



COVERAGE INSIGHTS



WINTERS-OLIVER
INSURANCE AGENCY, INC.

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The Importance of Timely Notice Under Claims-made Liability Policies

Claims-made liability policies require timely notice of claims or circumstances that could lead to a claim for an insured to qualify for coverage. This allows insurers to properly investigate and respond to claims, which helps control costs and determine the legitimacy and extent of the claim. Businesses need to be aware of this aspect of these policies, as late-notice provisions are strictly enforced, potentially leading to a denial of coverage. This means an insured might have to bear the full cost of the claim.

This article provides an overview of claims-made policies, discusses common reasons for late notice and offers strategies to mitigate late notice risks.

Understanding Claims-made Policies

A claims-made policy generally provides coverage if a claim is made when the policy is active, regardless of when the underlying incident that gave rise to the claim took place. Many claims-made policies include a “retroactive date” that specifies how far back the underlying incident can have occurred for the policy to cover the associated claim. Incidents occurring before this date are typically not covered.

Additionally, claims-made policies require a claim to be made and reported to the insurer during the policy period or within a specified extended reporting period (ERP), also known as “tail coverage.” Timely reporting is crucial because late claims can prejudice the insurer, making it more difficult to investigate the claim and collect evidence. It is important to note that most professional liability, errors and omissions, directors and officers, and employment practices liability insurance policies are written on a claims-made basis.

Common Reasons for Late Notice

Considering the significance of timely reporting under a claims-made policy, it’s helpful for businesses to be aware of some of the common reasons for late notice in order to prevent them. Such reasons include:

- **Unawareness of reporting requirements**— If the insured does not adequately review the policy’s terms and become familiar with the reporting requirements, such unfamiliarity may result in late notice.
- **Miscommunication within the insured’s organization**—Reporting delays may occur when the insured’s organization does not have specific procedures that designate who is responsible for reporting claims and establish timelines for doing so.
- **Incorrect belief about the claim’s significance**—Misconceptions of a claim’s importance can occur from a lack of understanding of the underlying incident or the claims process. Some insureds might even hope that ignoring a claim will make it disappear. Such misunderstandings may lead to a lack of urgency in claims reporting.
- **Human error**—Insufficient training or oversight in the reporting process can result in mistakes or oversights, which, in turn, can lead to delays in notifying the insurer.

Mitigating Late Notice Risk

To prevent late notice, insureds can take the following actions:



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- **Thoroughly and regularly review the insurance policy** to understand reporting requirements and timelines. This ensures the insured knows what needs to be done to comply with the policy terms.
- **Implement internal procedures** for promptly reporting claims or circumstances that could give rise to claims. These procedures should detail who in the organization is responsible for this reporting and to whom the report must be made to satisfy the policy's requirements.
- **Report potential claims promptly** so that the insurer has a record of the incident, even if it is not apparent if the underlying incident will result in a claim. This can be crucial if a claim ultimately arises.
- **Train employees** on their responsibilities to document and communicate about circumstances that could lead to claims. Adequate training ensures that everyone understands the importance of timely reporting.
- **Maintain consistent renewal of claims-made policies** to avoid coverage gaps. If a claim arises during a lapse between policies and outside of any applicable ERP, the insurer will not provide coverage.
- **Work with licensed professionals**, including agents, brokers and attorneys, for guidance on properly submitting claims under the business's insurance policy. Professional advice can help ensure that all procedural documentation requirements are met.

Conclusion

Adhering to the timely reporting requirements of a claims-made policy is necessary for the insured to receive proper coverage. To protect themselves from the impacts of late-notice denials, businesses can take several preventive actions to reduce the risk of them occurring.

Contact us today for more information.