

Identifying a Claim

Here are a few examples of the different types of claims you may experience as a Long Term Care Provider.

Professional Liability Claim Example: You receive a suit alleging negligent care and wrongful death of a formerly cared for patient.

General Liability Claim Example: A visitor slips and falls on a wet floor, fracturing his/her arm.

Service Interruption Claim Example: A summer storm causes damage to a local electric service provider station resulting in loss of power to your facility. Damages sustained may include, but is not limited to, spoilage of perishable foods, extra expenses needed to evacuate residents and/or to provide temporary air conditioning to your facility, extra expenses needed to pay for security purposes, such as the need for someone to monitor your lock-down Alzheimer's Unit, etc.

Automobile Liability Claim Example: An employee driving one of your company vehicles rear ends another vehicle causing damage to the other vehicle and/or injury to the driver of the other vehicle.

Workers' Compensation Claim Example: One of your employees injures his/her back while assisting in a patient transfer.

Automobile Physical Damage Claim Example: A rock damages your windshield. Another Example: Your driver swerves to miss another car, and runs into a tree.

Employment Practices Liability Claim Example: You receive notice that one of your employees has filed a claim with the U.S. Equal Employment Opportunity Commission (EEOC). In this claim, he/she alleges age discrimination and wrongful termination.

Property Claim Example: Lightning strikes your building, causing a fire. As a result, you have fire and water damage to half your building requiring you to repair or rebuild.

Directors' & Officers Claim Example: An employee files suit against your Directors and Officers for making financial decisions that negatively affect the company.

Extra Expense Claim Example: Immediately after the fire began at your facility, you had to evacuate all your patients to a safe place. Extra expenses incurred because of this may include, but is not limited to, patient transportation expenses, payroll/overtime expenses of staff members, supplies, etc.

Cyber Liability Claim Example: A laptop containing patient information such as names, Social Security numbers, etc., is stolen and used to file false claims with Medicare. Another Example: Computer hackers breach your electronic system containing your patients' medical records, and you are sued by the patients for failure to protect private information.

Business Income Claim Example: It will take 2-3 months to repair/rebuild the damage done by the fire. You must find a temporary place for your patients to receive care, until they can be moved back

to your facility. Your patients have to be moved to a temporary facility 50 miles away in another town. You suffer business income loss because you are unable to fill some of the empty beds you had available at the time of the fire. You may also suffer business income loss because some families will want to discharge their loved ones from your care and move them to a facility closer to home.

Pollution Claim Example: One of your employees disposes of several sharps waste containers into the dumpster instead of the designated/locked infectious waste container. The dumpster containing the sharps waste was picked up and taken to a local landfill, where it was found that one of the sharps containers was crushed causing contamination to the site. The site required excavation in which about 10 tons of waste was removed. A claim is filed against you for excavation costs.

How Do I Know When To Report A Potential Liability Claim?

Please note that most liability insurance contracts also require reporting of all potential claims (including medical records requests that you believe could develop into a claim at a later date) as soon as practicable.

The Following Are Examples Of Incidents That May Be Reportable:

- A patient falls while an employee is assisting the patient to ambulate to another room, or attempting to transfer to bed, wheelchair or toilet. The patient is taken by ambulance to the E R with a broken hip.
- A mis-dosage of medication is given by an employee, which causes the patient to be rushed to the hospital for emergency care.
- You receive a letter from an attorney representing a patient alleging that you negligently cared for the patient.
- You are served with a formal complaint or lawsuit regarding the care given to the patient.
- The patient or patient's family alleges negligent care and threatens to retain an attorney, or threatens to report alleged negligent care to a federal or state agency or to the press.
- Suspected physical abuse or neglect of a resident.
- Attempted or actual suicide by resident, visitor, or staff
- Any incident that is highly unusual and/or severe in nature.
- Any incident that may result in a claim.
- Any incident involving injury or death to a visitor.
- Any incident that you believe future litigation is imminent.
- Any medical records request you receive that you believe could result in a claim, a demand for damages, or a lawsuit. (See below for helpful hints in determining whether a medical records request could result in a claim or lawsuit)

Medical Records Request: Helpful Hints

If you answer “yes” to one of the following questions, you should consider reporting this to TIS as soon as practicable.

- Was the request received from an attorney or attorney’s office?
- Were there any negative incidents during the patient’s stay at the facility?
- Decline in health and sent to the hospital?
- Fall with injury?
- Wound development?
- Elopement?
- Death? How did it occur?
- Have you received any negative feedback from the family?
- Do you have any reason to believe this could result in a claim or lawsuit? How Do I Know If I Have A Claim?

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