverage.

As we know, no two policies are exactly the same and so a true "apples to apples" change is rare. Agents can, however, avoid some common errors and take measures to help eliminate errors and omissions (E&O) claims.

Any time you remarket the account, there should be some benefit for your insured. Be familiar with all the differences in the new policy and advise your customer. Don't assume that a difference, especially anything that means a reduction in coverage, is not important to your customer. Notify customers of all changes and let them make the decision. Finally, document your file—preferably with a signed declination from your customer or a letter confirming a conversation in which all changes were discussed and agreed on.

Here are some common problem areas in remarketing an account:

- **Apply for the correct coverage.** While this might seem obvious, you might be surprised at how many times agents just sent in an old application (with potentially incorrect information on it). If there are specific coverages that you know will be necessary, make sure you bind or request those (i.e. liquor liability or assault and battery coverage for a bar).
- **Make sure limits are the same or greater.** When remarketing an account, make sure that you offer the same or greater limits (including any sub-limits). Make sure deductibles are the same or less.
- **Check the exclusions.** This is an area fraught with perils. Every carrier has different exclusions. If the new policies exclude something that was not excluded previously, highlight it for your customer and let it be part of their decision. This is definitely an area that you should document. Your recollection of a discussion about what might appear to be an innocuous exclusion at the time will certainly be different from a customer's recollection when the exclusion keeps a claim from being covered.
- **Know the financial stability of any new carrier.** Make sure the new carrier is financially stable. This is especially true if you are forced to take a customer from the admitted market to the non-admitted market or to a carrier that is not covered by a guaranty fund. You can bet that if the new carrier has insolvency problems (and the old one is still stable) there will be a resulting claim.
- **Look for other issues that may affect coverage.** The new carrier may have insured to value requirements or different ways it handles coinsurance. For certain types of policies, be aware if you are switching between claims made and occurrence policies.

Remember that when remarketing an account, you will never find the exact "apples to apples" coverage. Be aware and move with caution. Always maintain good communication with your customer and document your file. IA

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Keep an Eye on the Details

Want to avoid E&O problems caused by remarketing an account? Don't overlook the details. Are all of the application specifics up to date? Make sure that all the same buildings, locations, vehicles, personal property, etc. are covered. This is especially important if the previous policy had mid-term changes. Don't just rely on a list that was given to you at the last renewal. Match the coverage that was in the prior policy and all endorsements. And while it is always good to check on values at each renewal, it is especially important to check values at remarketing time. With auto-renewals and direct bill policies, you might have a pretty good defense if your customer did not request to increase a limit. The argument loses some steam if you remarket the account, especially if you take it upon yourself to initiate the remarketing effort. By remarketing, you may have taken on additional duties under the law.

—C.P.