



# A MEMBER'S GUIDE TO EMPLOYMENT INSURANCE

Although every effort is made to ensure that the information in this document is accurate, readers should consult Service Canada's website which is the official source of information about employment insurance. This document is provided for your information only.

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## INTRODUCTION

The information in this document is general in nature and meant to give members a broad overview of entitlement to benefits under the *Employment Insurance Act*. Where information is specific to a particular group of ETFO members, that is noted.

### Types of Benefits

There are two types of Employment Insurance (EI) income replacement benefits:

1. Regular benefits – weekly benefits paid to members who are unemployed and looking for work.
2. Special benefits – weekly benefits paid for absences due to maternity and/or parental leaves, sick leaves, compassionate care leaves, leave to care for family member (adults), and parents caring for critically ill children.

**NOTE:** A special benefit period (e.g., maternity) can interrupt a regular benefit while unemployed.

## AMOUNT OF BENEFIT PAYMENTS

### Weekly Benefit Calculation

As of January 1, 2022, the maximum EI weekly benefit is \$638 (2022) which is based on 55% of the average insured earnings up to a yearly maximum of \$60,300. The benefit will vary as is described below in the “Benefit Calculations” section.

Low income families (i.e., an income of less than \$25,921) with children and in receipt of the Canada Child Tax Benefit (CCTB) may receive a Family Supplement based on the CCTB.

### Average Insured Earnings Calculation

The weekly benefit rate payable is based on average earnings. Depending on the regional rate of unemployment in the area where the worker resides (see chart below), anywhere between 14 and 22 weeks of earnings are used to calculate the average. The weeks used are the highest weeks of earnings in the 52-week period before the interruption of earnings.

| Regional Rate of Unemployment | Required Weeks (Divisor) |
|-------------------------------|--------------------------|
| 6% or less                    | 22                       |
| 6.1% to 7%                    | 21                       |
| 7.1% to 8%                    | 20                       |
| 8.1% to 9%                    | 19                       |
| 9.1% to 10%                   | 18                       |
| 10.1% to 11%                  | 17                       |
| 11.1% to 12%                  | 16                       |
| 12.1% to 13%                  | 15                       |
| 13.1% or more                 | 14                       |

The divisor table cannot be less than 14 or greater than 22.

### Claw Back from High Income Earners

Members who have received regular EI benefit payments and have a net income of \$75,375 in a taxation year may be required to return 30% of the lesser of either the regular EI benefit payments made in that same taxation year or the net income above \$75,375.

Members earning less than \$75,375 are not subject to this claw back; neither are first-time claimants. Claimants who receive special benefits (e.g., pregnancy, parental, sickness, compassionate care, or family caregiver benefits (children) (adults)) are also not subject to claw back regardless of their annual income.

## INSURABLE HOURS

All EI benefit claims require that the claimant has accumulated a minimum number of insurable hours.

When members suffer an interruption of earnings, employers (school boards or school authorities) report the number of insurable hours they have worked. The employer makes this report on a Record of Employment (ROE). “Insurable hours” are hours worked and paid where an EI premium was deducted from the member’s pay and remitted to Service Canada. Members should track their work hours for EI purposes rather than rely on the employer to correctly track them.

Whether a member has sufficient hours of insurable earnings depends on these main factors:

1. the number of insurable hours worked in the previous 52 weeks prior to the claim;
2. whether or not the member is considered to be a “new entrant” or a “re-entrant”; and
3. the type of benefit being claimed.

The insurable hours relevant to a benefit are the hours worked in the “qualifying period,” which generally is the 52 weeks before the start of the claim. Members will need to know how many hours the school board reports to Service Canada. This number may vary and may be specified in the local collective agreement.

Other than for “new entrants” or “re-entrants,” the number of insurable hours needed for members to qualify for EI benefits depends upon the type of benefits claimed:

1. Regular benefits – between 420 and 700 insurable hours to qualify depending upon the regional rate of employment. An updated chart outlining the relationship between insurable hours and the regional rate of employment can be found on the Service Canada website.
2. Special benefits – a minimum of 600 insurable hours in the previous 52 weeks is required.

