

COVID-19

FAQ's

We recognize right now there is a lot of uncertainty around how insurance companies are going to respond to claims relative to COVID-19.

It is difficult to predict how each carrier will respond based on the information available at this time. The truest test is to submit a claim, allow the carrier to review based on the policy, any relevant case law, and in the case of COVID-19 related claims; any related legislation or governmental direction.

Assurance will remain available to assist our clients with questions and in the navigation of this evolving situation. With some of this uncertainty, we put together some frequently asks questions we have been receiving.

Will illnesses be considered Workers' Compensation Claims?

Every state statute includes independent language which was written with the intent to exclude common exposure, like the flu or cold, etc. However, if an employee can demonstrate a work-related exposure in the course and scope of their employment; and their employment placed this employee at an increased risk, this could be considered a Workers' Compensation claim.

We are recommending any allegations of exposure at an insured's facility be immediately reported to the carrier for evaluation under the applicable workers' compensation statute.

Is there coverage for business losses?

A common requirement to trigger Business Interruption coverage requires "physical damage" or "property damage." This requirement is also commonly found in indirect coverages as well such as Civil Authority, Ingress / Egress Coverage, and Contingent Business Income. This is not an exhaustive list of the coverage and limitations available; should your company sustain a business loss, we are encouraging submission to the carrier for evaluation under their specific policy.

Will liability policies respond?

- **General Liability:** Depending on the allegations, and whether this is considered a pollution related event, general liability may provide some defense for allegations related to an insureds actions which are alleged to have resulted in bodily injury. A question on both the liability and whether this exposure arose from a professional service will be part of the coverage assessment.
- **Professional Liability:** Depending on the allegations and the professional services rendered, the professional liability policy may provide some coverage. In coverages related to medical care, this policy may also provide some relief for crisis response, disinfecting, as well as relocation of patients or services.

- **Pollution Liability:** Depending on the allegations and should these exposures rise to a “pollution event,” this coverage may provide both decontamination coverage as well as possible liability coverage.
- **Employment Practices Liability:** Employment Practices coverage could respond to employer related issues that are alleged to have arisen as a result of the employer’s actions in their handling of employment related matters.

What other coverages should I possibly look to?

- **Business Travel Insurance:** Could possibly provide coverage assistance for the medical care of employees traveling, coverage for assistance in getting an employee home. This coverage could also aid costs associated with delays or trip cancellation.
- **Event:** Could respond in the event a planned event was cancelled.

What Employment issues do I need to be concerned about?

- **FMLA:** Employees may be entitled to FMLA benefits for employees who qualify, and have either contracted the virus, or have a family member who contracts the virus. Consultation with your employment attorney is recommended.
- **ADA:** Employees who are protected under the American with Disabilities Act may be entitled to reasonable accommodations. There are some provisions in cases of a pandemic that may impact this response, please consult with your employment attorney to understand these restrictions further.
- **HIPAA:** Information obtained through group health plans remain HIPAA protected or information obtained as the employer protecting and controlling the spread of disease, may sit outside of HIPAA. However, consultation with your employment attorney is recommended before the release of any Personal Health Information (PHI).

This guide is meant to assist in navigating a loss, and the coverages to consider when evaluating your exposure. This is not meant to be a guide to coverage, nor a complete evaluation of the exposures or coverages available.