NYDFS Instructs Insurers to Provide Coverage Information and Explanation of Benefits Regarding COVID-19

Article By
Siobhán A. Breen
Paul S. White
Wilson Elser Moskowitz Edelman & Dicker LLP
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In light of the COVID-19 outbreak and the anticipated associated insurance losses, by letter dated March 10, 2020, New York’s Department of Financial Services (NYDFS) instructed each authorized property/casualty insurer to provide certain information regarding the commercial property insurance it has written in New York along with details on the business interruption coverage provided in such policies for which it has ongoing exposure.

The NYDFS letter was written in response to “policyholders’ urgent questions about the ‘business interruption’ coverages provided by their commercial property insurance policy” in connection with the outbreak of COVID-19. Given the potential impact of COVID-19 on business losses, NYDFS considers “Insurers’ obligations to policyholders a heightened priority.” The NYDFS letter stated that “[i]n the interest of the timely and equitable fulfillment of insurance contracts, Insurers must explain to policyholders the benefits under their policies and the protections provided in connection with COVID-19.”

Information to Be Provided
Specifically, insurers were instructed to provide the volume of business interruption coverage, civil authority coverage, contingent business interruption coverage and supply chain coverage that the insurer has written. In addition, NYDFS directed each insurer to examine the policies it issued and explain the coverage each policy offers in regard to COVID-19, both presently and as the situation could develop to change the policyholders’ status.

Additionally, NYDFS required that the following information be included in the explanation to policyholders:

- Type of commercial property insurance
- Whether the policy provides business interruption coverage or contingent business interruption coverage
- An explanation of the “covered perils,” whether the policy contains a requirement for “physical damage or loss” and whether a contamination related to a pandemic may constitute “physical damage or loss”
- Whether the policy provides civil authority coverage and the type of damage or loss that is sufficient for coverage
- Whether the policy provides supply chain coverage
- Whether the policy contains a requirement for “physical damage or loss” and whether a contamination related to a pandemic may constitute “physical damage or loss.”

The insurers’ responses were due by March 18, 2020.

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