## Insurable Hours

| Regional Rate of Unemployment | Required number of insurable hours |
|-------------------------------|------------------------------------|
| 0% to 6%                      | 700                                |
| 6.1% to 7%                    | 665                                |
| 7.1% to 8%                    | 630                                |
| 8.1% to 9%                    | 595                                |
| 9.1% to 10%                   | 560                                |
| 10.1% to 11%                  | 525                                |
| 11.1% to 12%                  | 490                                |
| 12.1% to 13%                  | 455                                |
| 13.1% and over                | 420                                |

*Until September 24, 2022, you only need to have accumulated 420 hours of insurable employment during your qualifying period to qualify for EI benefits.*

## REGULAR BENEFITS

Eligibility and advice for members applying for regular benefits will vary. Teachers under a continuing contract cannot be paid regular benefits during a non-working period unless the contract ends. Occasional teachers and designated early childhood educators (DECEs) may be eligible for regular benefits during non-working periods. Non-working periods are periods during which no work is performed. For ETFO members these periods generally include the summer break, winter break, and spring break. A statutory holiday, by itself, is not considered a non-working period unless it otherwise falls within a non-working period such as the summer, winter, or spring break.

EI eligibility does not begin until members have been without work and without pay for at least seven consecutive days. To remain eligible, members are required to conduct an active job search. A job search during a non-working period must be outside the field of education. Eligibility for regular EI benefits also depends on whether a member has accumulated a specified number of hours of insurable employment. The number of insurable hours required depends on the rate of unemployment in the region of the province where the member lives.

## Applying for Benefits

Two documents are required when applying for regular EI benefits:

1. an application form (available online at [canada.ca](http://canada.ca)); and
2. an ROE, which must be provided by employers when there is an interruption of earnings because employment has terminated or a leave has commenced. If you are working at more than one job, obtain an ROE from each employer.

The ROE is the most important single document in the EI program. Everyone who applies for benefits needs an ROE to establish insurable employment. Service Canada uses this form to determine a person's eligibility for benefits, the applicable benefit rate, and the length of the benefit period. Employers must, by law, issue the ROE within five working days of learning that an interruption of earnings has taken place. School boards and school authorities across Ontario file the ROE electronically with Service Canada.

## Application Form

When applying for regular benefits, three areas of the application form should receive the member's special attention.

The first concerns the type of work the member is willing to accept. Although it is permissible, in principle, to restrict the job search to the field of education during the school year (i.e., September to June), the EI Commission has disqualified members from benefits on the grounds that there are few or no employment opportunities in education during that time.

Similarly, during a non-working period, applicants must seek work outside the field of education since positions are virtually non-existent during this period. Applicants intending to return to their regular employment in September should look for temporary positions and should contact employers hiring on a temporary basis. Therefore, members are strongly advised not to be too restrictive on their EI application form as to the type of work they are willing to accept. It is acceptable for members to indicate they are prepared to accept employment for which their education, experience, and training make them suitable. Members should not restrict themselves to one specific example.

Rather, they should leave the answer to this question as broad and general as possible and provide a number of wide-ranging examples such as clerical work, camp counsellor, child-care, and librarian. Members with backgrounds outside of teaching should extend their potential job search accordingly.

The second area of the application form that requires special care is the question dealing with expected salary. Again, members are strongly advised to not be restrictive in their demands in this area. Rather than citing a single figure, members should indicate a salary range, taking into account the economic climate at the time of application for benefits. This does not mean that minimum wage should be accepted or be indicated on the form but the wage expected should be commensurate with the occupation sought.

Finally, for DECE members, it is important that, when filling out the application, you do **NOT** indicate that you are teaching in any way. If you do so, Service Canada will adjudicate your claim like a teacher claim and, as a result, you may be precluded from benefit entitlement in a non-working period.

## Being Fired, Quitting, and Just Cause

Members who quit their jobs without "just cause" or are fired for wrongful misconduct are disqualified from receiving any benefits. Members who quit but have "just cause" are not disqualified. The term "just cause" is defined in the *Employment Insurance Act* as follows:

"Just cause" for voluntarily leaving an employment exists where, having regard to all circumstances, including any of the circumstances mentioned in paragraphs (a) to (n), the claimant had no reasonable alternative to immediately leaving employment:

- a. sexual or other harassment;
- b. obligation to accompany a spouse or dependent child to another residence;
- c. discrimination on a prohibited ground of discrimination within the meaning of the *Canadian Human Rights Act*;
- d. working conditions that constitute a danger to health or safety;
- e. obligation to care for a child or a member of the immediate family;

- f. reasonable assurance of other employment in the immediate future;
- g. significant modification of terms and conditions respecting wages or salary;
- h. excessive overtime work or refusal to pay for overtime work;
- i. significant changes in work duties;
- j. antagonism with a supervisor if the claimant is not primarily responsible for the antagonism;
- k. employer's practices that are contrary to law;
- l. discrimination with regard to employment because of membership in an association, organization, or union of workers;
- m. undue pressure by an employer on employees to leave their employment; and
- n. such other circumstances as are prescribed.

