

Coronavirus – Is it covered by Insurance?

As Coronavirus (COVID-19) continues to make a significant threat in a health and benefits context, the spreading of the virus puts strains on business closures and supply chain disruptions. We understand the concern and uncertainty you may be experiencing surrounding COVID-19 and are committed to being responsive to the needs of our clients as the situation evolves. Many companies started to inquire on whether their insurance program will trigger coverage for the introduction of COVID-19 into their business operations which may result in closures and loss of sales. Let's discuss potential scenarios and how the following insurance product lines may respond:

Business Interruption under Commercial Property

In order for the Commercial Property policy to trigger coverage for Loss of Business Income the following chain of events must occur:

1. Physical damage to insured property (building and/or business personal property);
2. Physical damage to insured property as a result of a covered peril;
3. Physical damage must result in an interruption of business; and
4. The interruption of business must occur for a defined period of time (waiting period)

It is most likely the Commercial Property policy will not trigger coverage due to standard policy exclusions for loss or damage arising from Virus or Bacteria. Many ISO Commercial Property policies contain an Exclusion for Virus or Bacteria. Other questions may arise as respects to coverage under "Civil Authority" and "Contingent Business Income". Civil Authority is a coverage extension intended to cover loss of business income when a Civil Authority has prohibited access to the insured property. Contingent Business Income is intended to cover for losses as a result of disruption in your business due to a property loss or damage sustained by your dependent supplier or customer. It's critical to understand the facts and proximate causation of the loss to evaluate the triggers of coverage.

General Liability

Another concern to businesses is the risk of being liable for "third party bodily injury" to contract COVID-19 due to allegations of your negligence and lack of proper care to localize how, when, and where it was contracted. Coverage evaluations will be based on a thorough review of the facts and circumstances of each claim.

Workers' Compensation

While Workers' Comp is not intended to cover claims for communicable and contagious diseases, there might be exceptions, depending on how and where COVID-19 is contracted. Coverage evaluations will be based on a thorough review of the facts and circumstances of each claim.

Trade Disruption under Ocean Cargo

Unlike a traditional property policy, there's no requirement for physical damage to the goods insured. Trade disruption provides coverage for the necessary extra expense or loss of income due to delays or disruption of trade from port closures by government authority. Coverage evaluations will be based on a thorough review of the facts and circumstances of each claim.

Product Recall

The Product Recall policy is intended to cover loss from insured events. Many policies may define insured events as voluntary, involuntary or mandatory recovery of stock, market withdrawal or recall of an adulterated/contaminated insured product(s) by your company, distributor, importer/exporter, or government regulatory body of the insured product provided that the consumption or exposure to of the insured product has resulted in or would result in bodily injury or property damage. Adulterated/contaminated in certain policies may mean accidentally or unintentionally contaminated or impaired by microbiological, chemical, allergen or physical hazards. Note that some policies may for an contain an exclusion for Avian Influenza Virus. Coverage evaluations will be based on a thorough review of the facts and circumstances of each claim.

The policy language will be critical in the determining the applicability of coverage. We will advocate on behalf of our clients for the most favorable response available under the applicable policies.

Like many organizations, we are learning and adapting to this emerging risk. We continue to monitor the quickly evolving situation and analyze potential scenarios under other insurance policies and will provide updates. We are here to assist our clients as needed. If you have a specific coverage question, please feel free to contact us.