

Can I use my insurance coverage for COVID-19?

By Matthew Duffy



What do I need to know about potential insurance coverage for claims related to the COVID-19 pandemic?



During these uncertain times, the restaurant and foodservice landscape is evolving quickly, sometimes daily. So what does this mean for the losses incurred by these businesses and the prospect of insurance claims related to these closures?

That question is the subject of intense debate in many industries. Adding further fuel to this debate are the legislative efforts of some states. New Jersey, for example, is considering legislation that will in essence compel insurers in that state to cover losses sustained by businesses forced to close due to COVID-19.

What and how much insurance coverage is available may boil down to the specific language in the insurance policies at issue. Accordingly, I recommend that businesses review in detail their insurance policies and focus attention on language involving covered losses. The goal is to determine whether insurance coverage for government-mandated closures and losses associated with those closures is a covered event under the insurance policy. Usually there must be a triggering event, such as a “physical loss” (e.g., fire, storm damage or flood), to be a covered loss. Even if a triggering event occurs, there may be several “exclusions” or “exceptions” to coverage that are business- or industry-specific.

For the COVID-19 pandemic, coverage for losses potentially may be found in various policies. Examples include:

- Business interruption and contingent business interruption coverage;
- “Civil Authority” provisions in commercial policies;
- Workers’ Compensation Policies;
- General liability policies.

Each policy contains language that will identify the triggering events and covered losses (e.g., damages, general expenses, remediation costs, lost revenue, etc.). Business interruption coverage typically applies when a facility is unable to operate because of property damage, contingent business interruption may apply if there are disruptions to your supply chain and civil authority provisions may apply if your facility has been closed because of government orders. Exclusions to coverage are just as important to understand as whether a covered event has occurred (i.e. “physical loss”). Some policies specifically exclude coverage for loss caused by a virus or bacteria.

One notable lawsuit has already been filed in California: The Thomas Keller Group, owners of The French Laundry and Bouchon Bistro, is suing its insurer for denied claims, asserting that the county-mandated shutdown prevented access to the restaurant locations, thereby giving rise to coverage under the company’s “all-risk” policy.

Below are recommendations:

- Obtain copies of any insurance policies maintained by the business;
- If you are not comfortable with interpreting the insurance policy language, find someone who can provide the proper guidance—an insurance agent or broker, business consultant or attorney;

- Review the policy language in detail, paying special attention to triggering events, covered losses and exclusions to coverage;
- Review government orders on business closures and determine the businesses losses. Minnesota has allowed restaurants and foodservice providers to remain operating for takeout and delivery. Generally, if the closure is “voluntary” or “advisory,” obtaining coverage of the claimed losses may be difficult.
- File a claim with the insurance company to preserve the insured’s rights under the policy. Many insurers require that the insured provide “prompt” notice within a “reasonable” timeframe.
- Track the claim and provide the information requested. If you are unsure or need assistance with the claim, seek advice from an insurance agent or broker.
- Finally, when in doubt, consult with an attorney.

These are a preliminary set of recommendations. Insurance-related guidance will continue to evolve as governments at all levels evaluate and respond. Stay current on the changes to ensure you and your advisors protect your business to fullest extent possible. 



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