To date, no other circumstances have been prescribed.

## Waiting Period

There is a one-week waiting period from the Sunday of the week of application before benefits are payable.

## Duration of Regular EI Benefit Period

The duration entitlement is based on the number of hours a person has worked and the regional unemployment rate (see chart: *Table of Weeks of Benefit* on the Service Canada website).

The number of weeks to be paid is determined at the start of the claim.\*\*

You can receive EI from 14 weeks up to a maximum of 45 weeks, depending on the unemployment rate in your region at the time of filing your claim and the amount of insurable hours you have accumulated in the last 52 weeks or since your last claim, whichever is shorter.

*\*\*Until September 24, 2022, special temporary rules are in place for determining the number of weeks of regular EI benefits payable.*

## Job Search and Maintaining Benefits

Members must make a reasonable effort to perform a daily job search. Careful documentation of job searches is critical. Reasonable job search activities include:

- assessing employment opportunities;
- preparing a résumé or cover letter;
- registering for job search tools or with electronic job banks or employment agencies;
- attending job search workshops or job fairs;
- networking;
- contacting prospective employers;
- submitting job applications;
- attending interviews; and
- evaluating your skills and competencies.

The following procedures should be carefully adhered to by members receiving regular EI benefits:

- register for job search tools or with electronic job banks or employment agencies;
- attend job search workshops or job fairs;
- keep a record of all employers contacted by phone, email, written application, and/or by personal contact;
- keep a record of dates of applications and replies;
- complete and return any questionnaires received from EI;
- keep a copy of all correspondence to and from EI; and
- keep all records of job searches for six years.

Members receiving regular EI benefits who are not conducting an active job search may be asked to discuss their job-hunting effort.

## Looking for Work

All claimants for EI benefits must be available for work, must be willing and able to work, must be actively seeking employment, and must be unable to find work. All applicants for EI benefits are advised to apply for several jobs every week. Members will be given a “reasonable” period of time during the school year to obtain a job in education; after that, and during the months of July and August, they will be expected to look for work in other fields of employment. Members eligible for EI benefits for the months of July and August must seek employment, even if they intend to return to teaching in September.

The following are some avenues that should be explored or considered when looking for work:

- apply for employment with appropriate employers within traveling distance of your residence (whether or not they are advertising vacancies at the time);
- check advertisements in local papers, trade journals, and web sites;
- make enquiries of friends, relatives, and business acquaintances;
- identify organizations that might need workers with your particular background; and
- prepare a brief, clear, well-organized résumé and make sufficient copies to distribute to potential employers.

Members who take courses during the non-working period (excluding online courses) or who are otherwise unavailable for work will not receive benefits during the week(s) they are unavailable for work.

## Working While on Claim

Members in receipt of EI benefits are able to pick up part-time or occasional work. ‘Working While on Claim’ (WWC) allows EI claimants to earn income while receiving EI benefits and helps them to transition back to employment.

If you earn money while receiving EI benefits, you can keep 50 cents of your benefits for every dollar you earn, up to 90% of your previous weekly earnings. Above this cap, your EI benefits are deducted dollar for dollar.

## Severance Pay/Early Retirement Incentive Payments

Monies other than salary paid or payable by an employer on or after termination are generally regarded as “earnings.” If a member receives such payments, Service Canada will allocate them as if they were payment of weekly salary. EI benefits cannot begin until the period of allocation has expired. Claimants should have their benefit period established immediately with termination while they wait for allocated earnings to run out. The benefit period will be extended for this allocation and claimants may immediately participate in programs offered by Service Canada.

## Retired Members

Retiring members will likely not be eligible for EI benefits if their resignation is considered to be voluntary. However, if a resignation is due to a “just cause”, they may be eligible. Income from retirement, including retirement gratuities, is regarded as “earnings” in determining eligibility for EI benefits.

**NOTE: Teaching 50 days or fewer in a school year will not affect a teacher’s pension.**

Retirees who undertake post-retirement employment in which contributions to the Ontario Teachers’ Pension Plan are not a requirement may be eligible for EI benefits as long as they have the required number of insurable hours and they maintain an active job search.

