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Revised 6 February 2004

## Family-related Employment Insurance Benefits

Over the years, Employment Insurance (EI, formerly UI) has increasingly afforded special consideration to claimants with children. In June 1971, 15 weeks of maternity benefits became available to eligible claimants under the *Unemployment Insurance Act, 1971*. At the same time, claimants with dependants enjoyed a benefit rate of 75% of average weekly insurable earnings, some eight percentage points above that paid to claimants without dependants.<sup>(1)</sup> In January 1984, eligible claimants became entitled to 15 weeks of adoption benefits. And in 1988, paternity benefits were extended to fathers who had to leave work to become the primary caregiver to a newborn child because the mother was disabled or dead.

Parental benefits emerged in the latter part of 1990, as a result of Bill C-21. Under this reform, 10 weeks of parental benefits replaced adoption/paternity benefits. As these benefits could be claimed by one parent or shared between both parents, the effective benefit period for claimants receiving maternity benefits almost doubled. Before Bill C-21 became law, the government amended the bill so as to provide for an additional five weeks of parental benefits in instances where children with special needs required extra care. This provision was designed, in part, to appease parents of adoptive children who would have otherwise experienced a five-week reduction in benefits compared to that which existed prior to the bill.<sup>(2)</sup> However, the age-related wording of the five-week extension was subsequently struck down for violating the *Canadian Human Rights Act*.

Bill C-17 amended a number of statutes, including the *Unemployment Insurance Act*, to implement certain provisions in the February 1994 budget. One of these amendments reintroduced the concept of a “dependency rate”: claimants without dependants were entitled to a benefit rate of 55% (down from 57%) of average weekly insurable earnings, while those with dependants received 60%. This

dependency rate was later modified under the *Employment Insurance Act (EIA)*, introduced in 1996.

In addition to EI benefits (based on a benefit rate of 55% of average weekly insurable earnings), eligible low-income claimants with children are entitled to a Family Supplement<sup>(3)</sup> under the EIA. Unlike the dependency rate, the Family Supplement is paid to only one claimant (when both spouses are on claim). The Family Supplement is also better targeted than its predecessor, because it is based on both yearly and family income. In addition, it takes into account the number of children in a claimant’s family. The maximum effective benefit rate for recipients of the Family Supplement is 80% of average weekly insurable earnings, subject to a maximum weekly payment of \$413 (i.e., the current maximum weekly benefit).

As shown in Table 1, 187,320 low-income families were entitled to the Family Supplement top-up in 2001-2002. On average, recipients received an additional \$42 per week while on claim. This is roughly three times higher than the average top-up paid to low-income claimants with dependants under the dependency rate in 1995-1996.<sup>(4)</sup> In 2001-2002, approximately \$2.14 billion was also spent on maternity and parental benefits. Overall, approximately \$2.32 billion was spent on family-related EI benefits in 2001-2002, of which 93% was paid to mothers.

**Table 1**  
**Family-related EI Benefits, 2001-2002**

	Family Supplement	Maternity	Parental (Biological)	Parental (Adoptive)
New Claims	187,320	193,020	208,670	2,600
Avg. Weekly Benefit	\$42	\$294	\$306	\$351
Avg. Duration (weeks)	-	14.6	22.5	27.2
Total Payments (millions)	\$175.8	\$842.9	\$1,279.8	\$21.2

Source: Canada Employment Insurance Commission, *Employment Insurance: 2002 Monitoring and Assessment Report*, Annex 1.

In the Speech from the Throne on 12 October 1999, the government announced its intention to help parents take more time off work to care for their children by increasing access to, and the duration of, parental benefits. This promise was fulfilled under Bill C-32 (Budget Bill 2000), which increased the duration of parental benefits by 25 weeks to a maximum entitlement of 35 weeks. When combined with maternity benefits, the duration of EI family-related benefits as of 1 January 2001 doubled to 50 weeks of benefits. In addition to the increase in benefit entitlement, the qualification requirement for maternity/parental (and sickness) benefits declined from 700 hours (\$4,200 for fishers) of insurable work to 600 hours (\$3,760 for fishers). Effective 1 January 2001, only one parent is required to serve a two-week waiting period when both parents decide to share parental benefits. Claimants receiving parental benefits are also able to maintain some attachment to work and earn 25% of weekly benefits or \$50, whichever is greater, without experiencing a reduction in their weekly benefits.

