

ACTION ITEM

SUBJECT: Proposed Changes to the General Liability Memorandum of Coverage (MOC) for Fiscal Year 2020-21

EXECUTIVE SUMMARY

Staff and coverage counsel, Kellie Murphy of Johnson, Schachter & Lewis, review the MOCs (Workers' Compensation, Vehicle, and General Liability Programs) annually to determine if changes are necessary.

RECOMMENDED ACTION

In follow up to our meeting on March 3, 2020, Staff recommends the following changes to the Fiscal Year 2020-21 General Liability MOC.

- A. Update the year to 2020-21 period.
- B. Section II – Definitions
 - a. Number 6: Covered Individuals - This definition is revised to exclude coverage while acting on outside boards. At the recommendation of the Coverage & Governance Committee, the MOC should not be liable for outside boards when there is no input from our Members.
- C. Section VII Exclusions
 - a. Number 19 – This exclusion has been modified to broaden coverage. Language is added to clarify that the term “municipal utility” as used therein is limited to municipal utilities related to electrical power generation or power-generating enterprises, and language is added such that the exclusion only applies with respect to automobiles to those with special equipment.
- D. Sexual Abuse - Language is added to several sections of the MOC to address claims of “sexual abuse”
 - a. Section II – Definitions
 - i. Number 11 – Limit of Coverage
 - ii. Number 14 – Occurrence
 - iii. Number 19 – Sexual Abuse (new)
 - b. Section IV – The Authority’s Limit of Liability
 - c. Section VII – Exclusions (Number 28 – new)
 - d. Section VIII – Conditions (Number 5 Accumulation of Limits)

Language is added to various sections of the MOC to specify that all instances of “sexual abuse” by the same alleged perpetrator or perpetrators will be deemed to be one occurrence (regardless of the number of alleged victims, acts, or locations) taking place at the time of the first alleged act, and coverage in effect at the time of the first alleged act is the only coverage that may apply. Further, because claims by different alleged victims against the same perpetrator or perpetrators could be brought at different times, the language specifies that in the event subsequent allegations are made after a date of occurrence has been established by a prior reported claim, they will be deemed to be part of that same occurrence and the same policy will apply. Language is included in certain

sections, and in a new exclusion, to expressly state that no coverage will be provided for claims of “sexual abuse” for the perpetrator or perpetrators themselves. Coverage for such claims is only provided for the entity’s potential liability related thereto.

- E. Section VIII - Conditions, Number 9 is revised to clarify the practice regarding apportionment of amounts recovered in subrogation actions.

Staff recommends the Coverage & Governance Committee approve the proposed changes to the General & Auto Liability MOC and move forward to the Board of Directors to approve and adopt.

EXHIBITS

- 1. General Liability MOC for Fiscal Year 2020-21 w/track changes
- 2. General Liability MOC for Fiscal Year 2020-21 clean version

CORE VALUE

Results Oriented: Reviewing the MOC annually relates to programs and operations.