

Crane Agency FAQ Series

Coronavirus COVID-19 (UPDATED 3/24/2020)



This FAQ covers the general topic of COVID-19 virus to explain how various insurance policies could respond to claim scenarios related to the COVID-19 virus. If your business experiences a loss, we recommend you submit a claim to your insurer. They will give their position about coverage under your policy. No one can say for certain what might happen in the future, but we always recommend insureds should submit a claim.

1. Recently, there has been a lot of concern over the spread of the COVID-19 (aka “Coronavirus”). What do my commercial insurance policies cover?

The answer to this question depends on the specific facts of your situation and which policy is involved. Different coverage forms contain exclusions and limitations, which can restrict or eliminate coverage.

2. Will my property insurance provide coverage?

Many property insurers specifically exclude loss by virus, while others are silent on the issue. It is important to know that all property forms have two things in common. In order to trigger coverage, 1) there must be physical damage to property; and 2) the damage must be caused by a covered cause of loss. Most insurers believe their property coverage forms require “physical damage” which necessitates replacement or repair before the property can be made useful again. This requirement, as it relates to the coronavirus is being challenged in courts. Regardless of the insurer’s position on coverage, we recommend that all property including loss of business income should be submitted to the insurer. Property coverage can include:

- **Property insurance (direct damage) Including Decontamination**
- **Business Interruption (indirect damage)** – provides for lost income when the insured cannot make or sell their product or provide services following a loss.
- **Civil Authority (business income)** – when a covered cause of loss damages property nearby and a governmental authority restricts access to the area, this coverage will extend Business Interruption to include the loss of income.
- **Dependent Properties (business income)** – coverage can be expanded to include the inability of a manufacturer, supplier, service provider, etc. to deliver goods or services.

3. What about general liability and umbrella or excess liability?

General liability coverage responds when third parties are injured or suffer property damage that is caused by your negligence. The presence of COVID-19 in the community or workplace doesn’t constitute negligence by itself. However, there are exceptions. It could be alleged that a business failed to provide a safe environment or take appropriate steps to protect their clients or other visitors. In this situation, a liability claim could be made. Many general liability policies include coverage for viruses as it relates to third parties. However, we must emphasize that coverage can be different from one policy to the next.

If you have an umbrella or excess liability policy, the same observations apply, subject to policy wording. These policies could provide broader coverage as they may have less restrictive exclusions, limitations or definitions.

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4. What about my pollution/environmental policy?

If you have purchased a separate pollution/environmental liability policy, we recommend a review for possible coverage. There is no standardization in these policies and terms can be significantly different from one policy to the next. Some pollution/environmental policies include coverage for remediation of a pollutant at your scheduled premises. This coverage should be reviewed for potential decontamination coverage.

5. What about my workers compensation policy?

Workers compensation coverage requires that an injury or illness must be specific to the exposures of an industry. Employees who become ill due to the common cold or flu, even though they caught it from a fellow employee, does not fall within the scope of workers compensation. However, there are some industries where employees are exposed to coronavirus while performing their duties. For example, hospital healthcare staff exposed while caring for infected patients could fall within the scope of workers compensation coverage. Whether an injury or illness is a covered workers compensation claim is determined by state law, and laws vary by state.

6. What about other policies that might respond?

Depending on the nature of the allegations, management liability policies covering directors and officers might respond. This could be the result of complaints where it is alleged the directors or officers didn't respond appropriately to the Covid-19 threat, thus resulting in damage to the company, customers or employees. Under most D&O policies, the trigger is usually a claim of financial loss created by the company's inadequate response to the situation. Consider what you can do to minimize the damage COVID-19 could cause to your business operations.

If you have an international policy and the illness manifested itself while abroad, there could be coverage under the voluntary workers compensation and/or travel accident and sickness sections of the policy. Again, such policies are not standardized, you will need to carefully review your own policy with respect to the situation at hand.

7. Are there any other things I should do or consider?

There are non-insurance issues to consider. For example, OSHA and other regulations require employers to provide a safe workplace that is free of hazards that are likely to cause harm. This includes providing appropriate safety and protective equipment for your employees. This requirement may vary with the type of operation you have. For example, a medical facility has an obviously greater exposure for communicable disease situations than an office or construction risk. All businesses should make available items such as cleaning wipes and hand sanitizers to employees.

Consider what you can do to minimize the COVID-19 risks. Remind your employees that you, as their employer, are concerned about their overall wellbeing. Remind them of basic sanitation and health practices through employee education. Finally, remember that your COVID-19 and other employee policies should be neutral when dealing with employees.

As always, don't hesitate to contact your Crane broker with your questions.