

Current Situation in the United States

On March 11, 2020, the World Health Organization declared the rapidly spreading Coronavirus a Pandemic. A pandemic is a worldwide outbreak of a new virus that infects people easily and spreads in an efficient and sustained way. With a growing number of infections on almost every continent, the World Health Organization announced the outbreak has reached the “highest level” of risk for the world.

Exposure Risk

The exposure risk may be higher for some travelers and workers in certain industries, including:

- Healthcare
- Death care
- Airline operations
- Border protection
- Solid waste and wastewater management
- Travelers to areas where the virus is spreading

The U.S. Department of Labor’s Occupational Safety and Health Administration (OSHA) published “[Guidance on Preparing Workplaces for COVID-19](#)” to help companies respond in the event of coronavirus in the workplace. The document was developed in collaboration with the U.S. Department of Health & Human Services (HHS). This guidance provides practical guidance for preventing the spread of COVID-19 (also known as novel coronavirus) and includes information on safe work practices and appropriate personal protective equipment based on the risk level of exposure. In addition to this guidance, OSHA recently launched a [COVID-19 webpage](#).

Planning and Response for Employers

Many businesses and organizations have been working to minimize the spread of the virus by limiting non-essential travel and practicing social distance. Per the CDC, coordination with [state](#) and [local](#) health officials is strongly encouraged for all businesses so that timely and accurate information can guide appropriate responses in each location where their operations reside. Since the intensity of an outbreak may differ according to geographic location, local health officials will issue guidance specific to their communities.

The CDC has developed guidance for employers which includes recommended strategies for the COVID-19 outbreak. Employers need to consider how best to decrease the spread of acute respiratory illness and lower the impact of COVID-19 in their workplace in the event of an outbreak in the U.S., the CDC said. Employers should identify and communicate their objectives, which may include one or more of the following:

- Reducing transmission among staff
- Protecting people who are at higher risk for adverse health complications
- Maintaining business operations
- Minimizing adverse effects on other entities in their supply chains

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This information, along with recommendations for an Infectious Disease Outbreak Response Plan, can be found on the [CDC website](#).

The CDC also has prepared [free communication resources](#), including videos, fact sheets, and posters.

For information on Human Resources and Leave policies, HIPAA and Protected Health Information, consult with your Employee Benefits Broker or employment practices attorney.

Pandemic Planning

Now that COVID-19 has been declared a pandemic, all businesses, health care systems and schools should execute their pandemic preparedness plans.

The following are governmental templates and resources to assist organizations in developing their pandemic plan:

- [FEMA's Pandemic Influenza Template](#)
- [WHO Checklist for Influenza Pandemic Preparedness Planning \(PDF\)](#)
- [CDC National Pandemic Influenza Plans](#)
- [OSHA Guidance on Preparing Workplaces for an Influenza Pandemic](#)
- [Missouri Department of Health and Senior Services: Pandemic Influenza Business Planning Toolkit \(PDF\)](#)

Insurance Considerations

The nature and magnitude of claims related to COVID-19 and the financial impact are not yet known. In most scenarios, businesses would be challenged to find coverage for losses stemming from this pandemic; however, with ever-changing legislative landscape, coverage could be afforded under some policies. Below is a summary of key insurance coverages and how they would typically respond.

Workers' Compensation

Many clients have inquired about potential Workers' Compensation claims arising from employees contracting COVID-19 during the course of their employment. As with any communicable disease, the answer is not black and white. Circumstances regarding any alleged workplace exposure would need to be investigated.

As with any ordinary virus, if it's a condition that the general public is equally exposed to, the workers' compensation policy would likely NOT apply. However, if the employee could prove that their job put them at greater risk than the general public of contracting the virus, some jurisdictions may grant coverage. Employers who have conducted their hazard risk assessment will be better prepared and have a better understanding of their true workplace risk of exposure.

Business Income

Typically, in order for Business Income coverage to trigger on a standard Commercial Property policy, there must be an underlying covered cause of loss. This means fire, windstorm, hail or other similar type of event would have to occur. Diseases and viruses are not insured perils. Without the underlying coverage trigger, business income coverage would not respond.

An endorsement for “communicable disease and food contamination” is available from insurance carriers. Often used by food-related industries, this endorsement is not added automatically and is very narrow in its definition of a communicable disease or contamination. Even with this endorsement, to trigger coverage there typically must be an order to shut down operations by a local, state or federal Department of Health (civil authority) in the jurisdiction of the affected property.

The communicable disease endorsement has a sublimit that may contain an aggregate and typically has a 72-hour waiting period with a limited period of restoration. It is not nearly as broad as the business income typically seen with a property loss.

An inability to access a business due to an order by a civil authority is something that can trigger a business income loss when caused by a “covered cause of loss” in the policy. This coverage is very difficult to trigger and typically has geographical limitations and exclusions that may apply.

Commercial General Liability and Pollution Liability

Commercial General Liability and Pollution Liability insurance policies may respond in a situation where an individual alleges they were infected with the coronavirus while on the insured’s property. The burden of proof would be with the injured party to prove causation and associated damages.

Directors and Officers

Directors and Officers policies may provide coverage for the costs and liabilities arising from shareholder lawsuits alleging that the company failed to act reasonably and plan appropriately in response to the coronavirus. Examples of this may include a failure to create adequate supply chains or failing to reveal financial risks that would result in financial loss to the organization.

Employment Practices

Employment Practice liability policies may respond if claims are submitted as a result of sick leave and other human resource-related policies associated with the company’s coronavirus response plan.

Coronavirus Background

COVID-19 causes respiratory illness that seems to be spreading much like flu and can spread from person to person. This virus was first identified during an investigation into an outbreak in Wuhan, China.

Symptoms

For confirmed coronavirus infections, the impact has ranged from minor illnesses with little to no symptoms to severe illnesses and even death. Common signs of infection include respiratory symptoms, fever, cough, shortness of breath and breathing difficulties. In more severe cases, infection can cause pneumonia, severe acute respiratory syndrome, kidney failure and death.

Prevention

There is currently no vaccine to prevent the COVID-2019 infection. The best way to prevent infection is to avoid exposure. As a reminder, the CDC always recommends everyday preventive actions to help prevent the spread of all respiratory viruses, including:

- Wash your hands often with soap and water for at least 20 seconds. If soap and water are not available, use an alcohol-based hand sanitizer
- Avoid touching your eyes, nose and mouth with unwashed hands
- Avoid close contact with people who are sick
- Stay home when you are sick
- Cover your cough or sneeze with a tissue, then throw the tissue in the trash
- Clean and disinfect frequently touched objects and surfaces



Treatment

There is no specific antiviral treatment recommended for COVID-2019. People infected should receive supportive care to help relieve symptoms. For severe cases, treatment should include care to support vital organ functions. People who think they may have been exposed should contact their health care provider immediately.

Latest information:

- [CDC](#)
- [World Health Organization](#)
- [John Hopkins Real-Time Coronavirus Map](#)

Coronavirus Advisory

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