## Restrictions During Non-Working Periods

Some workers are precluded from receiving regular EI benefits during non-working periods. This does not apply to special benefits.



## Statutory Contract Teachers

Regulations in the EI system prevent statutory contract (i.e., permanent) teachers from receiving regular EI benefits during non-working periods. There are limited exceptions to this. This means that, although statutory contract teachers have an interruption of work/earnings during July and August, they cannot claim regular EI benefits for this period. Non-working periods may include the summer, winter, and spring breaks.

Claims based on hours of insurable earnings accumulated in non-working employment should not be affected. A statutory contract teacher terminated at the end of June may then apply for benefits during the months of July and August as long as they are searching for non-teaching jobs. In September, they may resume searching for a teaching position for a “reasonable” period of time and continue to qualify for EI benefits. However, after a reasonable period of time, the EI Commission will expect teachers to look for work in other fields of employment.

## Occasional Teachers

If the work of occasional teachers is considered by Service Canada to be casual in nature, the restrictions on non-working periods will not apply. Occasional teachers may qualify for EI benefits if they have the required number of hours of insurable employment in the 52 weeks preceding application for benefits or since the start of the last EI claim. Occasional teachers who are consistently getting long-term occasional work assignments, particularly prior and post summer months, will likely be adjudicated by Service Canada as having stronger linkages to full-time teaching employment. In these cases, members will not be eligible to receive benefits during the non-working period.

## ESP, PSP, and DECE Members

Education Support Personnel (ESP), Professional Support Personnel (PSP), and DECE members may qualify for EI benefits if they have the required number of hours of insurable employment in the 52 weeks preceding application for benefits or since the start of the last EI claim. Such members are cautioned **NOT** to refer to their work as involving any kind of “teaching” to avoid confusion that may lead to disentanglement.

## SPECIAL BENEFITS

There are six types of special EI benefits:

1. Pregnancy Benefits - payable to a maximum of 15 weeks;
2. Parental/Adoption Benefits - payable to a maximum of 61 weeks;
3. Sickness Benefits - payable to a maximum of 15 weeks;
4. Compassionate Care Benefits - payable to a maximum 26 weeks;
5. Family Caregiver Benefits (Children) - payable to a maximum of 35 weeks; and
6. Family Caregiver Benefits (Adults) - payable to a maximum of 15 weeks.

The cumulative duration of special benefits must not exceed 104 weeks unless a medical extension is required for a birth mother/birthing parent. A birth mother/birthing parent who claims sickness benefits during their pregnancy may have the special benefits limit increased by one week for each week of sickness benefits for which they are eligible. Eligible members must serve a one-week waiting period prior to any benefits being received. Under limited circumstances, the waiting period may be waived, however this is rarely advantageous to a member if there is a top-up available.

## Minimum Insurable Hours

To be eligible for special benefits, members must have a minimum of 600 insurable hours of employment within the last 52 weeks or since the last EI claim. Eligible members will receive maternity/parental benefits during July and August.\*\*

*Until September 24, 2022, you only need to have accumulated 420 hours of insurable employment during your qualifying period to qualify for EI benefits.*

## Maternity (15 weeks of benefit)

These benefits are available only to the birth mother/birthing parent. A maximum of 15 weeks of benefits is payable at any time during the period beginning eight weeks before the expected date of delivery and ending 17 weeks following the week in which delivery occurs. Benefits commence after the one-week waiting period has been served except where the EI claim is made immediately following a sick leave, in which case the waiting period may be waived.

Members are cautioned to check with ETFO to see whether waiving the waiting period is advantageous. Should the newborn infant remain in hospital for an extended period of time after birth, benefits may be interrupted during the time the child is in hospital and then continue after the baby is released from hospital. Maternity benefits may not be extended beyond 17 weeks following the week of delivery except in situations where the baby is hospitalized.

## Parental (birth and adoption) (61 weeks of benefit)

A maximum of 61 weeks of parental benefits can be collected by birth or adoptive parents while they are caring for their newborn or newly adopted child. If there are two eligible parents, the benefits can be claimed by either parent or shared between them. Parental benefits may be claimed at any time during the year after the child arrives home. However, if a newborn or newly adopted child requires an extended period of hospitalization, the time limit for claiming parental benefits may be extended to a maximum of two years from the date of birth or adoption. Claimants of parental benefits must complete an online application form and must submit an ROE, an adoption certificate or proof of the child's birth, and a statement declaring their intent to stay at home to care for the child.

