



WEST VIRGINIA INSURANCE

BULLETIN No. 20 – 08

Insurance Bulletins are issued when the Commissioner renders formal opinions, guidance or expectations on matters or issues, explains how new statutes or rules will be implemented or applied, or advises of interpretation or application of existing statutes or rules.

To: All Insurers, Insurance Trade Associations, and Other Interested Persons

From: James A. Dodrill, Insurance Commissioner

Re: Business Interruption Coverage and Coronavirus (COVID-19)

Date: March 26, 2020

Business interruption insurance policies are governed by contract law and the coverages and exclusions may vary from insurance company to insurance company, as well as from business to business. In other words, commercial insurance policies have unique terms, conditions and exclusions that are not uniformly applicable to every business. Business interruption coverage is typically triggered under a commercial insurance policy when a *covered risk* causes *direct physical loss or damage* to the insured's or policyholder's premises resulting in the need to shut down business operations. For example, if a fire damages a business and the business cannot operate during repairs, business interruption coverage could be available subject to the terms and limits of the businessowner's particular policy.

A business interruption insurance policy should clearly list or describe the types of events, commonly known as perils, that it covers. Perils that are not listed or described in the policy, or that are specifically excluded in the policy, are generally not covered. These excluded perils are typically risks that are too great to be underwritten at an affordable price. For example, insurance policies generally contain exclusions for loss or damage caused by war, nuclear accident and radiation. The potential loss costs from such perils are so great that providing coverage would jeopardize the financial solvency of insurers and many businesses could not afford the premium costs to cover such catastrophic events even if they were covered perils. Global pandemics like COVID-19 usually fall into this category of risks or perils that are not covered. Business interruption policies were generally not designed or priced to provide coverage against communicable diseases, such as COVID-19, and therefore usually include exclusions for that risk.

Some commercial policies may provide business interruption coverage when a business is shut down due to an order by a governmental or civil authority, like Governor Justice's recent executive orders. However, for coverage to apply, most insurance policies still require a direct physical loss from a covered peril as the underlying cause of the business shut down or closure. Nevertheless, insurance policies can be different,

and it is important for each insured or policyholder to review their insurance policy coverages, exclusions, coverage limits and applicable deductibles. Some insureds or policyholders may have purchased additional coverage options, or endorsements, that could be applicable. It is imperative for an insured or policyholder to discuss insurance policy coverages directly with their insurance professionals, including agents, brokers or employees of the insurance company.

Insureds and policyholders may also contact the Commissioner's Consumer Services Division with questions. Complaints or inquiries regarding coverage or a claim can be sent by email to OICConsumerServices@wv.gov, or through the agency's tollfree number 1-888-TRY-WVIC (888-879-9842). Consumer complaints may also be filed online at www.wvinsurance.gov/consumerservices. Please have your insurance policy available, as well as any claim number, so that our Consumer Services Division can best assist you.

Since the COVID-19 pandemic has been declared to be both a State and Federal Emergency, as well as an insurance emergency by the Commissioner, and further since this Bulletin specifically directs insureds and policyholders to contact their broker, agent or insurance company regarding the availability, if any, of business interruption coverage for COVID-19, the Commissioner directs that **no insurance company should report negative claims activity or a claim denial when an insured or policyholder contacts the company or its agent or broker to inquire about business interruption coverage for COVID-19 under its policy.**

The Offices of the Insurance Commissioner would like to reassure West Virginia businesses that it is closely monitoring insurance issues related to COVID-19. Our core mission includes making sure insurance companies remain solvent and treat consumers fairly by following the provisions in their policies, as well as applicable state laws and rules.

Any questions concerning this Bulletin, or any other Bulletin, may be directed to OICBulletins@wv.gov.