

## **Frequently Asked Questions Regarding Minnesota Statutes section 471.61**

**Q1. The former employee is covered indefinitely according to section 471.61. His/her dependent spouse is also covered indefinitely under section 471.61. The former employee will be turning age 65 and would like to drop his/her coverage in favor of a Medicare Supplement plan. What continuation rights does the spouse have?**

**A1.** There is no impact to continuation coverage under section 471.61 when retirees turn age 65. The retiree may stay on the group's health plan even though they are eligible for Medicare. However, section 471.61 does *not* allow the dependent to remain on the health plan if the former employee cancels coverage. If a retiree discontinues group coverage under 471.61 in favor of a Medicare supplemental plan, the dependent is no longer eligible for continuation coverage under section 471.61.

Are there rights for the spouse under other state and federal continuation laws? The listed triggering event (Medicare entitlement) is motivating the retiree to drop group coverage even though under the terms of the plan the triggering event does not create a loss of coverage for the retiree or spouse. It seems the answer would be that there are no continuation rights for the spouse. However, the Minnesota Department of Commerce has ruled that since the spouse is losing coverage, the spouse is entitled to continue coverage for 36 months consistent with Minnesota Statutes section 62A.20.

**Q2. The employee and spouse were covered under a political subdivision group, ABC School. The employee retired and waived coverage under ABC School because the former employee was able to obtain coverage under his/her spouse's group plan. Several months later the former employee of ABC School requests to be added back onto the ABC School plan due to the spouse losing coverage under his/her health plan. Is ABC School required under section 471.61 or other continuation laws to add the former employee and spouse back onto the plan?**

**A2.** There is no obligation under any state or federal continuation law to add either the former employee or spouse onto the health plan. The former employee waived rights to continuation. Some groups, however, have a policy to allow the participants back onto their plan. Groups should have a policy regarding this issue and apply it consistently.

**Q3. A former employee with single coverage retires from ABC School and elects to continue coverage under section 471.61. May the former employee add a spouse onto the plan at a later date?**

**A3.** The answer will vary based on the specific circumstances causing the request for addition. Under section 471.61 only those dependents receiving coverage immediately before the employee leaves employment are eligible to continue.

However, HIPAA applies to political subdivision groups such as ABC School. Therefore, ABC School should allow the addition of a dependent if this addition is the result of a HIPAA special enrollment event. An example of a HIPAA special enrollment event is that the spouse waived coverage under ABC School when it was initially offered due to

other coverage. The spouse is now losing that coverage due to termination of employment and is requesting to be added to the ABC School's plan within 30 days of losing his/her coverage.

Section 471.61 does not limit rights granted to former employees under other state or federal laws; thus, the former employee could waive their section 471.61 rights and elect continuation rights under other state and federal provisions. Under state and federal continuation laws, dependents may be added to continuation coverage in the same manner that other similarly situated active beneficiaries can add dependents. If the group allows active employees to add late entrants then they should allow the retiree to add a dependent as a late entrant. It is important to remember, however, that state and federal provisions do not provide indefinite coverage. For example, both state and federal continuation laws limit continuation to 18 months for an individual who left employment through retirement.

**Q4. ABC School provided coverage for the former employee and the spouse under Minnesota Statutes section 471.61. Several months after retirement the former employee requested that the spouse be deleted from the plan. If the former employee wants to add the spouse back to the plan at a later date, would this be allowed?**

**A4.** Since the dependent was on the plan immediately before the employee left employment it would seem they *may* be eligible under section 471.61 if active employees are allowed to add dependents as late entrants to the plan. Groups should have a policy and administer it consistently.