There are two options for how this benefit may be claimed:

- a person can elect to receive a maximum of 35 weeks of benefits paid at 55% of weekly insurable earnings; OR
- or a maximum of 61 weeks of benefits paid at 33% of weekly insurable earnings.

Not all of the earnings may be considered for this calculation; there is a cap applied under the legislation. You must indicate at the beginning of a parental benefits claim which maximum you want applied to your claim.

The full parental benefits claim may be taken by one parent or may be shared by two parents. Where the claim is shared, the parent who commences the claim makes the selection about what maximum applies.

## Sickness (15 weeks of benefit)

Members who are off work and unable to earn regular pay due to illness may claim EI benefits for a maximum of 15 weeks any time during a benefit period. EI is a second payer and all benefits (sick leave) provided by the employer must be used first.

Claimants may serve the waiting period during the last week of group sick leave insurance payments received prior to commencement of the EI claim. Sickness benefits may be collected before or after maternity or parental benefits, but the total of these special benefits generally may not exceed 50 weeks (except for birth mothers/birthing parents who meet medical requirements for an extension). To apply for sickness benefits, a medical certificate should be provided along with the online application form and ROE. You must get a medical certificate to show that you're unable to work for medical reasons.

## Compassionate Care (26 weeks of benefit)

A maximum of 26 weeks of benefits may be available for members who have to be away from work temporarily to care for a family member who requires end-of-life care.

End-of-life care is defined as providing care or support to a person who has a serious medical condition with a significant risk of death within 26 weeks (6 months). The person also requires the care or support of at least one caregiver. Their condition must be certified by a medical doctor or nurse practitioner.

Medical proof of the need for care/support and risk of death within 26 weeks is required. Compassionate care benefits may be shared with other family members provided that they apply for and are eligible for these benefits. Eligibility is based on 600 insurable hours in the 52 weeks prior to the claim.

A family member includes immediate family as well as other relatives and individuals considered to be like family, whether or not related by marriage, common-law partnership, or any legal parent-child relationship

If you're not a family member, either the person needing care or support or their legal representative must complete an attestation form to confirm that they consider you to be like family. For a child, the parent or legal guardian must sign the form to confirm.

### **Family Caregiver Benefit (Children) (35 weeks of benefit)**

Eligible parents who take leave from work to provide care or support to their critically ill or injured child can receive benefits for up to 35 weeks.

To be eligible for the benefit, you must be able to show that:

1. your regular weekly earnings from work have decreased by more than 40% because you need to provide care or support to your critically ill or injured child;
2. you have accumulated 600 insured hours of work in the 52 weeks prior to the start of your claim or since the start of your last claim, whichever is shorter;
3. you are the parent of a child who is critically ill or injured and your child is under 18 years of age at the time the 52-week window during which benefits can be paid opens (based on the date the specialist medical doctor states that your child became critically ill or injured).

A critically ill or injured child is someone under 18 whose baseline state of health has changed significantly because of illness or injury. As a result, their life is at risk and they need the care or support of at least one caregiver. Their condition must be certified by a medical doctor or nurse practitioner.

If the person is already living with a chronic medical condition, caregivers aren't eligible for benefits unless the person's health changes significantly because of a new and acute life-threatening event.

### **Family Caregiver Benefit (Adult) (15 weeks of benefit)**

Eligible caregivers can receive up to 15 weeks of benefits to provide care or support to a critically ill or injured adult. Caregivers must be family members or someone who is considered to be like family by the person needing care or support.

A critically ill or injured adult is someone 18 or over whose baseline state of health has changed significantly and whose life is at risk as a result of illness or injury. They must need the care or support of at least one caregiver. If the person is already living with a chronic medical condition, caregivers are not eligible for the benefit unless the person's health changes significantly because of a new and acute life-threatening event.

## **APPEALS**

Applicants who do not agree with the disposition of their claim by the EI Commission may appeal the decision. Appeals must be filed within 30 days of the date on which written notification of the disposition of a claim is received. If you do not file within the 30-day period, reasons for the delay must be provided. Members who have been disentitled from benefits must continue to submit EI reports.

## **EI QUESTIONS**

For further information about employment insurance, visit the [Employment Insurance Benefits and Leave](#) page on the Government of Canada website.



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