

ALERT: COVID-19 Memo

The disruption that is taking place at this time is massive, and we understand the gravity of the situation. As you can imagine, the circumstances and decisions being made have created an incredibly fluid situation. We will do our best to summarize our interpretation of your coverage at this time. However, things are changing so quickly that it is probable that insurance company claim decisions will not be apparent until after claims are submitted and analyzed against policy language and/or legislative actions are confirmed.

We are expecting significant pushback from insurance companies regarding business income/civil authority/contingent business income claims. Most insurance policies for business income are first predicated on having a covered peril (i.e. fire) cause physical damage as defined by the policy terms. Based on a voluntary or mandated closure, it is quite possible that an insurance company could deny a claim due to a lack of physical damage. However, many factors are at work including National Emergency, State Emergencies, and various authorities mandating closures. All these factors could impact upon the insurance coverage determinations. Additionally, many legal theories may exist to find coverage under the current policy contracts.

At the same time, legislators in various states are working on regulations that may compel insurance companies to grant coverage. For example, in New Jersey, there is a bill being discussed that would require insurance companies to consider the pandemic a covered peril (for employers with less than 100 employees), and thus business income would apply. In New York, the state insurance department has requested from insurance companies that they provide data regarding business income exposures and coverage positions. Presumably, this is to take some action on behalf of policyholders as well.

Given the current uncertainty, we are recommending the following:

- That we proceed with filing a claim on your behalf for business income - please send us an email confirming so we can get the ball rolling
- Contact your legislator or other political contacts to request that, given the uncertainty surrounding insurance coverage, that governments take action to confirm what coverage will be available. Insurance coverage certainty could allow businesses to make safe decisions and know that their businesses will be in a better position to survive.
- Keep records regarding any lost product and continuing expenses incurred.
- Remain vigilant regarding situation updates and heed CDC and other guidance regarding safety in the workplace.

Our team is ready to help you.

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