



Event Cancellation Insurance During the COVID-19 Pandemic: Key Strategies

By Jeffrey J. Vita & Christine Baptiste-Perez

The COVID-19 pandemic has led to an unprecedented number of event cancellations ranging from travel and tourism, hotel and hospitality, corporate conferences, outdoor festivals, as well as many other events. By far, one of the largest industries impacted by COVID-19 is the hospitality industry. It is the start of the wedding season, and venues have closed, vendors have gone out of business, and event organizers have canceled or postponed weddings. However, not all hope is lost. Fortunately, event venues, vendors, and event organizers may be able to recover their economic losses resulting from canceled events due to COVID-19 through event cancellation insurance.

What is event cancellation insurance?

Event cancellation insurance is a broad form of insurance designed to insure event-related revenue or expenses against a cancellation caused by circumstances beyond a policyholder's control. Event cancellation insurance may be purchased as a part of a more comprehensive insurance package or as a standalone policy for a specific event. An event cancellation policy premium is based on the revenue or expense at risk, the event type, the event date, the event location, and the event scope.

There are also various types of event cancellation policies. For example, an "all-cause" event cancellation policy could provide coverage for event cancellations due to an outbreak of infectious or communicable diseases such as COVID-19. Some event cancellations policies may include "epidemic coverage," which could cover losses resulting from COVID-19 cancellations. If your policy does not exclude infectious or communicable diseases, your policy may provide valuable coverage.

What does event cancellation insurance cover?

Event cancellation insurance generally provides coverage for the losses associated with the cancellation, abandonment, disruption, or rescheduling of an event beyond a policyholder's control. Event cancellation insurance may cover a wide variety of perils that can negatively impact events like government orders, communicable diseases, circumstances that damage an event venue or deny access to the venue due to a failure of public transportation.

The types of financial loss recoverable under an event cancellation policy will depend on the specific terms of the coverage purchased. Some of the key recoverable expenses include:

1. **Out-of-Pocket Expenses.** Most event cancellation policies will cover marketing, organization, and other out-of-pocket expenses the policyholder incurred in the months and weeks leading up to the event.
2. **Loss of profits and/ or revenues.** Some event cancellation policies cover, for an additional premium, profits and revenues lost because of the covered event's cancellation or postponement. This is the net profit that would have been earned had the event taken place.
 - For example, some event cancellation policies calculate loss as "the loss of Gross Revenue that would have been received in the absence of the covered loss, whether or not the insured is obligated by contractor or otherwise to return such Gross Revenue, plus the insured's loss from Commitments, less recoveries made and any necessary Expenses not incurred..."
3. **Irrecoverable costs and expenses.** These costs can include a performer or guest speaker canceling (due to illness), a venue being inaccessible (for example, due to closure or safety concerns), or unforeseen circumstances forcing you to cancel.
4. **Additional expenses.** Some event cancellation policies will cover any so-called "additional expenses" that the policyholder incurs to relocate or reschedule the event to avoid its cancellation. This may include amounts spent to rent an alternative venue and market the rescheduled or relocated event.
 - For example, some event cancellation policies state "reasonable costs incurred, agreed, or committed by the Insured to avoid, diminish, or mitigate the extent, scope or possibility of loss, including costs to reschedule and/ or remarket [an event]."

How is event cancellation insurance different from business interruption insurance?

Business interruption insurance is typically triggered by direct physical loss or damage to covered property resulting from a covered cause of loss, such as a building destroyed by a flood or fire. However, event cancellation insurance does not have a pre-requisite for loss following some form of physical damage. Hence, event cancellation insurance is more likely to cover losses associated with situations like COVID-19 than traditional first-party policies such as commercial property or builder's risk insurance.

Will your event cancellation insurance cover events that have canceled due to COVID-19?

