



# COVID-19 SENIOR LIVING BUSINESS INCOME CONSIDERATIONS



**propel**  
INSURANCE®

Dear Policyholder,

Generally speaking, there is no coverage for loss of income due to a pandemic or virus/disease event. Most policies require “direct physical loss” to the building (i.e. fire, lightning, windstorm, hails, vandalism, etc...) to trigger coverage. Most property policies also contain disease or contaminate exclusions that became common after the SARS and Swine Flu epidemics. Nevertheless, we anticipate that insurance coverage attorneys will attempt to legally test the policy language in a move to extract coverage from insurance companies. While we have no way of knowing if said litigation will be successful, we do believe it is a good idea to keep track of your loss of income and extra expenses associated with COVID-19.

Furthermore, there is talk on Capitol Hill about the possibility of government aid. Most of the chatter has been about developing a government backstop similar to the Terrorism Risk Insurance Act (TRIA) which was enacted post 9/11. A Pandemic Risk Insurance Act (PRIA) is being heavily discussed at the federal level. Not surprisingly, Insurance companies are pushing back against any potential for retroactive coverage for exposure they never collected a premium for. It is simply too early how all this will shake out. However, if the government does provide assistance for COVID-19 it will likely (1) need to use the insurance industry infrastructure to adjust claims and (2) require a declination from an insurance company to consider offering financial support.

If relief remedies become available, we believe there will be a rush of claims submitted and we are providing this piece to assist you in keeping track of your lost income and extra expenses. It’s much easier to calculate this information “on the go” versus waiting several months and trying to dig up past data. In addition, should a remedy become available, having the claims data at our fingertips will allow you the potential to get in the “front of the line”. Nobody wants to be at the back of the line waiting for money. At minimum, the information should be helpful in calculating losses associated with COVID-19, and the same may be useful in discussions with investors, lenders and other stakeholders.

As always, please don’t hesitate to call your advocates at Propel for questions and support.

**Propel Insurance**

## ***Guidelines for Quantifying and Supporting Business Interruption Losses***

The following document is to provide some general guidelines for Propel Senior Living Clients<sup>1</sup> seeking to quantify and document COVID-19 business interruption damages.

**Business Interruption Loss Objective** (General): To quantify and document with *reasonable certainty*<sup>2</sup> economic losses sustained and to connect these losses with their cause.<sup>3</sup>

**Process:** Generally, the process of quantifying and documenting business interruption losses involves calculating the difference between actual operating results and the operating results that would have been realized had the loss event not occurred.

### **COVID-19 Factors Unique to Senior Living Facilities:**

1. **Reputation** – Perception among seniors, their families and perhaps even the medical community can last long after the cause of loss has gone.
2. **Separation** – How much of the loss is due to COVID-19 versus other economic factors?
3. **Duration** – What can be done to shorten the period of restoration to pre-event financial norm?

**Begin by asking these COVID-19 questions:** We recommend taking a "*full income statement approach*"<sup>4</sup> to answering the following questions:

### **For Income Losses – How has revenue been impacted?**

1. How was revenue changed since the date of COVID-19 discovery?
  - a. To what specific COVID-19 impact is any decline in occupancy attributable?

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<sup>1</sup> Both independent and assisted living.

<sup>2</sup> "*Reasonable certainty*" is the standard that must be achieved in submitting claims to each insurance carrier.

<sup>3</sup> This can be particularly challenging when suffering through general economic hardship. However, there are typically reasonable means of separating losses arising from a covered event from losses arising from a general economic downturn or recession. In fairness, one cannot assume all losses are solely attributable to a covered event.

<sup>4</sup> A "*full income statement approach*" is one in which all material fluctuations are examined for the possibility that they are attributable to the subject event, in this case, COVID-19.

- b. Have any residents been moved out of the facility?
- c. Have tours, discussions, and efforts to receive new residents ceased?
- d. What possible other losses of revenue? Fees? Rents?
- e. How has monthly resident turnover changed?
- f. Have any concessions in the form of foregone revenues been authorized?
- g. What are the other economic factors, to which the facility in subject, impacting revenues? (Are these a reasonable offset to the impact of COVID-19?)
- h. How long are revenues expected to lower than normal?
- i. Is revenue not expected to return to pre-event normal?

