



EMPLOYER INSIGHTS: Transportation

COVID-19



AssuredPartners

What Issues Businesses are Facing

AssuredPartners wants to help you understand the insurance implications to your business. The costs associated with the outbreak are mounting and business disruptions have been set in motion. What we do know is that there are many factors in play. What we don't know is how the market will respond and at what level the government will step in to offer guidance and assistance.

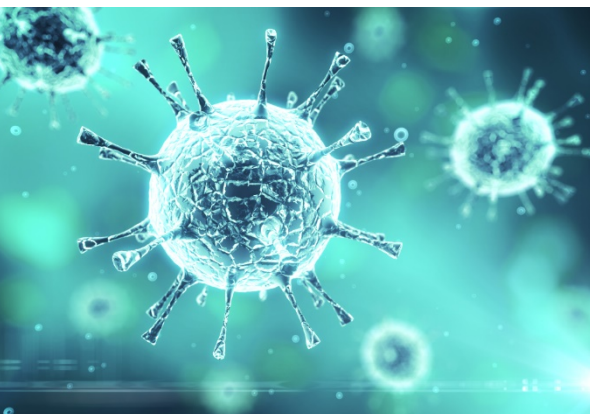
The commercial transportation sector can expect to see significant impacts to normal operations beyond mere load cancellations. Some of these impacts may have insurance implications. CDL license waivers, medical card renewals, delayed driver training and other transportation operational adjustments, as well as regulatory compliance issues are already coming to light. For example, on March 24, 2020, the Federal Motor Carrier Safety Administration (FMCSA) provided reasonable flexibility to motor carrier employers and their drivers subject to testing under 49 CFR part 382 to address the COVID-19 national emergency.

In these uncertain times, AssuredPartners has assembled the following resources focused on general understanding, liability, risk and coverage considerations. We will continue to monitor the situation and provide as much useful information as possible for our clients.

Some of the consideration areas are listed below:

- Transportation Operational Risk Management
- Commercial Auto Liability
- Commercial General Liability
- Workers' Compensation
- Employees Working from Home
- Property, Loss of Revenue, and Extra Expense
- Claims
- What's Next

The information provided is not intended as legal advice and should not be relied upon in lieu of your own legal guidance. The information and resources provided are not specific to your policy or coverage, and the terms and conditions of individual policies will ultimately govern. Local and federal health agencies can be consulted for the latest news and directives.



**For up-to-date information, please visit
our Resource Center:**

<https://www.assuredpartners.com/Coronavirus-Resources>

Transportation Operational Risk Management

Many agencies and divisions of the US government, including the Department of Transportation (DOT) and the Federal Motor Carrier Safety Administration (FMCSA) have provided guidance for motor carriers and drivers to ensure that products and goods can continue while maintaining safe roadways. The emergency declaration has brought about several measures, bulletins, and recommendations, which include:

- **FMCSA CDL Licensing Renewal Relief:** This Notice of Enforcement Policy, effective from March 24, 2020 to June 30, 2020, provides needed relief from specified FMCSRs for CLP holders, CDL holders, and non-CDL drivers and motor carriers using those drivers. This Notice of Enforcement Policy applies to all CLP holders, CDL holders, and non-CDL drivers whose license was issued for less than the maximum period established by 49 CFR 383.25 and 383.73 and was valid on February 29, 2020 and expired on or after March 1, 2020.
- **PHMSA Hazmat required training relief:** The US Department of Transportation's Pipeline and Hazardous Materials Safety Administration give notice that it will not take enforcement action against any offeror or carrier who is unable to provide recurrent training with HMR training requirements.
- **DOT Drug & Alcohol testing relief:** This guidance provides clarity to DOT-regulated employers, employees, and service agents on conducting DOT drug-and-alcohol testing given concerns about the Coronavirus Disease 2019 (COVID-19).

