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COVID-19 and business interruption: Are you and your business covered? - by Spencer Macalaster

March 27, 2020 - Spotlights



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Emerging in Wuhan, a city in China's Hubei province, in late December, the outbreak of the novel coronavirus (COVID-19), a never-before-seen respiratory illness, it has swept through the country, already infecting hundreds of thousands there, according to the Centers for Disease Control. While the Chinese New Year holiday break that started on Jan. 24 was set to end a customary week later on Jan. 30, Beijing's State Council postponed the reopening of some institutions until Feb. 2 in an effort to contain the viral outbreak, and said the reopening of schools for the spring semester would be delayed "until further notice." Factories were slated to reopen on Feb. 10, but closures have

extended beyond that.

As companies around the world take measures to restrict travel and contain business interruption losses due to the coronavirus outbreak, the question many are asking is: Are my losses covered by insurance? Chances are, probably not.

That's because most commercial property policies do not cover losses from disease outbreaks like coronavirus, SARS, Ebola, etc. unless the policy contains an explicit "interruption by communicable disease" clause. Even then, limits are modest, and coverage is narrow.

To date, the Wuhan coronavirus has infected over 270,000 people, killed over 11,200 and spread worldwide, including 15,000 cases (200+ dead) in the U.S. Those numbers are expected to climb, as is the economic toll to global businesses.

Business losses can encompass a multitude of things, including lost income, business closure, supply chain disruption, employee health costs, contingent business interruption and clean-up. With a standard commercial property policy, business interruption claims are triggered by a physical loss or damage to the property, caused by events such as fires or earthquakes. However, because health epidemics like coronavirus don't result in property damage, most commercial property insurers will not cover business interruption losses stemming from a disease outbreak.

In a few cases, policies may cover losses on a limited basis if they include a clause known as "interruption by communicable disease." Let's say an employee or executive diagnosed with coronavirus comes to work and exposes others. Employees are quarantined. The entire office or plant might have to be shut down, resulting in lost income. In this scenario, "interruption by communicable disease" coverage would pay decontamination costs, business downtime and property damage. However, claims triggered under this coverage are narrow, with sub-limits of \$500K to \$1 million.

What can businesses do now about business interruption coverage in the midst of an outbreak?

Our recommendation is to develop a Business Continuity Plan (BCP). As part of your pandemic planning process we recommend you to:

- Identify core services, and what is needed to maintain your supply chain;
- Identify staffing arrangements, such as telecommuting, succession planning and cross-skilling;
- Protect the health of your staff;
- Develop a communications strategy for employees, customers and suppliers;
- Consider financial implications, such as cash flow, cost increases and insurance;

- Identify contingency plans for the unexpected;
- Schedule how the plan will be tested and updated; and
- Understand your regulatory and reporting compliance requirements.

You should identify, mitigate, and monitor risks and escalate issues at your organization. Here are some recommended actions as you build or review your BCP.

- Maintain a checklist identifying where your organization may have gaps and what best practice items should be included as part of your program.
- Risk management planning for a pandemic involves identifying risks, assessing the impact of risks and developing strategies to manage risks to your business.
- Make sure government and public resource contacts are available for each of your offices for compliance and assistance.
- Have a communication plan available to your employees outlining policies and specific steps of what will happen in different scenarios and how to access your information. We're here to help if you need it.
- Create a centralized incident repository for issues and events. If possible, create categorization and routing to make risk management easier.
- Aggregate risks, activities and incident information to your board of directors, regulatory authorities and local, State and Federal representatives as appropriate. As new information for evolving concerns are validated, changes to policies and procedures need to be updated, reviewed and implemented.

We advise clients to scrutinize their policies to find out what will govern coverage in the event of a business interruption loss. Every insurer, insured and insurance policy are different. In order to pay out recovery costs, insurers would need to establish a fact pattern that supports a claim. Work with your broker to understand your policy and see whether coverage might apply.

And always follow precautions to keep employees safe by staying up-to-date on recommended travel restrictions and preventative measures.

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