

## ***Revisiting H1N1***

### ***Risk management controls and lessons learned from the recent flu outbreak***



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The essence of risk management is identifying potential risk, analyzing the probability, and assessing the potential financial impact in order to manage threats to the overall enterprise. With this season's H1N1 pandemic, businesses should continue to take measures to protect operations and employees, and also look at the lessons learned from the recent outbreak as a way of determining any weaknesses in business continuity and changes that should be made in crisis management planning.

This white paper examines risk management controls for in three distinct areas of exposure: employees, facilities, and threats to business continuity.

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

#### **Risk Management Considerations**

When it comes to workforce management and human resource concerns during an outbreak, ***communication is essential***. Companies/employers should communicate information provided from the Center for Disease Control (CDC) regarding personal risk management activities that can help control the spread of the H1N1 virus. The department with most communication responsibilities during a crisis is Human Resources; therefore consideration should be made if HR essential employees are out sick for any length of time.

Companies should clearly communicate to employees the ***official policy for sick days and salary continuation, along with the policy when a member of the family is home sick and the employee may have to stay home***. If an employee has used up his or her sick time, consideration should be made to what happens if that employee has to stay home, especially for a prolonged stay with another family member or a parent.

Companies with hourly workers should be very clear on how those employees will be compensated, if at all, should the employees be required to stay home for a few days or a week. If they are not being paid, the company needs to be very clear on the policy because they may come to work sick in order to be paid, putting others at risk.

A ***review of the company travel policy*** is also prudent, especially for meetings in different countries during a pandemic. Since the recent outbreak of the H1N1 virus has affected each country differently; management needs to be aware of any travel restrictions. A policy should be developed to address the protocol if an employee become sick while overseas and how that employee would be brought home or receive medical attention in a foreign country.

Flexible work schedules are a good risk management tool to avoid contact with fellow employees and hinder the spread of the virus. If work-at-home is an option, companies need to be clear on the availability of technical support and the cost involved with setting up computers and printers at remote work stations or the homes of employees. Since not all employees qualify

for a work-at-home situation, companies should be very clear what type of positions will qualify and which employees need to be in the office on a daily basis. ***Cross training of crucial employees*** might be a key element in the success of a company to survive a pandemic.

In managing facilities, it should be well communicated that ***the virus can live on any surface for 2-6 hours***; therefore cleaning of employee areas is of vital importance to prevent the spread of H1N1. Discussions should be entered with your cleaning company to be sure the high traffic areas such as kitchens, railings, door knobs, elevators are thoroughly cleaned on a daily basis to control the virus. The HVAC system may also need to be adjusted to insure clean air is being circulated throughout the facility.

If an employee becomes sick at work, be sure to have arrangements for some type of ***isolation*** before the employee can go home. The use of vacant conference rooms has been suggested or unused cubicles. If an employee is, in fact, sent home, the return to work criteria should be established. The CDC recommends ***not returning to work until 24 hours after a fever has broken***.

Additional risk management practices directed at facilities include the possible engineering of controls in order to reduce the threat of the virus, such as changing work stations to increase the ***distance between workers***, or unused cubicles being temporarily set up for workers. Above all, employees should be constantly reminded through signage about ***washing their hands*** and ***practicing social distancing*** in the workplace.

Another key area to be addressed is ***risks to the business supply chain***. Companies usually review business continuity plans when completing a Business Income Worksheet at renewal time to estimate their loss in earnings and continuing expenses through a property loss, however many have never looked at their business continuity issues through a pandemic. If a specific location of a company is adversely affected by a pandemic, is the company prepared to activate its continuity plan and is it protected from financial loss if its revenue is affected by a plant closing or a large number of absent employees?

In order to maintain operations during a pandemic, in which many businesses cease normal functions, a close examination of all the inputs of an enterprise is warranted. Some scenarios to consider:

- If production is interrupted, is there a possibility of losing important customers?
- Can you stockpile materials to be sure there is no interruption of product or identify additional suppliers?
- Have you planned for a worst case scenario where your supply chain has been interrupted?
- And if restrictions on travel develop, can the company continue its relationships with its key customers?

Companies need to identify their supply chain and identify any potential problems with suppliers from other countries that are being affected by the pandemic. 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. Here we outline 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 employer’s 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.

Even though many companies have contingency plans in place, the recent outbreak has revealed that many are still not adequately prepared. Businesses should continue to take measures to protect operations and employees. A crisis plan for continuity is the best possible way to ensure your interests.

For more information, <http://www.cdc.gov/swineflu/index.htm>