In May 2001 (Bill C-2), the *Employment Insurance Act* was amended again. One of the changes redefined new entrants and re-entrants by excluding individuals who left the labour market to raise a child and who received maternity or parental benefits in the four-year period (208 weeks) preceding the current two-year look-back period. These individuals now qualify for regular benefits under the normal qualification requirement (i.e., 420 to 700 hours of insurable employment, depending on the regional unemployment rate), instead of the much tougher qualification requirement for new entrants and re-entrants (i.e., 910 hours of insurable employment, irrespective of the regional unemployment rate).

In the 18 February 2003 budget, the government announced that it would amend the *Employment Insurance Act* and the *Canada Labour Code* so as to provide compassionate care benefits and leave, respectively. These changes were incorporated in the *Budget Implementation Act, 2003*, which received royal assent on 19 June 2003. Individuals with at least 600 hours of insurable employment in their qualifying period are entitled to receive a maximum of 6 weeks of compassionate care benefits to care for a gravely ill family member who faces a significant risk of death within 26 weeks (a medical certificate is required). Like parental benefits, family members may share the 6 weeks of compassionate care benefits and only one waiting period must be served.

As shown in Table 2, employees in federally regulated workplaces are now entitled to 8 weeks of

unpaid leave to care for a family member, provided a qualified medical practitioner issues a certificate stating that the family member has a serious medical condition that could result in death within 26 weeks of the day the certificate is issued or the day the leave commenced. Table 2 also indicates that not all jurisdictions across the country have adopted legislation to reflect the availability of the new EI compassionate care benefits. Although a similar situation existed following the extension of parental benefits, all jurisdictions have now increased the period of parental care leave.<sup>(5)</sup>

**Table 2**  
**Statutory Pregnancy/Parental/**  
**Compassionate Care Leave**  
**(weeks)**

Jurisdiction	Pregnancy	Parental (with/without maternity leave)	Compassionate Care
Federal	17	37/37	8
Alta.	15	37/37	-
B.C.	17	35/37	-
Man.	17	37/37	8
N.B.	17	37/37	8
Nfld.	17	35/35	-
N.S.	17	35/32	8
Ont.	17	35/37	-
P.E.I.	17	35/35	8
Que.	18	52/52	12 (104)*
Sask.	18	34/37	12**
N.W.T/Nunavut	17	37/37	8
Yukon	17	37/37	8

\* The 12 weeks of leave may be extended to a total absence of 104 weeks if the illness may result in death.

\*\* This is de facto leave, in that employers may not dismiss or lay off employees who are absent due to an illness or injury to the employee or a member of the employee's family, provided the absence does not exceed 12 weeks in a 52-week period.

Source: CCH Canadian Ltd., *Canadian Labour Law Reporters*, Volume 1, 2004, ¶5996-6115.

- (1) In reality, claimants with dependants also received relatively higher benefits under the *Unemployment Insurance Acts* of 1940 and 1955. In 1975, the 75% dependency benefit rate was eliminated. The government took this step because it felt that a number of measures to increase support for families with children (e.g., increased and indexed family allowances) had been introduced since the *Unemployment Insurance Act, 1971*, thereby reducing the need for a dependency benefit rate.

- (2) J.-D. Bélanger and K. B. Kerr, *Bill C-21: Amendments to the Unemployment Insurance Act and the Employment and Immigration Department and Commission Act*, LS-35E, Parliamentary Research Branch, Library of Parliament, Ottawa, 13 June 1989, p. 5.
- (3) To be eligible, a claimant must receive the Canada Child Tax Benefit and have a net family income of \$25,921 or less.
- (4) Canada Employment Insurance Commission, *Employment Insurance: 1999 Monitoring and Assessment Report*, 20 December 1999, p. 22.
- (5) The status of EI “social” benefits is now uncertain, given a recent Quebec Court of Appeal ruling that found that EI maternity and parental care benefits fall under provincial jurisdiction and that EI should not fund programs of this nature. It is thought that this ruling is also applicable to sickness and compassionate care benefits. The federal government is considering whether to appeal the decision.