CVSA Postpones International Roadcheck: Commercial Vehicle Safety Alliance (CVSA) sets inspection and enforcement initiatives, such as International Roadcheck, which is scheduled for May 5-7. However, with public health and safety as its top concern, CVSA has decided to postpone International Roadcheck to later in the year. The Alliance will monitor the status of the coronavirus (COVID-19) pandemic and appropriately select the new dates when it's safe and reasonable to do so. Once the rescheduled dates have been selected, CVSA will notify the commercial motor vehicle enforcement community, the motor carrier industry, the press and the public.

Commercial Auto Liability

With any possible reduction in operational cadence or just potential economic downturn, it is normal to examine the potential for expense reductions. For transportation in particular, there might be opportunities to reduce premium by reducing estimated mileage or perhaps increasing deductibles.

While we are happy to discuss a range of options in a specific scenario, as a rule we strongly recommend avoiding cancellations for nonpayment of premiums. The market is hardening, and insurance carriers are constantly evaluating their position within it. The stakes in transportation remain very high and rising premium rates are going to get tougher for some who are not considering the market changes.

Keep in mind many liability policies require monthly reporting, so it is critical to maintain current and valid driver and vehicle listings. We fully expect insurance carriers to keep normal reporting policies in place during the emergency. Also, please continue to provide required driver training as best you can, and document reasons it has to be delayed.

Commercial General Liability

Entities that interact with the public (last mile haulers, etc.) may face litigation if customers believe they can link their illness back to these entities as the source. One potential liability exposure for businesses may be alleged negligence or a lack of care.

These claims could arise from exposure due to the employer's alleged failure to use reasonable care to protect the general public, customers, workers or their families. Protecting your organization from COVID-19 related liability exposures should include your best practices on how your company interacts with third parties, both on premises and direct contact with your employees.

Once again, coverage will be determined by many factors including coverage forms, definition of coverage terms by the courts, legislative action, public policy, and legal precedents among other factors. We strongly recommend that no coverage determination is rendered by the policyholder or their insurance broker as the variables are too numerous. We once again refer policyholders to the CLAIMS SECTION below for proper documentation and preservation suggestions.

Workers' Compensation

In considering coverage for workers' compensation claims, insurers determine whether the injury occurred within the affected individual's scope of work. Coronavirus may be a humankind exposure rather than one peculiar to most employments. To be occupational and compensable as workers' compensations claims usually requires something peculiar about the work that increases the likelihood of getting sick.

As an employer, what are the main safety workplace guidance you should follow? Make sure your business is prepared with best practices including, Employee Travel, Business Continuity Plan and Education. Please refer to the [OSHA Guidelines](#) for additional details.

1. **Employee Travel.** Do we have employees located in or traveling to areas where there have been documented and diagnosed cases of COVID-19? Employees who travel overseas for work who may have been exposed to the virus should be advised to stay away from your office and seek medical care as appropriate. Once cleared, properly communicate this to co-workers to lessen the risk of panic.
2. **Business Continuity Plan.** Refer to your company's business continuity plan. If you do not have such a plan in place, consider a working group of employees to determine business disruption issues and establish procedures to combat these in a quick timeframe. Make sure such plans address training and awareness for returning to a normal operations tempo since workers comp claims can increase once activity picks up.
3. **Education.** While this sounds elementary, employees, customers and on-site visitors could use the reminders regarding hygiene. Hang signs in common areas reminding those of the habit of washing your hands, cover faces while sneezing and coughing. Urge employees who aren't feeling well to stay at home and seek immediate medical attention if necessary.

Employees Working from Home

For some of us, having employees work remote can be a new experience. Below are several helpful resources from our trusted partner, LinkedIn, on the working from home environment.

- [Working Remotely](#) – 1 hour
- [Time Management: Working from Home](#) – 1hr 25 min
- [Being an Effective Team Member](#) – 31 min
- [Productivity Tips: Finding Your Productive Mindset](#) – 59 min
- [Leading at a Distance](#) – 36 min
- [Balancing Work and Life](#) – 28 min
- [Managing Stress for Positive Change](#) – 57 min

Property, Loss of Revenue and Extra Expense

With a pandemic or disease outbreak, organizations may be forced to temporarily close their operations and in doing so they may try to seek business interruption coverage under their insurance coverage. Most policies trigger coverage for business interruption only after the policyholder has experienced a direct physical loss to the premises in question caused by a covered peril.

