

## COVID-19 & INSURANCE

Companies are increasingly looking to their existing insurance policies to find out whether those policies might help to minimize the financial losses that result from the virus. Many policies contain virus, pandemic or communicable disease exclusions, which would likely exclude coverage for losses related to COVID-19. These were added in response to 9/11, the recent Legionnaires Disease outbreaks, and lawsuits over mold infestations. In the absence of such an exclusion, one or more of the following types of insurance coverages might apply.

**Business Interruption Coverage** – This type of insurance responds when a covered risk causes a suspension or slowdown of business operations, covering lost profits and/or associated extra expenses. In a standard policy, coverage only applies where there exists “direct physical loss or damage” to covered property. We learned of a recent (maybe the first in the nation) lawsuit by a New Orleans restaurant asserting that the need to clean surfaces for the virus qualified as a direct physical loss triggering coverage. Whether the courts will agree remains to be seen. Not every policy is the same, and it is important for you to examine your policies to determine if COVID-19 might trigger business interruption coverage. Businesses that depend on the continuing operations of certain customers or suppliers should check if their insurance contains “contingent business interruption” coverage, which might cover business losses caused by a suspension of a customer’s or supplier’s operations.

**Civil Authority Coverage** – Most business interruption policies also contain a form of civil authority coverage, which covers business income losses when a governmental order or directive prevents access to a property. While a mandatory quarantine or exclusion order that blocks access to a property in which an outbreak of the virus has occurred may apply, the more recent self-quarantine orders may not qualify.

**Event Cancellation Coverage** – This type of insurance is designed to reimburse an event organizer for lost profits or reimbursement of refunds when an event is unexpectedly canceled or postponed as a result of covered causes. Policies differ widely, and may exclude cancellations due to a virus or quarantine. Coverage would not apply if an event organizer voluntarily cancels the event due to fear of COVID-19. Rather, coverage typically applies if the cancellation or postponement is unavoidable, such as in response to an official ban on large public gatherings. Most policies also obligate the event organizer to use its best efforts to rearrange the event in order to mitigate losses. It is therefore vital for businesses to carefully review the language of their policy.

Whether coverage will be available depends on many factors, including the cause of loss, whether there is direct physical loss or damage, whether the policy contains a communicable disease exclusion, and whether the operations may have been suspended and/or an event canceled voluntarily. As always, coverage will depend on the particular circumstances and the precise terms of the actual insurance policy. Therefore, a careful and prompt reading of your insurance policy is critical.

For questions, please reach out to:

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