

Addressing Business Insurance Concerns Amid COVID-19

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Business Income: Is it covered?

- Short answer—No
- “Direct Physical Loss” by a “Covered Cause of Loss”
- Business Income, Civil Authority, Dependent Property (Contingent) coverage—All require direct physical loss
- MAYBE—If the virus was actually present in the workplace, requiring cleanup/shutdown
- Overarching “Virus” or “Communicable Disease” exclusions are common

Workers' Comp:

Does an Infected Employee Qualify?

- Short answer—Probably not
- Generally, a communicable disease contracted at work is not compensable by Workers' Comp
- Must be contracted in the course of employment, and exposure must be peculiar to the work
- Healthcare field
- VERY fact specific—Courts will likely decide

Cyber Insurance: Increased Risk!

- Cyber criminals are targeting employees with Phishing emails related to COVID-19 (CDC, WHO, Johns Hopkins, etc.)
- Remote work carries more risk
 - Personal devices
 - Unsecured WiFi
 - Flash drives
 - Personal/Sensitive info outside the workplace

Employment Practices Liability

- Very important if layoffs happen!
- Wrongful Termination, Discrimination, Retaliation, etc.
- Make use of the HR expertise hotlines provided by the insurance carrier

Healthcare Benefits

- How is testing and treatment covered?
 - Mandated for all plans, insured and self-funded
 - Must not impose any cost-sharing requirements including deductibles, copayments, and coinsurance
 - Must not impose prior authorization or other medical management requirements
- QHDHP's—High-deductible health plans (HDHPs) can cover the costs of testing and treatment before patients spend up to their plan's deductible without losing the plan's status as a QHDHP w/HSA
 - On March 11, 2020, the IRS issued Notice 2020-15

Families First Coronavirus Response Act

(H.R. 6201)

- Signed into law on March 18, 2020, effective April 1, 2020—not retroactive
- <500 employees, <50 employees allowed to opt-out
- Mandates paid leave for employees unable to work
 - Two weeks (80 hours) of paid sick time at the employee’s full regular rate of pay—This is reduced to two-thirds pay if the leave is due to caring for others
 - Ten additional weeks of FMLA leave, but only for those who must stay at home to care for a child (<18 years of age) whose school is closed—Paid at two-thirds the employee’s regular rate of pay
- Payroll Tax Credits offset all costs of providing leave (Cost Neutral)

A Changing Workforce & Employee Benefits

- Changes to the Workforce
 - Telework
 - Paid leaves of absence and/or furlough
 - Reduced hours
 - Layoff
- Employee Benefits are impacted
 - Actively at work and/or maintain minimum number of hours worked
 - SPD & Employee Handbook

A Changing Workforce & Employee Benefits

- Insured & Self-funded Plans
 - Insurance carriers and stop-loss providers are weighing in on maintaining eligibility
 - We encourage advisors and businesses to work with their insurance carriers and stop-loss providers to gain specific approvals—or to work through the needed Plan amendments—regarding their changing eligibility
 - We compiled a carrier accommodations and extended benefits worksheet for your reference

Employee Benefits Checklist

- Evaluate business impact of the COVID-19 health crisis
- Engage advisors and vendors to understand what is needed
- Determine workforce changes—Communicate with compassion
- Communicate early and often to employees, even if you are unsure of some aspects of your response plan

How Can We Help?

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