

Disability Rights Legal Center



Cancer Legal Resource Center

Cancer Legal Resource Center

919 Albany Street • Los Angeles, CA 90015

Toll Free: 866.THE.CLRC (866.843.2572)

Phone: 213.736.1455

TDD: 213.736.8310 Fax: 213.736.1428

Email: CLRC@LLS.edu

Web: www.CancerLegalResourceCenter.org

The CLRC is a joint program of the Disability Rights Legal Center & Loyola Law School

Health Insurance in Minnesota

Types of Private Health Insurance

Group vs. Individual Insurance

Group insurance is usually offered through your employer or some form of a trade association (ex. a union, etc.). *Individual insurance* means that you are contracting directly with an insurance company (ex. when you purchase a plan from Blue Cross or Blue Shield, etc.). People who purchase group or individual health insurance plans are called “members” of that insurance company.

HMO, PPO, and POS Plans

There are three types of managed care plans. There are HMO, PPO, and POS plans.

HMO stands for a health maintenance organization. There are generally two forms: 1) independent physician associations (IPAs), and 2) stand alone facilities. IPAs have physicians that practice in their own offices and sometimes join with other providers to form a medical group.

PPO stands for Preferred Provider Organization. A PPO is a group of health care providers who have agreed to provide services to an insurance company’s members at a reduced rate.

POS stands for Point of Service Plan. A POS Plan is a cross between an HMO and a PPO. Members of a POS plan decide which type of service they want to use at the point when they are ready to use it.

HMO	PPO	POS
Participating doctors and hospitals. Generally have a primary care physician who coordinates care	Usually many health care provider and hospital choices	Can see providers in- or out-of-network
HMO	PPO	POS
Generally have to select doctors and hospitals from within the participating group	Can select from all participating providers	If selecting within network, generally have a minimal co-pay. If selecting from larger group, member will pay more
Limited choices	More choices in doctors, specialists, overall providers	More choice when needed
Usually less expensive	Usually more expensive	Cost is between that of a PPO and an HMO

What to consider when choosing a health insurance plan

- 1) Look at the summary of *benefits*. What benefits are included? What benefits are excluded?
- 2) Look at *costs*. How much are the monthly premiums, annual deductibles, and co-payments?
- 3) When are the *enrollment periods*? Do they offer annual open enrollment periods to make changes to your policy?
- 4) How much *flexibility* do they offer? Can you change plans if you need to? How?

Health insurance companies are required to renew an individual's existing health coverage, but there is no cap on the rate increases companies may impose at the time of renewal. This is called guaranteed renewability. Guaranteed renewability is not portable, so you do not have the right to switch to another company or even another product offered by the same company.

Ways to Get and Keep Health Insurance

Employment-Based Health Insurance

The most common way that people obtain health insurance coverage is through their own employment or a family member's employment. There are certain rights that are guaranteed to people who are insured through their own or a family member's employment. These rights have to do with the continuation of coverage during certain leaves of absence (under the Family and Medical Leave Act) or upon termination of employment (see COBRA, discussed below). Persons with employment-based health insurance are also protected from health insurance discrimination based on their pre-existing conditions under the Health Insurance Portability & Accountability Act (see HIPAA, discussed below).

COBRA

COBRA is a federal law that allows you to continue the same health insurance coverage that you had through your or your family member's employer. It's the same health insurance policy you had when you were employed, so you don't have to worry about changing providers.

COBRA is available to an employee or family member after an employee has terminated their employment or has reduced their work hours to a point that they are no longer eligible to receive coverage from their employer. This termination or reduction in hours is referred to as a "qualifying event." Other qualifying events for COBRA are divorce or death of a spouse (when the person seeking COBRA coverage was insured by a plan provided through the spouse's employment), or a child aging out of a parent's health insurance policy.

