



OVERVIEW:

Business Insurance Claims and Coronavirus

The evolution of the Coronavirus has led to more complex questions than answers and every day brings new developments on how to handle related losses. Here are the latest takeaways as the insurance world reacts to the pandemic crisis.

COVID-19, known more commonly as the coronavirus, continues to result in large disruptions to business and our daily lives and has now been officially acknowledged to be a pandemic, affecting a large number of people.

With the steady rise in claims, coverage for risks related to the coronavirus are cautiously and thoroughly being analyzed on the basis and extent of the policy language. However, the carriers are increasingly adding broad exclusions for the coronavirus to their policies. Nonetheless, policyholders should report claims relating to the coronavirus to their carriers immediately. Time is of the essence. Exposure and potential claims need to be submitted as early as possible, given the rapid changes in the pandemic and responses to it.

Many factors are involved in coverage analysis discussions, including the type of loss, the type of coverage and the terms and conditions of specific policies. Every case is being treated on its own merit and coverage decisions ultimately lie with the carrier. Alternatively, businesses may be able to pursue government relief programs as they become available. Here are items to consider from a select group of policies:

Workers' Compensation

Workers' Compensation (WC) coverage is specifically aligned with state and jurisdictional guidelines. Was the disease contracted during course of employment and/or was it contracted due to conditions peculiar to the work? Employers in the United States need to address their respective state workers' compensation laws as this is interpreted. Claims arising from employees going to work are to be documented and reported to your carrier immediately for their review.

Workers' Compensation laws will not address COVID-19 directly, unless a state has taken specific steps to address the question of coverage for employees unable to work due to the virus. At this time, Washington State is the only state to have done so given their unique WC program. In general, the state laws do not address the question of employees exposed due to the nature of their employment and/or traveling overseas. Each state will have their own response to the crisis.

Business Interruption/Property Claims

Business interruption (BI) coverage historically requires a degree of damage to the insured's property. At this time, the carriers have not recognized that contamination constitutes damage to the insured's covered property. As business interruption ("BI") coverage requires some damage to the insured's property, supply chain and similar business losses are not likely to be covered.

Federal programs are also under consideration and may provide some relief, once a state has been declared a disaster area. This could include the availability of small business loans. See <https://www.sba.gov/disaster-assistance/coronavirus-covid-19>

Steps taken to continue in business despite the lack of supplies should also be recorded, for submissions to the carrier or government agency. This includes additional costs of using substitute supplier or a cost of changing operations to continue in business, including modifications in process or materials used or change in business plan. Documentation is paramount in the process.

Liability

Third-party liability claims for bodily injury are being filed against policyholders for failure to mitigate or warn others of risk of contamination. These claims should also be submitted to the insurance carrier, even though many general liability policies have an exclusion for bacteria, viruses or the coronavirus.

Shareholders may sue corporate officers for economic loss resulting from inadequate response to coronavirus. Most D&O policies exclude bodily injury and may also exclude virus related claims. Check these policies for pollution, bacteria or virus exclusions.

Cyber

We strongly urge individuals to be cautious when opening emails as phishing scams may develop because of the Coronavirus. There is a need to be cyber vigilante at these times as cyber criminals' prey on opportunities and general public fear.

Event Cancellations

The cancellation of large events due to the coronavirus have caused large losses under event policies. An event policy allowing coverage due to the cancellation of a large event is being reviewed by carriers in connection with these claims. If the event was due to take place in a country subject to travel bans or limits on public gatherings timely filing with the carrier is essential. However, carriers are excluding the coronavirus from several of these policies.

Contact your insurance broker to discuss your insurance coverage and minimize the potential negative impact of COVID-19 on your business.

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