

WAP POI Program Managers

Weatherization Pollution Exposures

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Lead

Most weatherization activities in pre-1978 homes can disturb lead dust in the paint. Lead Safe Work Practices (LSWP) will improve defense options in the event of a meritless claim if LSWP's are followed. A vigorous defense will require that all the LSWP precautions are documented or verifiable. Actual lead paint poisoning defenses are always expensive because expert testimony is required to determine when and how the poisoning occurred. When private contractors are utilized, how well LSWP's are implemented might depend on the private contractor's On the Job Training (OJT) program, which should ensure that LSWP's are followed on every project, by every worker. Testing to determine if lead is in the paint and if LSWP's should be part of the work scope can create liabilities.

Mold

Mold litigation can be expensive. Property owners might have to seek medical treatment and/or be hospitalized. If independent consultants are called in to test the house for mold spores and test results determine that the spore count is above a certain healthy threshold, the property inhabitants might have to secure a temporary residence elsewhere. If property cannot be restored a healthy level, and the property is sold at a discount, the property owner will have legal grounds to recover the loss in property value, medical expenses, third party testing, and relocation expenses. Most weatherization activities if performed negligently can create conditions for mold growth. Even if weatherization activities are done correctly, they can still inadvertently create mold conditions. For example, weatherization work alters the air flow characteristics of the home which then traps moisture and creates conditions for mold growth. If private contractors are used, do they have mold coverage in case they create the mold conditions, or if they trap the mold by installing a thermal barrier?

Asbestos

Asbestos can be found in roof tiles, floor tiles, attics, sidewalls, insulation, pipes, covered surfaces, slate, ceilings, textured paints, electrical wiring insulation, caulk, putty, older construction mastics, vermiculite, and around heating systems including furnaces. All weatherization activities can inadvertently disturb asbestos when cutting, drilling, insulating, removing, repairing or working in any part of the home. Blower door test can disperse lead dust, asbestos fibers, or mold spores. Health and Safety guidance from the State Weatherization departments today often recommend certifications for weatherization crews that would allow them to legally work with small quantities of asbestos (which will create a higher due diligence standard in a court of law).

Radon

Testing and vapor barrier installation for radon can create expensive bodily injury claims if the effort fails, and the radon goes undetected. Private subcontractors performing this work create vicarious

liability.

Residential Heating Oil Tank Upgrades

Residential heating oil tank upgrades can result in heating oil spills in basements or into the soil outside the home. This remedial excavation around the home can be tricky and expensive. A basement would require a vapor recovery system installation, monitoring, and time to work, which is also expensive. Tanks are filled by third party companies which creates vicarious liability for weatherization departments.

Loading and Unloading

Exclusions in general liability, auto liability and some pollution policies exclude coverage for loading and unloading. A windy day could disperse lead dust or asbestos fibers.

Transportation

Lead Based Paint (LBP) residential waste, Asbestos Containing Material (ACM), and Presumed Asbestos Containing Material (PACM) if spilled on a highway would create remediation expenses if the Hazardous Material Response team in an urban area is deployed to “clean up” the highway.

Disposal Site

Lawsuits related to the misclassification of wastes like asbestos at a solid waste landfill would create fines and expenses to remedy the situation.

Subcontracted work

Pollution related claims will always involve the top tier contractor or the weatherization program because they have the contract with property owner. Ideally, private contractors and weatherization departments should have their own POI insurance to cover all the above. Pollution risk management for private subcontractors is vitally important. Do all the private contractors have coverage for all the above, and is that coverage endorsed to offer the broadest protection for the weatherization department? More information can be found on this subject in the private contractor risk management document.

What is the POI Program doing to address the increasing frequency and severity of POI claims, especially mold?

The program managers in collaboration with loss control representatives are going to be publishing a Quarterly newsletter that will discuss current and past claims, and this loss control newsletter will detail the sequence of events that can lead to claims. Could these claims have been prevented, or the damages minimized? Learning from the past to help prevent or minimize future claims is the goal of this loss control initiative. Please ensure that communication from the POI WAP Program are accepted into your inbox and not directed into your Junk e-mail file.

Why is the POI Program good for the weatherization network?

Without it, the power to influence underwriters for coverage expansions, and the ability to keep rates down vanishes. Without it, each buyer of POI coverage would be at the mercy of the market. Without it, the cost for this coverage to the weatherization network service providers would increase by at least 30%, and there would be no assurances of any future positive influences on rates or coverage for service providers in the Weatherization Plus Healthy Homes network.

Why should private contractors explore their POI coverage options with the WAP POI Program?

When private contractors have coverage from the WAP POI Program, weatherization departments can be assured that their private contractors have broad form pollution coverage at the lowest premiums available in the marketplace. The WAP POI Program understands the operational complexity of weatherizing a home. For over eight years, the WAP POI Program has been underwriting, providing coverage, and administering claims for the weatherization network service providers.

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