



COVID-19

## PROPERTY & CASUALTY FAQs

Updated 03.12.20

We believe it is our social responsibility to fully prioritize the wellbeing of our clients, colleagues and community while ensuring business continuity. In that light, we are taking preventative measures to support local and global efforts to contain the spread of COVID-19 (the coronavirus). Below are answers related to our insurance FAQs due to the coronavirus.

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### **Our business is being disrupted due to reduction in customers, events, activities, etc. all due to the COVID-19 flu. Will my insurance respond?**

First, it's important to make the distinction between interruptions in commerce that are a result of a preponderance of caution, fear or panic and those that are as a result of an actual contamination, damage to physical property, or illness to people.

Most property policies sold to commercial businesses in the United States do NOT provide coverage for business interruption and liability for decisions related to caution, fear or panic conditions. Most policies require a physical loss to covered property or person in order to trigger coverage. In many, if not most, of those same policies, communicable diseases/microbes/mold and contaminants are specifically excluded as causes of loss, unless specifically negotiated back into the policy.

While each policy has its own unique endorsements and exclusions, and you should speak with your broker directly about the specifics of your policy, the general and unfortunate answer is that there is no coverage for lost business as a result of these rapidly changing market conditions.

### **How does the insurance industry look at COVID-19 and these similar pandemics?**

In this case, the COVID-19 illness caused by the novel coronavirus is being viewed much like any other Influenza virus. Currently reported statistics have not yet distinguished it as significantly different in its transmission or its fatality rate. So, for most carriers, COVID-19 is analogous to the annual flu viruses we battle each year. Largely, insurers struggle to quantify the economic losses from a pandemic, and so pricing insurance is impossible, thus coverage is not provided, like war and other uninsurable events also not covered.

### **Can contracting the COVID-19 flu at work be a worker's comp claim?**

We anticipate Worker's Compensation will likely not be an avenue for clients and their employees to recoup lost wages and medical bills, largely because Worker's Comp claims must arise out of the scope of the employment. Employees currently can't claim they caught the flu at work, and this likely would be no different. The only exception may be those who are in the healthcare field, where their work required them to be in and around exposed individuals. Even now a doctor or nurse getting the flu is not a compensable claim. Each state seems to be currently reviewing this policy, so please check with your broker or your state department of insurance.

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## COVID-19 Workplace Procedures **PROPERTY & CASUALTY FAQs**

### **How can employees recoup lost time from being out due to a quarantine?**

Employees looking to seek lost wages as a result of a medical quarantine should be able to find FMLA, short term disability or other accident/critical illness coverages as a potential recourse. You may want to discuss with your HR professionals, or your benefits team. The US Department of Labor recently published a [FAQ for COVID-19 and other Public Health Emergencies](#), specific to how these programs should respond.

### **An employee/guest/student of our organization has been tested positive, and we need to shut down to clean up before we can reopen, can insurance help?**

As previously mentioned, most policies require a physical loss to covered property or person. In many, if not most, of those same policies, communicable diseases/microbes/mold and contaminants are specifically excluded as causes, unless specifically negotiated back into the policy. Certain industries, like healthcare, large institutions, or public education may have decontamination coverages built into their policies. Again, likely the answer is there is no response, but confirm with your broker about your specific policies.

### **What happens if the government comes in and shuts down our business due to local public health concerns?**

As previously mentioned, most policies require a physical loss to covered property or person. In many, if not most, of those same policies, communicable diseases/microbes/mold and contaminants are specifically excluded as causes, unless specifically negotiated back into the policy. Certain industries, like healthcare, large institutions, or public education may have decontamination coverages built into their policies. Again, likely the answer is there is no response, but confirm with your broker about your specific policies.

### **Could an employer be found negligent/liable for transmitting the virus to customers or employees?**

The known infection of an employee or customer and a business's decision remain open, or to expect them to come to work sick does seem a bit worrisome. Standard communication about staying home if you are sick seems a pretty steady defense against potential lawsuits. Following CDC guidance, common sense behaviors, and other readily available "How to Prevent COVID-19" flyers, etc. are considered best practices. Standard General Liability policies also exclude coverage for communicable disease, contamination, and microbes, etc.

Employment Practices Liability Insurance may be open for potential claims when an employee sues an employer for employment decisions related to absenteeism, health-based employment decisions, and wage issues based on infections. If you feel compelled to shut down and attempt alternative work from home solutions, we recommend working with your HR team to understand the legal complexities of a shut down. These will vary greatly by employer and industry, and our team would be happy to discuss.

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### **We're planning on attending/hosting/supplying an event/meeting/conference/seminar; traveling overseas, and it is now cancelled. What are our options? How can employees recoup lost time from being out due to a quarantine?**

This may be the most frequently asked question regarding the current situation. Each circumstance will require review of the terms, conditions, contracts, policies of the related parties. Refunds, issues of force majeure and other contractual obligations will not be clearly delineated in this FAQ. Its best to talk to your broker, attorney and other trusted advisors on ways to prepare, plan and mitigate these challenging issues.

**For policy specific questions reach out directly to your risk advisor.**