

FTR Now

New and Longer EI Benefits are Coming

Date: July 4, 2017

Much anticipated legislative reforms to the Employment Insurance (EI) regime in Canada will extend parental and maternity EI benefits and expand access to critically ill children benefits. Find out what the changes could mean for your organization in this *FTR Now*.

Overview

As we reported to you in our [March 24th FTR Now](#), the federal government introduced several significant changes to the *Employment Insurance Act* (EI Act) in Bill C-44, the *Budget Bill Implementation Act, 2017, No. 1* (the Act).

The Act changes the EI system by extending the window during which EI parental and maternity benefits can be paid, permitting additional family members to share the EI critically ill child care benefits and establishing a new 15 week caregiving EI benefit for critically ill adult family members.

Effective Date

On June 22, 2017, Bill C-44 received Royal Assent. However, the EI Act amendments will come into force on a day to be fixed by order of the Governor in Council, which will not be earlier than July 10, 2017. Based on previous statements made by the Department of Finance, it is expected that the changes will come into force before the end of 2017.

The existing rules will continue to apply to benefit periods that begin before the changes take effect, such as where a child is born before that date. Once the amendments are in force, new claimants for parental or maternity benefits, critically ill children benefits and critically ill adult benefits will be governed by the new EI regime outlined below.

Specific Changes to the EI Act

(i) Maternity and Parental Benefits

Currently, EI maternity benefits are payable during the period starting eight weeks prior to the claimant's due date and ending 17 weeks after the birth of the child, for a maximum of 15 weeks (after the one-week waiting period). Parental EI benefits are payable for up to 35 weeks commencing no earlier than the birth or adoption of the child. Parental EI benefits must generally be paid within 12 months of the date the child comes into the care of the parent. A birth mother is eligible for a combined total of 50 weeks of EI parental and maternity benefits.

The Act increases the flexibility of EI maternity and parental benefits in two ways. First, the period during which EI maternity benefits are payable to a birth mother will be extended to start 12 weeks before her due date (as opposed to the current eight weeks). The total number of weeks of EI maternity benefits payable remains capped at 15 weeks and the one-week waiting period also remains the same.

Second, the EI Act is amended to give parents the option to choose to receive EI parental benefits at the lower benefit rate of 33% of weekly insurable earnings for an additional 26 weeks to a maximum of 61 weeks, or to instead receive parental EI benefits at the current rate of 55% of weekly insurable earnings over the existing 35 week period. The election is one time and irrevocable. Where benefits are shared between claimants, the first parent's election determines the EI parental benefit

rate and duration for the other parent.

(ii) Parents of Critically Ill Children Benefits (PCIC Benefits)

Currently, EI PCIC benefits are available to parents for up to 35 weeks in a 52-week period to care for a critically ill or injured child. Where more than one child is critically ill or injured as a result of the same event, no separate benefit period for each child can be established. By contrast, where more than one child is critically ill or injured as a result of unrelated events, separate benefit periods of up to 35 weeks in a 52-week period can be established per child. In that case, a parent cannot receive benefits for two separate children at the same time, but two parents can each establish a benefit period for one child each.

The EI Act has been amended to extend PCIC benefits in these circumstances beyond parents to prescribed family members. The EI Act has also been amended to remove the rule that prevented separate benefit periods from being established in respect of different children where the children's critical illness or injury arose from the same event. Instead, where more than one child is critically ill or injured, whether due to the same or unrelated events, separate benefit periods of up to 35 weeks in a 52-week period can be established per child provided that no parent receives PCIC benefits for two separate children at the same time.

(iii) New Adult Caregiving Benefit

The Act establishes a new EI adult caregiving benefit of up to 15 weeks in a 52-week period for individuals providing significant care to an adult family member in need of support to recover from a critical illness or injury.

(iv) Compassionate Care Benefits

In order to qualify for compassionate care benefits, a medical certificate must be provided. Claimants will be able to provide a certificate completed by a nurse practitioner instead of being required to obtain a certificate from a medical doctor.

This additional flexibility also applies to PCIC benefits and the new adult caregiving benefit.

Impact on Employers

While the EI amendments apply to all contributors to the EI program, employment protection while in receipt of EI benefits depends upon whether the employee is regulated by provincial or federal legislation. Federally regulated employees have been granted employment protection in respect of the new EI benefit periods, [as discussed in our *Federal Post*](#). Employees in provincially regulated employment will not be entitled to leave periods that correspond to the new EI benefit period unless provincial minimum employment standards legislation is amended to reflect those same periods.

Federally regulated employers who offer supplemental or top-up payments during periods of leave should assess and consider the effect of the increased leave periods and reduced rate of EI parental benefits on their supplemental or top-up plans.

We will continue to monitor for developments in this area and provide you with further updates.

Should you have any questions or require further information, please contact [your regular Hicks Morley lawyer](#).

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