



## COVID19 – Insurance Coverage Triggers: Listen. Read. Repeat!

Advancing the discussion about #insurance, #business, #covid19 and the insurance coverage triggers, insurance professionals everywhere are digging through policy terms looking to find a solution for their clients. The most important part of any insurance coverage analysis is gathering the facts before applying the insurance policy. At Advocate Claim Service our core principles are to Listen and Read.

**Listen.** The stories being told are indelible. Employers are looking for any means possible to provide security to their employees, customers, clients, and shareholders. The stories have common themes, but more interestingly the unique details which could result in coverage being triggered. Across America government leaders at various levels are asking or ordering people to remain “safe at home” with exceptions for essential businesses. Listening to the details of a business’s specific situation is vital to reviewing and applying coverage.

**Read.** Not all insurance policies are created equal. Insurance companies are innovative when it comes to the coverage afforded under their specific brand. Standardized coverage forms do not allow an insurance company to stand out in a crowded marketplace. Want to know if an insurance policy has been modified beyond a standard coverage form? Look for a line at the bottom of the pages stating, “Includes copyrighted material of. . . , with its permission.” This usually means the pure coverage form has been differentiated from the standard form. This is a good first sign that assumptions about the terms of policy need to be abandoned.

**Physical Loss:** Common property and business income insuring agreements are going to contain language that says, “direct physical loss of or damage to property. . . .” Be forewarned that interpreting this language is not as clear as some would have a business owner believe. Legal jurisdictions have interpreted this wording for decades, both narrowly and broadly. As seen in *Western Fire Insurance Co. v. First Presbyterian Church*, the Colorado Supreme Court broadly applied physical loss of use to be viewed in context of the situation and not in isolation when a church was not accessible due to the presence of gasoline on the premises. Interestingly, the courts’ reasoning is somewhat analogous to the COVID19 situation in so much as government authorities are making premises uninhabitable due to the concern that occupying the premises for its intended use could be highly dangerous. While this case is distinguishable on other factors, the mere idea that businesses impacted by COVID19 are “pure financial losses” is not going to be so clear cut.

**Exceptions to Exclusions:** Additionally, insurance policies have further complexity that could make an experienced adjuster need to pause and seek understanding. While this is an abridged version of a Microorganism exclusion, please know that the definition of “Microorganism” includes a virus.

Insurer will not pay for loss or damage consisting of, directly or indirectly caused by, contributed to, or aggravated by the presence, growth, proliferation, spread, or any activity of “microorganism,” unless resulting from fire or lightning. Such loss or damage is excluded regardless of any other cause of event, that contributes concurrently or in any sequence to the loss, even if such other cause of event would otherwise be covered.

**But if a result of one of these excluded causes of loss is a “specified cause of loss,” other than fire or lightning, we will pay that portion of the loss or damage which was solely caused by that “specified cause of loss.”**

Interestingly, for this policy holder, “specified cause of loss” includes civil commotion. Here is another area where wording could be viewed in the context of the situation. Webster’s Third New International Dictionary unabridged edition provides insight into the meaning of these words.

“Civil: relating to, growing out of, or involving the relations of citizens one with another.”  
“Commotion: mental excitement, uncertainty, confusion.”

In essence, this policy says that if a virus indirectly causes a mental uncertainty involving the relations of citizens that coverage would be afforded for the loss or damage which was solely caused by that mental uncertainty involving the relations of citizens. Additionally, by way of constructing the paragraph the insured gets the benefit of concurrent causation. A generally accepted principle in the application of insurance coverage is most ambiguity is construed against the insurance company. This exception to the exclusion is applicable to insuring agreements for property and business income.

The application of insurance coverage can be more of an art than a science. Insurance professionals need to Listen to the circumstances impacting the business and then read the policy, arguably in the context of the situation. If your business needs help understanding insurance coverages due to a claim, Advocate Claim Service (ACS) is here to help. At ACS we listen and read your insurance policy at no cost to bottom line.

**We don’t sell insurance; we make it work!**

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**DISCLAIMERS:**

1. The information above does not constitute legal advice as ACS is not a law firm. Please consult an attorney with specific questions regarding the law applicable to your business.
2. As the COVID19 situation is constantly changing, we will make effort to stay current on this topic, however this information is provided as general information and may not apply to your situation, nor should it be relied upon exclusively. Please consult and confirm with your attorney if you have questions about the law.
3. Please note ACS is not a law firm nor are we licensed to provide legal advice. ACS is licensed to analyze, interpret, and apply insurance coverage to a claim. On behalf of an insured ACS does present claims to insurance companies. The advice and information provided is based on opinions formed from information available at the time of the writing and could be subject to change.