**Extra Expenses – How have operating costs increased?**

- 2. What extraordinary measures have been undertaken to deal with the virus?
  - a. What is their cost?
  - b. How long are they expected to last?
  - c. How much more overtime will be incurred for hourly employees?
  - d. What concessions have been paid?
  - e. What concessions are necessary to restore the pre-event volume of residents?
  - f. Will reasonable bonuses be paid to salaried staff for extraordinary overtime (i.e., necessary and reasonable to retain salaried personnel)?
  - g. What is the increased cost of testing and new resident protocols?
  - h. How have food service costs increased?
  - i. Does a comprehensive review of payroll show a payroll increase or decrease?
  - j. Has the use of any outside contractors increased?
  - k. What reasonable costs might be incurred to restore the facility's good name?

A Senior Living Facility business interruption work plan to quantify and document COVID-19 losses can follow these steps:

- 1. **Establish Baseline Normal ("But For") Activities** – Develop a reasonably thorough projection of the residents the facility would have served, the corresponding revenue and likely costs. A reasonably thorough projection appropriately relies upon –
  - a. Historical operating results,

- b. Competitive factors both positive and negative including the presence of new facilities in the marketplace or closure of other, and
  - c. Other economic factors including new referral sources, renovations, loss of referral sources, marketing initiatives and others.
2. **Post-Event Activities and Earnings** – Compare post-event actual operating results with “but for” operating results noting differences and segregating differences attributable to other factors from those attributable to COVID-19.
3. **Calculate** – Calculate with reasonable certainty those differences attributable to COVID-19.<sup>5</sup>
4. **Assemble Appropriate Damages Support** – Assemble normal and customary damages support to demonstrate the reasonable certainty of the claims. Typical loss support includes, but is often not limited to –
  - a. Monthly financial statements for 1-3 years before the event through to the most current,
  - b. Monthly occupancy records for 1-3 years before the event through to the most current,
  - c. “Conversion” records or statistics for 1-3 years before the event through to the most current – Whatever monthly records the facility maintains to document those considering the property and those deciding to use the property,
  - d. General Ledger Account Detail – Extraordinary cost support segregating COVID-19-related costs from normal operating costs. Extra expenses are typically considered incremental costs that would not otherwise have been incurred “but for” the event,
  - e. Extra expense source documents including payroll ledgers, contracts, receipts, invoices, etc.,
  - f. Summary of facility promoting marketing initiatives and referral sources,
  - g. Market studies,
  - h. News articles, and
  - i. Reasons for departure logs, if any.

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<sup>5</sup> It is possible, but unlikely, that some facilities might have saved payroll or other cost savings resulting from lower patient/resident volume.

*Propel would like to thank VERITAS FORENSIC ACCOUNTING & ECONOMICS, LLC, Steve Roberts, CPA/CFF, CFE, CFA, CCI, CGMA, Principal for the preparation of this guideline. To learn more about Veritas, we have enclosed a bio of their firm.*



Our team of seasoned professionals have helped legal counsel, Fortune 500 companies, small businesses and individuals involved with many types of insurance claims, litigation, financial valuation, due diligence and economic research. Veritas Associates have been retained to evaluate insurance loss arising from such events as the 9/11 Attacks, Hurricane Katrina, Superstorm Sandy, the California wildfires, the BP Oil Spill, and the Loma Prieta and Nisqually earthquakes. Over the past 35 years, the Veritas Team has measured thousands of business interruption losses collectively involving billions of dollars. The Team has been retained to perform business interruption loss measurements around the globe and throughout the US. More specifically, as our experience relates to COVID-19 issues, Veritas Associates are a deep resource in the healthcare, patient-care and Senior Living sectors. Our team members having evaluated dozens of Independent Living, Assisted Living, hospital and other patient-care business interruption losses.

*Please be advised that any and all information, comments, analysis, and/or recommendations set forth above relative to the possible impact of COVID-19 on potential insurance coverage or other policy implications are intended solely for informational purposes and should not be relied upon as legal advice. As an insurance broker, we have no authority to make coverage decisions as that ability rests solely with the issuing carrier. Therefore, all claims should be submitted to the carrier for evaluation. The positions expressed herein are opinions only and are not to be construed as any form of guarantee or warranty. Finally, given the extremely dynamic and rapidly evolving COVID-19 situation, comments above do not take into account any applicable pending or future legislation introduced with the intent to override, alter or amend current policy language.*