

LESSON 4.1 SECTION ONE COVERAGE C – MEDICAL PAYMENTS

In this lesson, we will discuss Coverage C – Medical Payments, beginning with how to determine when coverage applies. Medical Payment coverage was included in the CGL policy as a way to promote goodwill with customers injured on the insured's premises, or from an accident involving an insured's operations. It was designed to quickly pay for smaller medical expenses related to an accident, regardless of fault, and hopefully avoid costly litigation.

While not used as frequently today as in years past, Medical Payments is still useful for certain types of insureds and accidents. For example, Medical Payments may resolve low cost, low severity injuries such as a broken tooth in a restaurant, or a brief food poisoning incident – IN OTHER WORDS, injuries where the cost of the medical treatment is low and the desire to recover with a customer is a priority.

Let's look at the insuring agreement.

The insuring agreement states that medical expenses for bodily injury caused by an accident will be paid for anyone who is not the insured – or an employee of the insured – on premises owned or rented by the insured – on ways next to those premises – or because of the insured's operations. For example, if a child in a candy shop is pushed into a counter by another child, and has to have stitches, the CGL can pay because the injury occurred on the business premises. Again, while the business may not be at fault, Coverage C can pay in order to build goodwill and attempt to reduce customer lawsuits.

Coverage C also stipulates that the company will pay for injuries caused due to the insured's operations – provided that it occurs in the "coverage territory" and during the policy period. For example, a passerby trips and falls on some debris on the sidewalk near a construction site. Injuries are minor and below the limits for medical payments. The expenses must be incurred and reported to the insurance company within one year of the date of the accident. In addition, the injured person must submit to examination – at the insurance company's expense – by physicians of the insurer's choice AND as often as reasonably required by the insurance company.

The second part of the insuring agreement says that the insurance company will pay regardless of fault – provided that the payments do not exceed the applicable limit of insurance, which is typically \$5,000. The insurance company will pay for first aid administered at the time of an accident, as well as necessary medical, surgical, X-ray and dental services, including prosthetic devices, necessary ambulance, hospital, professional

nursing, and funeral services. In summary, Coverage C will pay medical expenses for bodily injury triggered by an accident that is either on the insured's premises, adjacent to their premises, or a result of operations away from their premises. Of course – there are exclusions – so let's see how the exclusions modify the coverage.

Keep in mind that Medical Payments coverage is intended for third party individuals like customers, guests, and friends.

Exclusions

- a. The first set of excluded people includes any insured, which includes the insured's employees. However, there is an exception to provide coverage for volunteer workers. This makes sense because volunteers are working on behalf of the organization but cannot be covered as an employee on their policies that would provide coverage, such as Workers Compensation.
- b. In contrast, the second exclusion denies coverage for any person hired to do work for or on behalf of any insured or a tenant of any insured.
- c. The third exclusion is for injuries to persons on that part of the premises owned by the insured or rented to a person that normally occupies this space. In other words, this exclusion clarifies that the insured's tenants are excluded from coverage.
- d. The fourth exclusion makes it clear that the CGL will not provide coverage to any person if benefits are payable or must be provided under workers compensation, disability benefits, or similar laws.
- e. The fifth exclusion removes coverage for persons injured while practicing, instructing, or participating in any physical exercise or games, sports, or athletic contests. For example, Medical Payments wouldn't pay for injuries involving a sponsored softball team or bowling league.

Now that we've reviewed the exclusions for specific categories of people, let's look at the exclusion for products and completed operations hazards. In order to determine the breadth of this exclusion, we have to consult the products-completed operations definition.

- f. When we do that, we find that the "Products-completed operations hazard" includes all "bodily injury" and "property damage" occurring away from premises the insured owns or rents – as well as those arising out of their products or work. For example, let's say that your insured manufactures a product that has a sharp metal edge. Normally, the production equipment files the sharp edge down so customers don't get their hands cut. However, a load of product was shipped with sharp edges due

to a manufacturing defect. If customers cut their hands on the defective product, Medical Payments will not respond.

- g. The final exclusion removes coverage for anything excluded under Coverage A. So, in addition to the exclusions specific to Coverage C, if it is excluded under Coverage A, it is also excluded under Coverage C. We will not review those exclusions here as they have been covered in another lecture.

