

# Massachusetts Housing Authorities Insurance Program

## Insurance Coverage F.A.Q.

### **Q. What Losses Does Insurance Cover?**

A. Insurance is meant to cover risks which cannot be controlled, such as a lightning strike, earthquake, tornado, hurricane, or sudden pipe break. Insurance policies are written with very strict parameters. Insurance companies will only cover losses specifically included within an insurance policy. In order for a loss to be covered, the Insurance Company will investigate the claim and determine whether it could have been prevented with proper maintenance or if reasonable safeguards were in place. If the insurance company decides that the circumstances which lead to the property damage are not covered, or excluded, under the policy, the loss will not be covered by insurance.

A good example of property damage that is not a “covered loss”, is damage that occurs over a long period of time, or a loss that was preventable with maintenance and inspection of the property. Losses related to termite infestation, wood rot, water entry through foundation gaps, or a leaking toilet will ordinarily be denied. As a rule of thumb, if a loss is not “sudden and accidental” it is likely that the property damage will not be covered. When water intrusion incidents are being evaluated, gradual water damage, like pipes leaking over time, seepage coming from cracks or deteriorating parts of the roof, are usually not covered by insurance.

The insurance company will send an adjuster to the field when a claim is filed and the value of the covered claim is greater than \$5,000. The adjuster’s role is to investigate the claim (determine whether it is insured), adjust the claim (determine how expensive the loss is) and help to get the property restored to its former condition. It is difficult, and in some cases impossible, to say whether a loss will be covered until an investigation has been made. The adjuster may also determine that another insured party, such as a vendor to the LHA, is responsible for all or part of the loss. If so a subrogation request will be made to the vendor’s insurer.

It is important to report all losses promptly to ensure that loss events which should be insured will be covered by the policy of insurance. It can be difficult to understand why a claim gets denied. However, one of the most frequent reasons for claim denial is when a policyholder files a claim for damage that suddenly appeared, but is the result of something that has been happening for a while, such as ceiling staining in a unit below caused by a leaking shower overhead. In some cases, gradual damage will not be covered, but resulting damage following from the pipe break will be covered.

If you are doubtful whether a loss is covered, we recommend that you contact your construction advisor or risk management specialist Sarah O’Leary at DHCD before contacting York. Previewing the claim will be helpful in order to increase the chance that the loss will be covered and to reduce claims administration costs. It is important to work with your LHA’s service team at DHCD if you need support during a loss, and your team will be notified of the loss with the claim confirmation sent by York.

To reduce the risk of having an insurance claim denied, it is important to maintain records of repairs made and the professionals who have been hired to do maintenance over the years. This proof responsible property maintenance may become very important in the event of a coverage dispute. Perform regular inspection and maintenance of the property every spring and fall to avoid surprises and ensure that the property is “buttoned-up” from any sources of water-intrusion.

**Q. What Insurance Coverage do State-Aided Program Properties Have?**

A. A summary of the major insurance policies is provided below. The program also includes a portfolio of “excess insurance policies” designed to provide adequate insurance coverage in the event of a major catastrophe affecting Massachusetts. The aim of this excess insurance program is to ensure the resources to rebuild public housing if it were destroyed in a disaster-scale event.

**Massachusetts Housing Authorities Insurance Program Property Coverage Summary:**

Covered Losses include sudden and accidental events including fire, explosion, collision, impact, storms, water damage, hail, etc. All loss claims are subject to a sliding scale community deductible. For the policy year 11/17/18 – 11/17/19 the following community deductibles apply:

State-aided units	Deductible
1-199	\$1,000
200-499	\$1,500
500-999	\$2,000
1000+	\$2,500

Policy exclusions include asbestos, mold, and terrorism. The insurance has certain sub-limits, including maximum annual coverage limitations for earthquake and flood. Limited coverage for tenant relocation and up to \$750 for tenants belongings destroyed in a fire is provided.

**Massachusetts Housing Authorities Insurance Program Boiler & Machinery Coverage Summary:**

This policy covers boiler and machinery damage caused by various causes not related to maintenance, such as explosion and equipment failure. This insurance also provides the service jurisdictional inspections of boilers and other licensed equipment in compliance with state law. The community deductible program applies to losses covered under the boiler and machinery policy. The policy excludes boiler and equipment failure related to negligent maintenance or failure to correct violations.

