

## Navigating the COVID-19 Claims Management Process

**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 most recent takeaways as the insurance world navigates COVID-19.**

COVID-19, the disease caused by the novel coronavirus, continues to disrupt business and our daily lives around the globe.

As a result of a steady rise in COVID-19-related claims, coverage for risks related to the coronavirus is being analyzed cautiously and thoroughly on the basis and extent of policy language. We've seen more and more insurance carriers adding broad exclusions for the coronavirus to their policies. Nonetheless, policyholders should report claims relating to the coronavirus to their carriers to allow them to provide a formal coverage opinion based on your business' individual circumstances. Exposures related to the virus and potential claims need to be submitted to insurance carriers 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 individually and coverage decisions ultimately fall on the carrier. If a claim is not covered, businesses may be able to pursue government relief programs as they become available as an alternative

### **Workers' Compensation**

Workers' compensation (WC) coverage is specifically aligned with state and jurisdictional guidelines. The claim will be evaluated based on whether the disease was contracted during course of employment, and/or if it contracted due to conditions specific to the work being performed. Employers in the United States need to address their respective states' workers' compensation laws as this is interpreted. Claims arising from essential employees still physically working on-site are to be documented and reported to your carrier immediately for review.

Workers' compensation laws will not address COVID-19 directly, unless a state has taken specific steps to address coverage for employees unable to work due to the virus. In general, state laws do not address whether employees are exposed due to the nature of their employment and/or traveling overseas. Each state will have its own response to the crisis.

In the case of COVID-19, healthcare workers, first responders, and those in the aviation, transportation and hospitality industries would have the highest incidences of exposure. Each one will be determined on a case-by-case basis, but those working in the health industry and social services that may require exposure, the standard used will be one of whether the individual was more likely to have been infected through work than through any other activity.

While COVID-19 won't be a compensable injury for most workers, the coronavirus can complicate workers' compensation in other ways. With a broad shift toward working from home, businesses will need to outline new guidelines for working *safely* at home.

If this becomes a long-term issue, businesses will see new ergonomic concerns. The risk of fraudulent claims rises if workers feel they may be laid off, especially considering the troubled employment landscape.

Other potential issues may include additional costs to existing workers' compensation claims. With the unprecedented levels of medical need doctors are facing, treatment and returns to work could be delayed, thereby increasing the cost of claims.

### **Business Interruption/Property Claims**

Business interruption (BI) coverage historically required a degree of damage to the insured property. At this time, insurance carriers have *not* recognized that contamination or a virus constitutes damage to the insured's covered property. Since business interruption coverage requires a covered cause of loss to the insured's property, losses involving the supply chain and similar business losses are not likely to be covered.

Federal programs are also under consideration and may provide some relief after a state has been declared a disaster area. This could include the availability of small business loans. Despite the current positions of most carriers at this time, the lack of supplies should also be recorded for submissions to the carrier or government agency. This includes additional costs of using substitute suppliers or the cost of changing operations to continue in business, including modifications in processes or materials used, or changes in the business' plan. Documentation is paramount in this 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 Directors' and Officers' Liability policies exclude bodily injury and may exclude virus-related claims. Check these policies for pollution, bacteria or virus exclusions.

### **Cyber**

Unfortunately the coronavirus pandemic has resulted in an increase in cyber attacks. These are taking many forms, from social engineering attacks on virus-related material designed to entice the user to open infected emails or links, to infected websites on social media platforms. The cyber criminals are taking advantage of people's fears and desire for knowledge about the virus to successfully trick and defraud. Avoid being a victim of these tactics by being vigilant and avoiding emails with attachments from unknown sources, or any that seem to raise questions. Report them to your IT department as suspicious. Don't click directly on links in social media applications. Always type the web address into the browser yourself. Follow these practices in both your home and work environments and they will help you avoid a cyber incident.

### **Event Cancellations**

The cancellation of large events due to the coronavirus has 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.

## **COVID-19 Claim Documentation Guidance**

Below is general guidance to assist you in tracking and assembling relevant information. Please note that the documentation needed to support a business interruption/extra expense claim varies by industry and business. Whether you have insurance coverage or not, it is important to document your loss in real time. When the crisis subsides and insureds try to gather documentation to submit a claim, those who have prepared in advance will have their claims reviewed first.

### **5 Considerations to Help Prepare for a Potential Business Interruption and Extra Expense Claim**

#### **1. Prepare a timeline**

- Document changes to business operations
- Government/Executive/Other Authoritative Orders

#### **2. Track and document key business metrics (varies by industry)**

- Examples may include:
  - Occupancy and rate statistics (e.g. room nights/room rates)
  - Rent rolls and vacancy statistics
  - Number of customers
  - Number of procedures
  - Number of events
  - Production levels

#### **3. Track and document expenses that are related to the event (these may be new expenses or increased expenses as a result of the event)**

- Examples may include cleaning costs, protective equipment, addition of new/temporary employees, overtime, etc.
- Maintain purchase orders, invoices, receipts, credit card bills, expense reports, payroll support and other underlying supporting documentation

#### **4. Track specific event related business activity, i.e. cancellations, customer complaints, returns**

- Supporting documentation related to customer complaints, cancellation and/or rescheduling of events
  - Correspondence/email

- Copies of contracts related to cancellations and/or rescheduling
- Maintain a log that tracks verbal discussions in real time
- Identify and document lost opportunities (e.g. for event locations may be the inability to market business or book future events)
- Discounts/special promotions
- Refunds
- Rent abatement
- Penalties/liquidated damages
- Destruction/donation of products (inventory)
- Loss of key employees, vendors and/or customers

**5. Compile a three year look back of financial data including but not limited to:**

- Monthly and annual profit and loss statements
- Budgets, forecasts, projections
- General and subsidiary ledgers and trial balances
- Key financial reports, e.g. revenues, production, payroll, statistic reports related to the business
- Industry data, statistics and communications

*This outline is not meant to be limiting nor all-inclusive in nature.*

We recommend maintaining this data via separate ledgers and/or accounts.

**Contact your OneGroup representative to discuss your insurance coverage and minimize the potential negative impacts of COVID-19 on your business.**



800-268-1830 | OneGroup.com