Federal law defines the terms of COBRA coverage and its availability as follows:

- COBRA applies to employers with 20 or more employees.
- COBRA coverage generally lasts for 18 months.¹
- The cost of the monthly premium paid by the employee can be up to 102% of what the employer was paying for the same benefits.
- The person insured is responsible for the full premium for the coverage.
- Who is responsible for notifying the health plan of the qualifying event depends on which qualifying event has occurred.
- A health plan has 14 days after the plan administrator is notified of the qualifying event to notify the employee of the right to elect COBRA.
- An employee must elect COBRA within 60 days after being notified of their COBRA rights. The employee then has 45 days after electing coverage to pay the initial premium.

¹ COBRA coverage can last up to 29 months if the person insured has a qualifying disability, or up to 36 months if the person became eligible for COBRA coverage because of certain qualifying events or a combination of qualifying events.

If you elect COBRA coverage, you will have to pay the premiums for each month since you became eligible. So, even if you wait until the last day of your eligibility to elect COBRA coverage, you will still have to back-pay the premiums to the date your eligibility began.

Minnesota State Continuation Coverage

Minnesota has its own state version of COBRA, which does essentially the same thing as federal COBRA. It provides coverage for residents who lose their eligibility for coverage under a group health insurance plan.

Minnesota state law defines the terms of their mini-COBRA coverage and its availability as follows:

- Minnesota state continuation coverage applies to employers with 2-19 employees that had insured their employees through the group health insurance plan.²
- Minnesota state continuation coverage generally lasts for 18 months.
- The employee has 60 days to elect coverage under the state continuation coverage law.

Health Insurance Portability & Accountability Act (HIPAA)

HIPAA prohibits health insurance discrimination against individuals based on their pre-existing conditions, when going from a group health insurance plan to another group health insurance plan or from a group plan to a HIPAA guarantee issue plan.

HIPAA also: 1) provides a federal right to an individual health insurance plan (called a guarantee issue plan); 2) reduces the maximum pre-existing condition exclusion period to 12 months; and 3) gives you credit for the time that you had health insurance coverage in the past to eliminate or reduce a pre-existing condition exclusion period.

Guarantee Issue Plan

Normally when you apply for an individual health insurance plan, you are required to go through a process called medical underwriting. During this process, the insurance company looks at your past and current medical condition in order to decide whether or not they want to issue you a health plan. If you currently have, or in the past have had, a serious medical condition, the insurance company will likely decide that it is not worth the risk to them to issue you a health plan, and they will deny you coverage.

A guarantee issue plan, also known as a “federally insured plan” or “HIPAA plan,” is an individual health insurance plan that you have a right to purchase under federal law. A HIPAA plan isn’t a specific plan – it’s just a right to purchase an individual plan. You may purchase a HIPAA plan in Minnesota through the Minnesota Comprehensive Health Association (MCHA). MCHA allows you to choose from a variety of plans with deductibles ranging from \$500 to \$10,000. MCHA also offers Medicare Supplement plans.³

A HIPAA plan is different than COBRA coverage. Under COBRA, you keep the same health insurance you had through your employer. Under HIPAA you are buying new insurance, so you need to compare all of the available plans and pick the one that is right for you. Compare the premiums, deductibles, and co-payments. Check to make sure your healthcare providers accept any insurance plan you are considering, and check to make sure that your prescription drugs are on the formulary list of drugs covered by the plan.

² Some employers do not contract with an insurance company to insure their employees, but they have enough employees to do risk pooling like an insurance company would. These employers are "self-insured." Since self insurance does not involve a contract between an insurance company and an employer, it is not subject to state insurance regulations. Therefore, Minnesota's state continuation coverage is not available to employees who have been covered by an employer's self-insured plan.

³ For more information on the deductible plans, call (866) 894-8053. For more information on the Medicare Supplement plans, call (800) 325-3540.

You must meet the following requirements to be eligible for a HIPAA plan:

- You must exhaust your COBRA coverage, meaning that you use all 18 months of COBRA coverage, and any additional COBRA coverage available to you.
- You cannot have a break in coverage longer than 63 days.
- You must be ineligible for Medicare, Medicaid, or any other form of group coverage.

