

*This opinion will be unpublished and
may not be cited except as provided by
Minn. Stat. § 480A.08, subd. 3 (2008).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A09-1016**

Robert Ferrari,
Appellant,

vs.

Central Minnesota Community Corrections,
Respondent

**Filed March 16, 2010
Affirmed
Peterson, Judge**

Crow Wing County District Court
File No. 18-CV-08-68

Patrick M. Krueger, Borden, Steinbauer, Krueger & Knudson, P.A., Brainerd, Minnesota
(for appellant)

Susan K. Hansen, Pamela R. Galanter, Frank Madden & Associates, Plymouth,
Minnesota (for respondent)

Considered and decided by Ross, Presiding Judge; Peterson, Judge; and Wright,
Judge.

UNPUBLISHED OPINION

PETERSON, Judge

In this appeal from summary judgment, appellant retiree argues that respondent former-employer has an obligation to continue to provide the same level of health-insurance coverage that appellant received at the time of his retirement. We affirm.

FACTS

Appellant Robert Ferrari was employed by respondent Central Minnesota Community Corrections, an independent agency of Aitkin, Crow Wing, and Morrison Counties, before he retired in August 2000. Appellant accrued 34 years of service for purposes of determining his retirement benefits. While employed, appellant received health-insurance coverage under the BlueCross/BlueShield of Minnesota Basic Plan. This insurance coverage was paid for by respondent as required under the Crow Wing county personnel policies, which respondent had adopted. From the time of his retirement through January 2008, appellant continued to receive coverage under the basic plan paid for by respondent.

In January 2008, respondent and Crow Wing County changed the health-care coverage offered to employees and retirees. These changes included eliminating the basic plan and making available to employees and retirees modified or new plans that provide different levels of coverage than the basic plan. Although respondent continued to pay appellant's full premium for coverage under the plan that he chose, deductibles and out-of-pocket co-payment maximums were increased under the new plans.

Appellant brought this action seeking an order enjoining respondent from altering his coverage under the basic plan and requiring that respondent continue to pay for coverage equivalent to the basic plan. Appellant and respondent made cross-motions for summary judgment. The district court granted summary judgment to respondent. This appeal followed.

DECISION

When there are no issues of material fact, we review a district court's grant of summary judgment to determine whether the district court erred in applying the law. *Bus. Bank v. Hanson*, 769 N.W.2d 285, 288 (Minn. 2009); *accord* Minn. R. Civ. P. 56.03. “When the district court grants summary judgment based on the application of a statute to undisputed facts, the result is a legal conclusion that we review de novo.” *Weston v. McWilliams & Assocs.*, 716 N.W.2d 634, 638 (Minn. 2006).

The parties do not dispute that under Minnesota statutes and the language in respondent's personnel policy, respondent is required to pay the full premium for appellant's continued health-insurance coverage following his retirement. But appellant argues that respondent's obligation is not limited to paying his insurance premiums during his retirement; appellant contends that respondent is also required to provide health insurance with the same level of coverage that appellant received at the time he retired.

A public employer may obligate itself in its personnel policy to pay its retirees' health-insurance premiums. Minn. Stat. § 471.61, subd. 2b(e) (2008); *see also Hous. & Redevelopment. Auth. v. Norman*, 696 N.W.2d 329, 332-34 (Minn. 2005) (discussing history of legislation concerning authority of public employers to contract to pay retirement benefits). Minn. Stat. § 471.61, subd. 2b, provides:

A unit of local government must allow a former employee and the employee's dependents to continue to participate indefinitely in the employer-sponsored hospital, medical, and dental insurance group that the employee

participated in immediately before retirement, under the following conditions:

. . . .

(e) The former employee must pay the entire premium for continuation coverage, except as otherwise provided in a collective bargaining agreement or personnel policy.

When a personnel policy contains a promise to pay health-insurance premiums for a retired employee, that promise is enforceable on contract grounds. *See Norman*, 696 N.W.2d at 337 (applying holding to collective bargaining agreement); Minn. Stat. § 471.61, subd. 2(b)(e) (authorizing public employer to contract in collective bargaining agreement or personnel policy to pay retiree health insurance premiums). Therefore, we must determine what promises were made in respondent’s personnel policy.

“Under a contract analysis, we first look to the language of the contract and examine extrinsic evidence of intent only if the contract is ambiguous on its face.” *Norman*, 696 N.W.2d at 337. “A contract is ambiguous if its language is reasonably susceptible to more than one interpretation.” *Brookfield Trade Ctr., Inc. v. County of Ramsey*, 584 N.W.2d 390, 394 (Minn. 1998).

At the time of appellant’s retirement, section 32.02¹ of the Crow Wing County Personnel Manual, provided:

¹ The record contains two different documents that appear to be two different versions of the Crow Wing County Personnel Manual. Although the numbers of the relevant sections are not the same, and the language in the two versions is not identical, there are not substantive differences between the two versions.

For retired full-time employees the County shall contribute the payment of health insurance premiums for these employees or the employee's surviving spouse, who meet the eligibility requirement for retirement under the Public Employee's Retirement Act on the following basis:

...

D.) Employees with twenty-five (25) years of continuous service . . . county pays full cost of the premium.

The language of the personnel policy is unambiguous. Under the personnel policy, respondent is required to pay the full cost of the health-insurance premium for retirees with 25 years of continuous service. Because appellant retired with 34 years of continuous service while this personnel policy was in place, his right to have respondent pay the full cost of his health-insurance premium vested when he retired. *Norman*, 696 N.W.2d at 337 (noting “that, upon retirement in reliance on the county’s promise of pension benefits, the retiree’s ‘right to such benefits is vested for the life of the retiree and cannot be altered absent the retiree’s express consent’”) (quoting *Law Enforcement Labor Servs., Inc. v. County of Mower*, 483 N.W.2d 696, 701 (Minn. 1992)).

But no provision in the personnel policy states that respondent will maintain insurance for retirees at a specific level of coverage or under a specific health-insurance plan. Under Minn. Stat. § 471.61, subd. 2b, respondent is required to allow retirees “to continue to participate indefinitely in the employer-sponsored hospital, medical, and dental insurance group that the employee participated in immediately before retirement.” The new insurance plan that covers appellant is the same plan that covers current employees, and there is no evidence that appellant is in a different insurance group than the one that he participated in immediately before he retired.

We conclude that, upon his retirement, appellant was entitled to continue to participate indefinitely in the hospital, medical, and dental insurance group that appellant participated in immediately before his retirement, and respondent must pay the full premium for coverage that appellant receives as a member of this group. The record indicates that appellant is participating in that group and that respondent has paid the full premium for appellant's insurance coverage. Appellant's vested rights do not include the right to have the same level of coverage that this group received at the time of appellant's retirement.

Affirmed.