

# Webinar Q & A Follow-Up

## MN Benefits Continuation Laws for Public Entities | Dec. 2019

**1. Help me clarify, non-public entities are subject to Federal and State COBRA laws and public entities are subject to Federal but can choose to enforce MN Law, as it is more liberal?**

Three laws regulate this coverage – Federal COBRA, Minnesota state continuation law, and MN 471.61 Public Entity Early Retirement law. Fully insured group health plans are subject to both state and federal continuation laws.

Minnesota state continuation law does not apply to self-funded plans. However, Minnesota state continuation law and MN 471.61 Public Entity Early Retirement law does apply to all fully insured plans and to political subdivision groups such as cities, counties, schools and churches regardless of whether they are self-funded or fully insured.

**2. As far as the Duration of Continuation of Coverage chart, is it important to first consider if fully-insured?**

Yes, correct. Please see the Duration of Continuation of Coverage.

**3. Scenario - if a currently active employee is age 63, and their job is eliminated as of the end of the year, would the school district be required to offer coverage until age 65? This employee could retire because they meet the definition of retirement.**

You should allow former employee and the employee's dependents to continue to participate indefinitely in the plan under the following conditions:

(a) former employee who is receiving a disability benefit or an annuity from a Minnesota public pension plan other than a volunteer firefighter plan, or who has met age and service requirements necessary to receive an annuity from such a plan.

(b) Until the former employee reaches age 65, the former employee and dependents must be pooled in the same group as active employees for purposes of establishing premiums and coverage for hospital, medical, and dental insurance. However, a former employee under the age of 65 who is enrolled in Medicare Parts A and B due to the former employee's disability and for whom Medicare's obligation to pay claims is primary, and the former employee's dependents, must be pooled in the same group for purposes of this paragraph as former employees who have reached age 65.

**4. To clarify - if we are using a 3rd party for all continuation coverage, can I feel confident they are compliant?**

If you are concerned about a response to a question you presented to your TPA, feel free to run your scenario by our team at Synergy HR.

**5. Scenario - if an Administrative Assistant decides to retire from the school district at age 55 and in her working agreement it states that the school district will contribute the same dollar amount for her health insurance that she had received when working for five years, after the five years does the school district have to offer COBRA to the retired employee? If yes, would it only be for 18 months?**

Employee is eligible for Minnesota continuation coverage laws until employee is:

- 1) enrolled in another group coverage plan or
- 2) until the date coverage would otherwise end.

**6. Do you have a sample cobra letter?**

The Department of Labor has developed a model COBRA continuation coverage election notice that a Plan may use to provide the election notice. To use the model election notice properly, you must fill in the blanks with the appropriate plan information. The Department considers use of the model election notice to be good faith compliance with the election notice content requirements of COBRA. The use of the model notices isn't required. The model notices are provided to help facilitate compliance with the applicable notice requirements.

**7. A qualified beneficiary is on COBRA - how would we know if this beneficiary becomes covered by another entity (which would end COBRA)?**

It is pretty much based on the honor roll. However; you could ask the employee to sign a written statement acknowledging the coverage and responsibility to notify you if they become covered under another plan. This exerts a little more pressure.

**8. What is legal responsibility? We notify primary? How do we know the beneficiaries are notified also?**

Cobra compliance outlines that a plan administrator may provide notice to a covered employee and the covered employee's spouse by furnishing a single notice addressed to both the covered employee and the covered employee's spouse if, on the basis of the most recent information available to the plan, the covered employee's spouse resides at the same location as the covered employee. An administrator may provide notice to each qualified beneficiary who is the dependent child of a covered employee and the covered employee's spouse if, on the basis of the most recent information available to the plan, the dependent child resides at the same location as the individual to whom such notice is provided.

**9. If the employee terminates employment do they have to be eligible for PERA or actively collecting in order to qualify for indefinite coverage?**

Actively collecting.

**10. What are the largest downfalls you've seen from TPA's that administer state continuation laws?**

See question four. Also; Mike Bourgon, attorney at Synergy HR, is happy to review your TPA contract and assist in amending the liability clause if necessary.

## **11. Is COBRA required when an employer has two employees or twenty employees?**

COBRA is the federal continuation of coverage law. The ERISA provisions apply to all group health plans (fully insured and self-insured) maintained by employers with 20 or more employees, excluding governmental plans and certain church plans. COBRA requires employers to provide to each qualified beneficiary (e.g., an employee, spouse, or dependent) who has a loss of coverage under a group health plan resulting from a qualifying event an opportunity to receive continued plan coverage for periods of 18 months or longer.