



March 08, 2011

## **COMMERCIAL LINES MANDATORY ENDORSEMENTS REVISED IN RESPONSE TO PENNSYLVANIA SUPREME COURT DECISION**

### **BACKGROUND**

A recent Pennsylvania Supreme Court decision, *American and Foreign Insurance Company v. Jerry's Sport Center, Inc.*, No. 88 MAP 2008, 2010 WL 3222404 (Pa. Aug 17, 2010) ruled that Commercial Liability policy insurers do not have the right to recover any defense costs from the insured if it is later determined that none of the claims are covered under the policy, unless such provisions are specifically included in the policy.

### **MSO<sup>®</sup> ACTION**

We have revised the Commercial Lines Pennsylvania Mandatory endorsements to include an amendment to the Defense Coverage provisions in the various Commercial Lines policies. The amendment clarifies that an insurer is entitled to reimbursement of defense costs if it is determined that none of the claims are covered by the policy. However, this reimbursement only applies to costs incurred after the insurer has notified the insured in writing that coverage may not apply and that the insurer is reserving its rights to terminate the defense, or the payment of defense costs, and will seek reimbursement for such defense costs.

The following mandatory endorsements have been updated:

- Businessowners Program - BU 08 10 (03 11) replaces BU 08 10 (12 07).
- Commercial Lines Programs (Includes Commercial Property, Commercial Liability, Special Contractors, Farmowners, Garage and House of Worship Programs) - MCM 810 (03 11) replaces MCM 810 (10 07).
- Commercial Auto Program - MCA 810 (03 11) replaces MCA 810 (10 08).
- Commercial Umbrella Program - MCL 780 (03 11) replaces MCL 780 (03 08).

### **COMPANY ACTION**

Companies should adopt the current version of the Pennsylvania State Mandatory endorsements even if they have not adopted the most current MSO Commercial Lines Programs and are using earlier versions.

### **EFFECTIVE DATE**

April 1, 2011

### **DISTRIBUTION**

Revised endorsements MCA 810 (03 11), MCM 810 (03 11), BU 08 10 (03 11) and MCL 780 (03 11) will be added to the CD-ROM. Affiliated companies will be able to access this through our website: <http://www.msonet.com>.

### **QUESTIONS**

Contact Pepper Treuvey at (800) 935-6900.