It is likely that there will be first-party claims filed and adjudicated over the next months and years related to losses arising from the current pandemic. Some claims may occur in the way of a Direct Physical loss, which is typically triggered “as a result of direct physical loss or damage insured herein and occurring during the term of the policy to real and/or personal property insured herein.” This is the starting point when evaluating coverage. Has the insured sustained direct physical loss/damage insured herein at an insured location?

In many cases, there will be Indirect Losses which will require specific policy triggers be met for Business Interruption coverage to apply. We anticipate that a significant number of business income loss claims may arise under Civil Authority and Supply Chain disruption provisions. There may also be extra expenses incurred for cleaning/disinfection of property, equipment, inventory, etc. Like other policies, the form/coverage varies. However, due to the newness and the scope of economic impact from claims related to COVID-19, there’s a great deal of uncertainty of how coverage adjudication will ultimately be determined.

We strongly recommend that policyholders follow the steps mentioned in the CLAIMS SECTION below to collect and track any loss to their business.

Claims

We know that you may have questions as to your various policies and the applicability of coverage for the unique situations you are facing. Each scenario, client, and operation is different so, first and foremost, we suggest reaching out to your broker to discuss your specific situation.

Generally speaking, most policies will not provide coverage for a slowdown or disruption to your operations solely due to the Coronavirus. General liability policies may respond in the event a claim is made against you by a third party who claims to have contracted the virus at your facility or in your vehicle, but any determination on that point will be fact-specific and dictated by the terms and conditions of your policy.

Business interruption coverage provided by some property insurance policies requires a covered loss such as damage to your physical building before coverage is triggered. Even then, the Interruption is only covered to the extent that your business is impacted by the damage to the building.

In the event you believe a claim may be necessary, there are several steps you can take to assist with claim substantiation:

- Develop a detailed factual narrative outlining the loss.
- Record pertinent details of impairments, direct damage or bodily injury at/to the insured facilities or other property. When relevant, take numerous photos, retain surveillance video, and collect statements from all parties involved.
- Outline any Civil Actions or ingress/egress issues prohibiting access to insured locations that impair your normal operations.
- Where applicable to your situation, record any known interruptions with suppliers that impact your business.
- Track all costs/losses in real time. If a claim is pursued, losses will have to be specifically reconciled and tied to the triggers noted above.

Coverage for each unique claim scenario must be determined by the insurance company. Every claim will be evaluated based upon facts presented in conjunction with all applicable policy provisions and the law in the applicable jurisdiction.

Please also keep in mind that repair facilities and contractors could be operating with a reduced workforce, thereby delaying repairs to your facilities or vehicles. Similarly, your insurance company might also be impacted by these current events, with possible delays to the normal adjusting process. The more information you can provide will greatly assist in getting your claim addressed as quickly as possible.

What's Next

AssuredPartners will continue to monitor the situation and will work closely with our clients to respond to any potential claim situations. As the situation progresses, we will communicate in a timely manner to keep our clients abreast of marketplace modifications. If you should have any questions about this topic and how it directly impacts your coverage, please contact your AssuredPartners team.

All future updates will be located on our Resource Center:

<https://www.assuredpartners.com/Coronavirus-Resources>

This communication does not capture all lines of coverage, all exposures or reflect advice specific to your needs. If you have questions regarding your specific coverages, please contact your local AssuredPartners broker team.

About AssuredPartners

Headquartered in Lake Mary, Florida and led by Jim Henderson and Tom Riley, AssuredPartners, Inc. acquires and invests in insurance brokerage businesses (property and casualty, employee benefits, surety and MGU's) across the United States and in London. From its founding in March of 2011, AssuredPartners has grown to over \$1.5 billion in annualized revenue and continues to be one of the fastest growing insurance brokerage firms in the United States with over 185 offices in 30 states and London. For more information, please visit www.assuredpartners.com.