



Coronavirus insurable? Maybe, maybe not.

Q&As

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The COVID-19 situation is already having a major impact on the work of Oregon's nonprofits. One of the major questions we are hearing nonprofits ask about is insurance.

So, what should nonprofits do? It is best to be prepared by asking questions and taking action to prevent, if possible, being impacted. It is not only a social responsibility... it may even be considered in the nonprofit arena as due diligence. If you are impacted, knowing how your organization may or may not be protected through your insurance portfolio will be essential.

Below are variations of questions we, Bliss Sequoia Insurance/NAO Directions & Officers Insurance Program Agent & Administrator, are being asked on a regular basis by nonprofits across the state and understandably so. In addition, below are general responses to help you understand the possible insurance outcome.

Question #1:

Are we insured if we choose to shut down or are told to shut down due to the Coronavirus?

This question brings into play the cost of shutting down your operations. Under a property policy there can be coverage for Business Income/Business Interruption if purchased by the policy holder. Unfortunately, it is not likely to respond due to the required physical loss and/or named peril (i.e. fire) needed to trigger a claim. In addition, many insurance companies have tried to further exclude loss due to virus or bacteria. Here is an example of the wording, "This endorsement makes an explicit statement regarding a risk that is not covered under your Commercial Property insurance. It points out that there is no coverage under such insurance for loss or damage caused by or resulting from any virus, bacterium or other microorganism that induces or is capable of inducing physical distress, illness or disease. The exclusion in this endorsement applies to all coverages provided by your Commercial Property insurance, including (if any) property damage and business income coverages."

Questions #2:

What if we are sued as a result of the Coronavirus?

This question brings into play possible liability for said failure to prevent the spread of the virus and/or related liabilities. An example would be a lawsuit claiming your organization failed to properly keep your facility clean resulting in a patron/participant (aka third party) getting sick with the virus. This may have an insurance response from a General Liability, Professional Liability, Employment Practices Liability and/or Directors & Officers Liability perspective. Specifics of the claim/lawsuit would guide the possible insurance response.

Question #3:

Can we turn in a Workers' Compensation claim for staff if they have Coronavirus?

This question brings into play the possible response from a workers' compensation policy. Workers' Compensation is sole remedy in the event an employee is injured performing their job. The complication to trigger a Workers' Compensation claim revolves around the origin of the virus. Was it directly workplace related (aka Occupational Disease) or general public related? It would need to be proven to be workplace related, which could be difficult to prove. Maintaining detailed records identifying potential exposures will help evidence the claim.

Here's an additional consideration. At this time, there are few, if any, policies that may be utilized for business income coverage, such as an Event Cancellation policy. Those policies are difficult to quote and purchase currently with a known pandemic outbreak. It is akin to buying flood insurance the day prior to a flood, knowing the flood is coming. As a result, there is a required 30 day waiting period to purchase a flood policy.

Here are a few articles that provide additional feedback:

- <https://www.nytimes.com/2020/03/05/business/coronavirus-business-insurance.html>
- <https://www.jonesday.com/en/insights/2020/02/time-for-a-policy-checkup>
- <https://www.saif.com/safety-and-health/topics/promote-health/infectious-disease.html>

We also recommend loss control preventative measures be utilized to best prevent a Coronavirus event. The Centers for Disease Control and Prevention is recommended to maintain up-to-date information and best practices.

For further clarification and/or questions about your insurance portfolio response, it is recommended you contact your insurance agent.

Disclaimer - An insurance response to the Coronavirus is a big topic with many insurance and legal considerations. To help, we've put together this general response. This is not a complete insurance perspective, as policies vary from one company to another. Please review your policies for specific details. This is not legal advice.

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