The program broker, Hays Companies, will assist you in reporting these claims. Please send an email with a description of the claim to the following: [acroteau@hayscompanies.com](mailto:acroteau@hayscompanies.com); [dpowers@hayscompanies.com](mailto:dpowers@hayscompanies.com); [jfoley@hayscompanies.com](mailto:jfoley@hayscompanies.com), [sarah.oleary@mass.gov](mailto:sarah.oleary@mass.gov) and [william.m.miller@mass.gov](mailto:william.m.miller@mass.gov).

**Massachusetts Housing Authorities Insurance Program Crime Insurance Coverage Summary:**

This policy covers losses suffered by the housing authority due to crime, employee theft, forgery, computer fraud, funds transfer fraud and counterfeit money. The availability of insurance to cover loss will be dependent on individual circumstances. The community deductible program does not apply to losses covered under the crime policy. Deductible amounts vary according to the occurrence, but generally are from \$15,000 - \$5,000.

The program broker, Hays Companies, will assist you in reporting these claims. Please send an email with a description of the claim to the following: [acroteau@hayscompanies.com](mailto:acroteau@hayscompanies.com); [dpowers@hayscompanies.com](mailto:dpowers@hayscompanies.com); [jfoley@hayscompanies.com](mailto:jfoley@hayscompanies.com), and [sarah.oleary@mass.gov](mailto:sarah.oleary@mass.gov). Please provide a police report along with any claim submitted.

## **Massachusetts Housing Authorities Insurance Program Flood Deductible Buy-down Coverage Summary:**

This policy is in place for housing authorities with property located in high-risk flood zones. The purpose of this policy is to reduce the high deductibles for specified property locations in high risk flood zones.

Any major flood loss should be reported to York through the property damage claims process. The program broker, Hays Companies, will determine whether a claim can be made based upon information gathered through the property claims process and work with any impacted local housing authority to help them make a claim for the flood-deductible buy-down coverage. The community deductible program does not apply to losses covered under the flood deductible buy-down policy. FEMA and MEMA may have funding available to respond to flood claims.

### **Q. Is There Liability Insurance?**

A. There is no policy of insurance providing coverage for liability claims, personal injury claims, or claims which may be filed alleging intentional torts, civil rights, discrimination or employment liability. For personal injury claims, local housing authorities are protected by the Massachusetts Tort Claims Act. This is a law that gives the housing authority liability protection by limiting the amount of damages that can be awarded, prevents the accumulation of interest on injury claims and requires a formal notice procedure before a plaintiff can file a law suit. Contract violations, and other causes of action, such as discrimination, and employment claims are not within the protection of the Massachusetts Tort Claims Act. LHAs must always comply with the law regarding discrimination and employment as violations of the law can pose a serious liability risk to LHAs.

### **Q. What should I do if the LHA Gets Sued?**

A. While there is no liability insurance policy, DHCD does offer a Retained Risk Management Liability Program which will provide an attorney to defend lawsuits and other legal claims filed against an LHA. In order to participate in the program, prompt notification of all legal filings on the LHA is required. Late notification of claims will prejudice the ability to defend the case.

Participation in this program also requires full compliance with the program parameters and cooperation in the defense. Should a judgement be awarded against the LHA, DHCD can provide a budget exemption to reimburse the LHA for the judgment, if the program requirements have been met. Please contact Sarah O’Leary by email at [sarah.oleary@mass.gov](mailto:sarah.oleary@mass.gov) for further information.

### **Q. What Other Insurance Coverage does the LHA need?**

A. The LHA board should evaluate and determine what insurance is necessary for each LHA. LHAs vary in size, scope of their portfolio, staff and activities they undertake. Certainly, LHAs will need to ensure that any automobiles its employees operate on the job are covered by auto insurance. Each LHA must also maintain the legally required workers compensation insurance for its workers. LHAs must ensure that vendors working on the property are insured, and have included the LHA as an additional named insured on their policies of liability insurance when they are doing construction or continuing operations such as landscaping, property maintenance or plowing on the LHAs property. LHAs with federal portfolios will need to secure adequate property insurance coverage, taking into account coastal and wet-lands exposures. An insurance consultant may be helpful in guiding your LHA as to whether additional insurance coverages would provide value.