

BUSINESS & PERSONAL INSURANCE | EMPLOYEE BENEFITS | RISK MANAGEMENT

CONTRIBUTING TO THE SUCCESS OF OTHERS

CALL TO ACTION  
FOR NON-PROFITS

BAKER-HOPP & ASSOCIATES

## FAQ: Will our insurance respond if someone gets sick?

Solid plans and procedures are the most effective risk management strategies for organizational safety and success. However, insurance serves as the back stop when unplanned situations occur despite their best efforts. It is critical to know what your policies will and will not cover.

### **What if the community we serve or other third parties we come into contact with are diagnosed with COVID-19 and feel they contracted the virus at our site?**

Because this pandemic is untested by insurance policies, there may be uncertainty on coverage. Below are a couple areas to be aware of:

- Some general liability policies have exclusions for communicable diseases. These exclusions may define communicable diseases to include viruses or not, so the language of the policies will be key to determining the application of this exclusion.
- Many policies have exclusions for fungi, virus, mold, bacteria or microbes. Again, the language is key, as this exclusion has been extended to viral infections in some instances. Some policies have exceptions to this exclusion to bring back coverage for person-to-person transmission, which is a common way for COVID-19 to spread.
- If you receive a written or verbal accusation or demand for monetary damages, immediately notify your insurance agent and general liability insurance carrier. Insurance policy language differs widely and responses to coverage will vary.

**If our employees contract COVID-19 and feel that they contracted it at work, will the corona virus be covered by workers' compensation?**

- The answer to that question is “maybe.” First, it is important to note that workers’ compensation laws are dictated by State. If you have employees in multiple states, it is important to consult individual State positions. For a state by state breakdown of regulatory activity pertaining to insurance issues, please visit: [https://www.ncci.com/Articles/Pages/II\\_Covid-19-RegLeg-Activity.pdf](https://www.ncci.com/Articles/Pages/II_Covid-19-RegLeg-Activity.pdf)
- Generally speaking, while worker’s compensation laws provide compensation for “occupational diseases” that arise out of and in the course of employment, many state statutes exclude “ordinary diseases of life” (e.g., the common cold or flu). There are occupational groups that arguably would have a higher probability for exposure such as healthcare workers. However, even in those cases, there may be uncertainty as to whether the disease is compensable.
- If an employee indicates they feel they have contracted COVID-19 as a result of employment, immediately notify your insurance agent and workers’ compensation insurance carrier. Also, it is important that all your supervisors are on alert for these reports.

**What if our employees accuse our organization of not protecting them or treating them right around corona virus issues or coming back to work?**

- While it is still early in the claim cycle, industry experts are indicating that, yes, the intent should be to cover these claims unless a specific exclusion was added. The industry understands that workers’ compensation policies probably will not respond in many of these cases and there may be a surge of claims for working conditions, safety measures, wage and hour disputes, discrimination, etc.
- Often Employment Practices Liability policies offer free pre-claim assistance where organizations can have access to free employment counsel to discuss situations before employment decisions are finalized. Most often this information can be found at the front of the policy document or on the insurance company website. Also, MI OSHA has released a detailed guide that employers must adhere to when reopening facilities [https://www.michigan.gov/documents/leo/leo\\_miosha\\_c19\\_workplace\\_guidelines\\_employer\\_690397\\_7.pdf](https://www.michigan.gov/documents/leo/leo_miosha_c19_workplace_guidelines_employer_690397_7.pdf)
- Employment practices liability policies often have strict requirements for notification if the organization has reason to believe or has received documentation about a potential claim. As a result, it is imperative you *immediately* notify your insurance agent and workers’ compensation insurance carrier.