

Health Insurance and Divorce in Minnesota – Who Pays?

The availability of health insurance coverage is a concern for many people contemplating a divorce. This is especially true for people with [children](#) or those insured by a spouse's health insurance policy.

Federal and state laws protect the continued availability of health insurance coverage to divorcing couples and their children. At the [start of a divorce](#), a restraining provision in the Summons prohibits the alteration or cancellation of any health, medical, or life insurance policy currently in effect. This means that ***neither party may cancel coverage or change the type or amount of insurance coverage being provided for a spouse or the parties' children without the court's permission.*** When a divorce is finalized, Minnesota law and the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) allow for the continuation of health insurance benefits for a former spouse for a specific period of time.

Health Insurance Coverage for Children after a Divorce:

If a person has dependent health insurance coverage available to him or her through an employer, that person will be able to continue to maintain coverage for the children after the divorce, even if that person is the non-custodial parent. ***The cost of that coverage is then apportioned between the parties.*** For example, if Jane and John both have dependent coverage available through their respective insurance plans, they can choose which plan is most cost effective for their children. When [child support](#) is calculated, each parent is required to pay a percentage of the insurance premium, based upon their portion of the parental income available for support. The cost of unreimbursed medical and dental expenses (such as deductibles and co-pays) is usually shared based on the same percentage.

If only one parent has dependent health insurance, that parent will be ordered to continue to provide health insurance coverage and each parent's share of the cost will be calculated as described above.

Health Insurance Coverage for Spouses after a Divorce:

In Minnesota, it is against the law for a health insurance policy to terminate coverage for the spouse of an insured solely because of a divorce. Instead, the law requires that the coverage afforded to the insured's former spouse continues until (1) the insured's former spouse becomes covered under any other group health plan, or (2) the date the coverage would otherwise terminate under the policy, which ever occurs first. There are several common ways health insurance is dealt with once a divorce is finalized.

Example #1: Jane and John each have health insurance available to them through their respective employers. COBRA coverage does not apply because a separate group insurance plan is available to each person. Even if John was covered under Jane's group policy during the marriage, COBRA coverage does not apply because John has his own

group plan available. Generally, Jane and John would be responsible for maintaining their own health insurance policies.

Example #2: Jane does not have health insurance available to her and during the marriage she was covered under John's employer's health insurance plan. COBRA coverage is available to her. To continue health insurance coverage under John's plan, Jane has 60 days from the date the divorce is finalized or 60 days from the time she receives notice from the plan administrator of her intent to elect COBRA coverage. Once elected, coverage is available for a maximum of 36 months. Usually, Jane is responsible for her portion of the health insurance cost. While COBRA coverage is generally more expensive than health coverage for an active employee, it is often less expensive than buying private health insurance.

Example #3: Jane does not have health insurance available to her and during the marriage she and John were covered under his small business's health insurance policy. If John's employer has fewer than 20 employees, COBRA coverage is not available to Jane as the law does not apply to John's employer. Jane must then look for coverage through a private insurer. The parties can negotiate who will be responsible for paying the insurance premiums.

Example #4: Jane and John are self-employed. During the marriage, they maintained an individual insurance plan as a couple. COBRA coverage does not apply. Each party would be responsible for obtaining his or her own health insurance coverage. The parties can negotiate who will be responsible for paying the insurance premiums.

To speak with a lawyer about your health insurance concerns during a divorce call 952-746-4111.

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