This will depend on several factors including the language in your policy and when you purchased it. Many event cancellation policies may provide coverage for COVID-19 related losses. For example, a sample insuring agreement states that "cancellation must be due directly to a... communicable disease." That same policy defined communicable disease as " an illness, sickness, condition or interruption or disorder of bodily functions, systems or organs that is transmissible by an infection or a contagion directly or indirectly through human contact, or contact with human fluids, waste, or similar agents, such as, but not limited to Meningitis, Measles or Legionnaire's Disease." Based on the language in this sample, coverage for events canceled due to COVID-19 will likely be covered.

Since COVID-19 has made headlines, many insurers have included coronavirus exclusions in their policies, even as early as January of 2020. A sample coronavirus exclusion, effective January 1, 2020, excludes coverage for "any loss resulting from Coronavirus (2019-nCov or Sar-CoV-2) or threat or fear thereof (whether actual or perceived) including but not limited to any loss directly or indirectly arising out of, contributed to by, or resulting from an outbreak of novel coronavirus...or any mutant variation..." Also, some insurers have completely stopped issuing event cancellation insurance altogether.

Will event cancellation insurance cover an event canceled due to reduced attendance caused by COVID-19?

It is possible that some event cancellation policies would cover reduced attendance. One event cancellation policy defines enforced reduced attendance as the "abnormal substantial reduction in the projected attendance for the insured event..." Another event cancellation policy defines enforced reduced attendance as "the enforced inability of participants to travel to attend the event solely and directly as a result of the same specific cause not otherwise excluded..." This same policy, however, distinguishes enforced reduced attendance from "reduction in attendance," which it defines as disinclination to travel or attend an event."

What to do if your event is canceled due to COVID-19?

1. Carefully examine your policy. Determine whether there is a disease or virus-related exclusion and whether such exclusion has been deleted or modified by endorsement.
2. Assess and quantify, as quickly as possible, the extent of any anticipated losses.
3. Provide prompt notice to your insurer.
4. Try to mitigate your loss, if possible, by rescheduling.
5. Be prepared to act quickly as evolving circumstances may impact coverage.

What should policyholders know when it comes to event cancellation insurance?

As with all insurance, event cancellation insurance often contains several exclusions and policy terms designed to limit coverage. Pay attention to potential exclusions to coverage. Depending on the language of your event cancellation policy, it may exclude coverage for loss arising from communicable diseases. Some may even exclude the threat or fear of communicable disease, whether actual or perceived, regardless of whether the spread of the disease in question has officially been labeled a pandemic. Furthermore, policyholders should be aware of the following:

1. **Proof of loss details.** Some insurers will request a detailed proof of the loss claimed under the policy and require the submission of various forms.

2. **Sub-limits.** Some policies contain sub-limits on the amount that a policyholder can recover if its event is canceled because of an infectious or communicable disease.
3. **Government action provisions.** Some policies may limit coverage to situations in which the government or civil authority has specifically ordered the closure of venues, or where it has banned public meetings and/ or events.
4. **Notice traps.** Some policies require a policyholder to provide the insurer with notice of a loss "as soon as possible or "as soon as practicable" after the loss. Other policies may require that notice be given within 30 or 60 days after the loss.¹

Can policyholders still make an event cancellation claim as the economy is still reopening in phases?

Yes. Some event cancellation policies may cover a reduction in performance due to lower attendance related to COVID-19. Therefore, while many states have implemented phased reopening, that does not mean you cannot recover under your event cancellation insurance.

Recommendations

Policyholders facing an event cancellation due to COVID-19 should carefully review their insurance and contact their brokers to make sure they have a complete copy of the relevant policy. Depending on the policy language and the specific factual circumstances surrounding the claim, coverage may be available for events canceled because of COVID-19. It is critical to act promptly following an event cancellation to notify your insurer, assemble the requested information, and mitigate any losses in order to maximize your potential insurance recovery and to avoid common insurance pitfalls.

For more information, contact [Jeffrey J. Vita](mailto:jjv@sdlvlaw.com) at jjv@sdlvlaw.com or [Christine Baptiste-Perez](mailto:cbp@sdlvlaw.com) at cbp@sdlvlaw.com.

¹Depending on the applicable choice of law, failure to provide prompt notice may impact the policyholder's claim.