Pre-existing Condition Exclusion Period (PECEP)

When you are going from one employer's group health plan to another employer's plan, the new plan is required to insure you, but they can impose a PECEP, which means that for a certain period of time, they will not cover any treatment or services related to a pre-existing medical condition. Before HIPAA, a two-year PECEP was the industry standard. HIPAA limited the maximum PECEP that may be imposed to one year.

Creditable Coverage

Creditable coverage is any previous period of health insurance coverage that was not interrupted by a break in coverage of more than 63 days. HIPAA reduces any PECEP by the length of time that you previously had creditable coverage. Example: If you previously had coverage for four months, have not had a break in coverage of more than 63 days, and your new insurance plan has a PECEP of 12 months, then you get a credit for your 4 previous months of coverage, leaving you with only 8 months left on your PECEP. So, if you have 12 months or more of previous health insurance coverage, and you never have a break in coverage of more than 63 days, you will never face a PECEP.

Almost all types of health insurance can qualify as creditable coverage. (Medicare, Medicaid, group, individual, COBRA, and HIPAA plans can all qualify.) One exception is student health insurance plans because they are not typically a full policy with catastrophic coverage. If a particular condition was not covered by the policy that you are claiming as creditable coverage, then your new health plan may still subject that condition to a PECEP.

To show that you have creditable coverage, call your insurance company to request a "certificate of creditable coverage," which lists the dates that you have been insured by that company. If you have been insured by multiple companies, you need certificates of creditable coverage from each one.

Minnesota Major Risk Insurance Plan

A major risk plan is health insurance coverage for Minnesota residents who are unable to obtain coverage in the individual health insurance market due to a pre-existing condition. The Minnesota Comprehensive Health Association (MCHA)⁴ offers health insurance coverage options to individuals who have been denied coverage in the private health insurance market due to pre-existing conditions. The Association offers a variety of plans with various annual deductibles, as well as Medicare supplemental plan options. MCHA premiums are between 101% - 125% of the weighted average for comparable individual policies.

To be eligible for the major risk health insurance plan in Minnesota:

- You must be a Minnesota resident.
- You must be unable to obtain health insurance through another group plan, Medicare and Medicaid.
- You must have exhausted your COBRA coverage or any other state continuation coverage.
- You have been denied a private insurance plan during the past six months because of a pre-existing health condition.

In addition, if you are HIPAA eligible, you can buy health insurance from MCHA.

⁴ For more information on the major risk insurance plan in Minnesota please contact the Minnesota Comprehensive Health Association online at <http://www.mchamn.com/>.

Enrollment in the major risk health insurance plan is limited, and there is an active waiting list. There is also a six month waiting period for pre-existing conditions

Handling Health Insurance Disputes

If you disagree with a decision that your health insurance provider has made regarding coverage, you have the right to appeal that decision. The appeals process varies depending on what state you live in. In Minnesota, you must first exhaust your health plan's internal appeals process, and then you can request an external review of the decision.

Internal review

This is the health plan's own review of its decision. There are state and federal laws and rules that apply to internal review processes.

External or independent review

This is a reconsideration of the health plan's determination by an outside, independent organization. In Minnesota, reviews are overseen by the Minnesota Department of Commerce.

Before you begin an appeal, understand your coverage and applicable laws.

An *employer-sponsored* health plan is one that a person can get through their own employment or through a family member's employment. The employer usually makes a contribution toward the cost of the employee's coverage. An *individually-purchased* plan is one that you purchase directly from a health plan. The person purchasing the insurance pays the entire premium. Different laws apply depending on whether your plan is employer-sponsored or individually-purchased.

