

Claims-Made versus Occurrence-Based Coverage: A FREE Benefit of TML Risk Pool Coverage

A local official who's comparing Pool coverage with that of other providers, like an insurance company, should be aware that "what the big print giveth, the little print sometimes taketh away." That means comparing policies – even those that have the same title – is often like comparing apples and oranges. Comparing "claims-made" to "occurrence-based" policies is a perfect example.

Claims-Made Coverage

Claims-made coverage means the claim must be filed during the policy period, *regardless of when the claim incident took place*. Most professional, errors and omissions, directors and officers, and employment practices liability insurance is written on a claims-made basis.

A provider may offer an option to purchase an extended coverage period, known as "tail coverage," to report claims when it terminates coverage. Purchasing extended coverage is advisable in most cases, even though it can be very expensive.

Also, a local official should inquire whether a new provider offers a retroactive period for reporting of claims for prior incidents and compare it to the cost of tail coverage.

Occurrence-Based Coverage

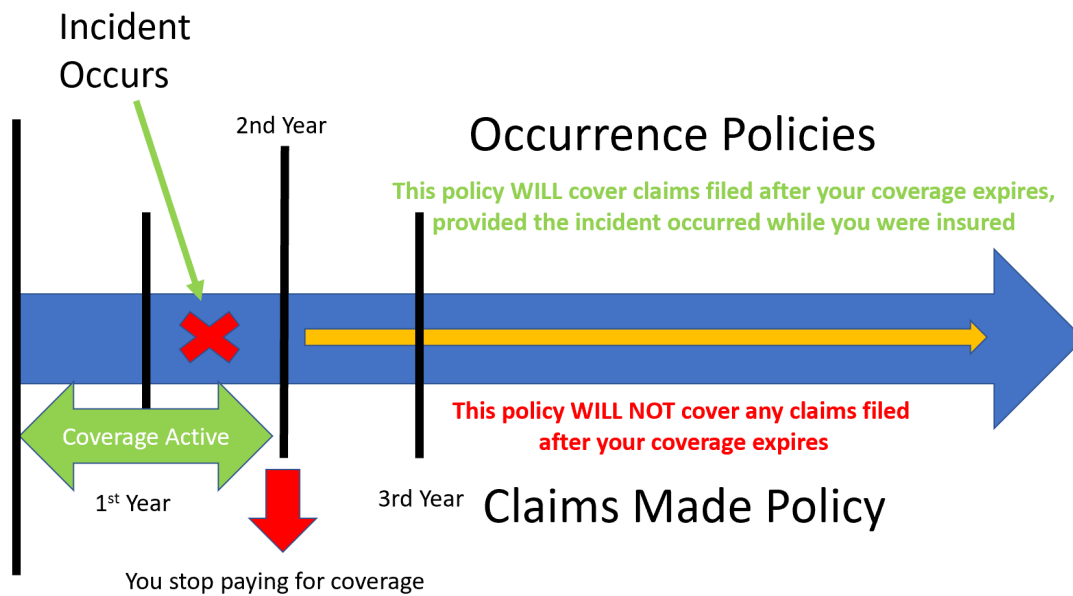
Occurrence-based coverage means the claim incident happened during the policy period, *regardless of when it is filed and even if coverage has been moved to a different insurer*. In other words, an occurrence-based policy is permanent – covered actions that happen within the policy period are forever covered. Most liability and commercial auto policies are occurrence-based.

An Example

Consider the following scenario:

- A city's human resources director receives a lawsuit alleging discrimination.
- The lawsuit alleges the discrimination took place two years ago. At that time, the city had a claims-made policy with ABC insurance.
- The city's current policy with XYZ insurance is occurrence-based, with no retroactive date for prior incidents.
- The HR director contacts XYZ, which tells her "Sorry, we don't cover incidents that occurred prior to issuing our policy."
- The HR director then contacts ABC, which tells her, "Sorry, you cancelled coverage two years ago."

The HR director's day is now ruined because the worst time to discover her city has no coverage is *after* a claim is submitted. Below is a timeline of the events above, with an explanation of the difference in claims-made versus occurrence-based policies.



The Risk Pool's Coverage – All Occurrence-Based

Why does the above matter? Because Risk Pool coverage is occurrence-based, and the Pool also provides retroactive coverage for up to five years at no additional cost. Local officials should consider that free benefit when comparing coverage costs from different providers.

Why would anyone purchase a claims-made policy if occurrence-based policies are superior? Sometimes it's the only choice. For example, a private carrier's employment practices liability may only be available as a claims-made policy.

The Takeaway – Read the Fine Print

Local officials should pay close attention to whether a policy is claims-made or occurrence-based, especially when comparing Risk Pool coverage to that of other providers, like a private insurance company. The fine print may mean the Pool's is a better value, even though the other provider's premium is lower.

Please contact your Risk Management Advisor for more information. Don't know who that is? Call 512-491-2300 or go to www.tmlirp.org and click on "contact us" to find out!