Supplementary Payments – Coverages A and B

OK, now you have a good idea of the types of things that are covered – or not covered, by Coverages A, B, and C of the CGL. The next section of the policy provides supplementary payments for Coverages A and B – and as in other liability policies, these additional payments are related to defense costs. Importantly, these payments are provided in addition to the policy limits.

The first part of the section deals with costs the insurance company will pay with respect to any claim they investigate or settle, or any suit against an insured that the company defends.

Types of Supplemental Payments

There are seven types of payments the company will make in addition to the policy limits.

- a. The first one is all expenses the insurers incur when investigating a claim, defending a suit, or settling a claim. Notice there is no limitation here. This means that insurance companies pay for all of the costs of the defense, the lawyers, the experts, the court costs, etc. This would also include all costs the insurance company pays to adjusters, as well as adjustment expenses. This aspect of supplementary payments is widely underappreciated. The defense costs alone, such as attorney's fees, of a multi-day trial can reach hundreds of thousands of dollars.
- b. The second supplementary payment is up to \$250 for the cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which insurance applies.
- d. The third supplemental payment is for all reasonable expenses incurred by the insured at the request of the company to assist in the investigation or defense of a claim or suit. This would include things such as travel and lodging at a deposition or trial location. It could also include actual loss of earnings up to two-hundred-fifty dollars per day because of time off from work. The insurance company also agrees to pay all court costs taxed against the insured in the suit.

- e. and f. The last two types of payments deal with the interest that may accrue between the time the suit is filed and the plaintiff is paid. The company agrees to pay prejudgment and post-judgment interest awarded against the insured on that part of the judgment the company pays. Pre-judgment interest is an amount of money the court has ruled is owed based on the fact that the injury and the damages occurred in the past. Post-judgment interest is paid based on the time from the end of the trial to the money changing hands after the trial.

Defense of an Indemnitee

The second part of this section begins by stating that if the insurance company defends an insured against a suit – and an indemnitee of the insured is also named as a party to the suit – the insurance company will defend the indemnitee if specific conditions are met. Remember an indemnitee is a person protected by a contractual agreement to be held harmless by the insured. So the policy language begins by clarifying that the insured has indeed assumed liability through a contract, and the CGL is applicable. Furthermore, under the terms of the contract, the insured assumes an obligation to defend – or pay the cost of defense for the indemnitee – and no conflicts of interest between the insured and the indemnitee exist. Finally, the indemnitee and the insured agree that the insurance company can conduct and control the defense and can assign the same counsel to defend both parties.

Supplementary payments has a list of conditions in which a defense of the indemnitee will be paid outside of the occurrence limit of the policy. These conditions may frequently be very difficult for an indemnitee to meet. Note as we move through these conditions how an indemnitee may not wish to participate or cooperate. If they don't, it does nothing to void the indemnification agreement; it simply moves the cost of defending the indemnity to the occurrence limit on the policy.

The indemnitee agrees in writing to cooperate with the insurance company in the investigation, settlement, or defense of the "suit" – and to immediately send the insurance company copies of any demands, notices, summonses, or legal papers received in connection with the "suit." The indemnitee must also notify any other insurer whose coverage is available and cooperate with the insured's insurance company in the coordination of benefits. The policy then stipulates that the indemnitee must provide the insurance company with any written authorization to obtain records and other information related to the "suit," as well as written authorization for the insurance company to conduct and control the defense of the indemnitee in such "suit."

As long as the conditions as outlined in the Supplementary payments are met by the indemnitee, the defense costs of the indemnitee will be paid as Supplementary Payments and these payments will not reduce the limits of liability but will be paid in addition to the limits.

Today you have learned about Coverage C – Medical Payments, as well as the Supplemental Payments that are available in the CCL. As you work on the activities that accompany this lesson, remember that as an insurance professional, your knowledge will be essential in protecting your client’s financial well-being. You will need to study and perhaps make some charts that help you to memorize the basic policy structure, coverages, and exclusions. But understanding this policy will have a significant impact on your career – so take the time that is necessary. Remind yourself of the many benefits of becoming an insurance professional and approach the CGL as a challenge to be mastered and you’ll do fine!