If your plan is an employer-sponsored plan, you need to know whether it is a *self-insured* plan. A self-insured plan is one in which the employer does not contract with an insurance company to insure their employees. Instead, the employer does their own risk pooling like an insurance company would, and pays directly for their employees' health costs. Since self-insurance does not involve a contract between an insurance company and an employer, it is not subject to state insurance regulations. Federal laws still apply to self-insured plans.

Know *what is covered* and what is not covered by your plan. Also know what *procedures* and *deadlines* are required by your plan.

Next, exhaust your plan's internal complaint process.

If you have a problem with your health plan, you have the right to file a complaint with your health plan. A complaint can also be called a grievance or an appeal. You may be able to file your complaint by phone, mail, or on the internet

The internal complaint process for services involving a medical determination the health plan must inform you of their decision within 45 days of receiving your internal appeals. For complaints that do not involve medical determinations, your health plan must inform you of their decision within 30 days of receiving your internal appeals. After exhausting your internal complaint process, you may apply for the external review process.

Then, you may request external review.

In Minnesota, once you have exhausted your plan's internal appeals process, you are entitled to an external review. Depending on the type of health plan, your external appeals are filed with different agencies.

If your health plan is HMO, you would file your external appeal with the Minnesota Department of Health. For other health plans, including PPOs, you would file your external appeal with the Minnesota Department of Commerce.

The external review is performed by Maximus, an independent company hired by the state. The decision of the external appeal is binding on the insurance plan. Although the decision is usually made based on written material submitted by you and your insurance company, if both you and your insurer request mediation, Maximus may permit the dispute to be worked out orally between you, your insurer and an impartial mediator. Mediation is not available for expedited appeals.

Additional Health Care Rights in Minnesota

Second Medical Opinions

Minnesota requires that all health plans cover the cost of a second medical opinion from a medical provider within the insurance network for cases involving chemical dependency or mental illness. The health plan must cover a second medical opinion from a provider outside the insurance network if the in-network provider determines that a structured treatment plan is not necessary. The insurance provider must also cover the cost of a second medical opinion when required to do so by a referral from the Department of Human Services.

Resources

For Assistance With Insurance Disputes or Questions About State Health Insurance Continuation Coverage

Minnesota Department of Commerce

(651) 296-4026 or (651) 296-2860

<http://www.commerce.state.mn.us/>

Minnesota Department of Health
(800) 657-3916 or (612) 282-5600

<http://www.health.state.mn.us/>

For Questions About COBRA

U.S. Department of Labor

Employee Benefits Security Administration
(816) 426-5131 or (866) 275-7922

<http://www.dol.gov/ebsa/>

For Questions About the Major Risk Insurance Program:

Minnesota Comprehensive Health Association

(866) 894-8053

<http://www.mchamn.com/>

For Questions About HIPAA

Minnesota Department of Commerce

(651) 296-4026 or (651) 296-2860

<http://www.commerce.state.mn.us/>

For Assistance for Children

Minnesota Medical Assistance

(651) 431-2670 or (800) 657-3739

<http://www.dhs.state.mn.us>

MinnesotaCare

(651) 297-3862 or (800) 657-3672

<http://www.dhs.state.mn.us>

For Questions About Medicaid

Minnesota Medical Assistance

(651) 431-2670 or (800) 657-3739

<http://www.dhs.state.mn.us>

MinnesotaCare

(651) 297-3862 or (800) 657-3672

<http://www.dhs.state.mn.us>

For Questions About Medicare

U.S. Department of Health & Human Services

Centers for Medicare & Medicaid Services

(800) 633-4227 <http://www.cms.hhs.gov/>

Minnesota Board on Aging

Elmer L. Andersen Human Services Building

540 Cedar Street

St. Paul, MN 55155

(651) 431-2500

<http://www.mnaging.org/>

DISCLAIMER: This publication is designed to provide general information on the topics presented. It is provided with the understanding that the author is not engaged in rendering any legal or professional services by its publication or distribution. Although these materials were reviewed by a professional, they should not be used as a substitute for professional services. Copyright Cancer Legal Resource Center 2009
