

# Pandemic Preparedness

## *Risk Management for Flu Risks*



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*The essence of risk management is to identify potential risks, analyze their probability, and assess the potential financial and other impacts in order to manage threats to your enterprise. We offer a risk management perspective surrounding the growing concerns of the recent pandemic.*

The World Health Organization (WHO) officially declared the first flu pandemic since 1968 on June 11<sup>th</sup>. The move will surely heighten health measures in the WHO's 193 member states as authorities brace for the worldwide spread of the A (H1N1) virus. Although the majority of U.S. cases have been mild illnesses, there have been 27,737 total infections reported in 74 countries, including 141 deaths, according to latest tally.

William Gallagher Associates is a leading provider of insurance brokerage, risk management and employee benefits services to firms with complex risks and dynamic needs, within industries that include technology, life sciences, healthcare, financial risks, aviation, energy and environmental services, with offices in Boston, MA; New York, NY; Hartford, CT; Princeton, NJ; Columbia, MD; Atlanta, GA; and Paris, France.

### **Planning for Impact**

Workforce management and human resource concerns should be at the forefront of planning efforts. Potential crisis scenarios should reflect the potential length of a pandemic and any prolonged reduction to the overall workforce. Issues such as *absenteeism* (those who are sick, those who are caring for them and those who are unwilling to leave their homes) and the effect an outbreak would have on medical plans and benefits packages are major issues that should be considered. Experts recommend planning for a 40% absentee rate in the event of a pandemic.

Another key area to be addressed is risks to the *business supply chain*. In order to maintain operations during a pandemic, in which many businesses will cease normal functions, a close examination of all the inputs of an enterprise is warranted. One consideration is being in close contact with secondary suppliers in other unaffected areas of the world.

Another important area to consider in disaster planning is being prepared for a business interruption by providing remote-access computer networks.

### **Insurance Coverage**

For the most part, insurance markets currently offer very little or no coverage for loss of business as a result of a pandemic. There are some limited forms of protection:

- Property, being a first party contract, typically deals with the risks of physical loss, and the reimbursement of profits and expenses for losses related to a direct physical loss, caused by covered perils such as windstorm or a fire. With a pandemic, there is no "covered peril" that can be linked to property damage, or the loss of profits. Therefore, recovery of a loss under a first party contract is very unlikely.

- Civil Authority (such as forced closure of businesses, transit systems, etc.) is another area that is commonly found on business interruption and other time-element policy forms. Therefore, some may argue that an action of Civil Authority would allow for some coverage. If a Civil Authority closes the city as a result of a pandemic, would an insured's business income loss be covered? The likely answer is no. A covered peril still needs to cause the Civil Authority actions. Swine flu is a virus and it is unlikely that one can prove that a virus caused property damage that would trigger the coverage.
- General Liability, or third party coverage, is based on negligence. In the case of a pandemic, negligence will be difficult to prove. A basic defense would likely involve proving causation, attempting to prove who is negligent for those who became sick. This could involve various parties: your firm as the employer, any outside visitors to your firm, the owner of the building you lease, the management of the building, or anyone related to the maintenance of the building. In addition, most liability policies contain a pollution exclusion eliminating any coverage for contaminants. It is possible that the swine flu will be considered a contamination, which could limit any claims under liability policies.
- Workers Compensation covers responsibility for employee accidents and conditions. Much like the first party claims, there must be an accident or occupational illness to trigger coverage. The major question will be whether employees can show they became sick in the course of employment. State statutes govern the application of Workers Compensation benefits. If compensable, medical and lost time wages will be the responsibility of the insurance company. If the disease is serious but not fatal, it could trigger temporary or permanent disability payments under the Workers Compensation policy. If the flu is not considered compensable under Workers Compensation, then the employers Medical and Benefit plans would respond. Medical payments and possibly short term and long term disability coverage as well as life insurance could apply.
- Foreign Voluntary Workers Compensation provides coverage for employees who become sick with an endemic disease (diseases associated with a particular part of the world and typically not found in the US) while on overseas business. Therefore coverage exists under Foreign Voluntary Workers Compensation for healthcare costs and repatriation expenses. However once the disease spreads to the U.S., this coverage would no longer be considered an endemic disease. It would then become a case of employees showing they became sick from the flu during the course of their employment.
- While every segment of the world's economy could feel the impact of a pandemic, life insurers would be the hardest hit. Life & Disability claims would be applicable. According to the Insurance Information Institute, a severe outbreak similar to the 1918 flu, could cost life insurers up to \$133 billion in death claims; making this sector the hardest hit out of all the areas of risk that would be affected.
- Another key component of risk management is the area of Executive Liability. The board of directors could be found ultimately responsible for the failure to identify risks

associated with a pandemic. Failure to reduce exposures and to develop appropriate contingencies could create a management liability.

### **Pandemic Continuity Planning**

Even though many companies have contingency plans in place, many are still not adequately prepared, since most plans are developed to continue operations in the event of a fire, a hurricane, or even a terrorist attack. Most plans need to be revamped to deal specifically with a pandemic. For example, a key part to continuity during a pandemic involves preparation for a *prolonged business interruption* by setting up a strong remote access computer network.

The best advice is to create a planning team, get information from many sources, develop a plan that has clear triggers, customize the plan for different locations and run drills to make sure the plan works. Most importantly, educate employees about the nature of your company's contingency plans.

Everyone is still unsure to what extent the declaration of a pandemic will impact general business operations, but a new crisis plan for continuity is your business' best possible way to ensure your interests. We encourage you to discuss your organization's planning options with your WGA Account Executive.

*To obtain more information on preparing your business, we urge you to visit the following websites:*

<http://www.pandemicflu.gov/plan/workplaceplanning/businesschecklist.html>

<http://www.pandemicflu.gov/plan/pdf/businesschecklist.pdf>

<http://www.who.int/en/>

<http://www.cdc.gov/swineflu/index.htm>

