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# Compassionate Care Benefits within Employment Insurance

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The Government of Canada is seeking public input on special leave provisions under Employment Insurance (EI) and in the Canada Labour Code.

When it comes to EI leave provisions, Caledon has focused specifically upon the needs of caregivers. These are the individuals who provide essential supports and services to gravely ill children, persons with severe disabilities or frail elderly seniors. This brief focuses on the two leave provisions within Employment Insurance – compassionate care benefits and benefits for the parents of critically ill children – intended explicitly for caregivers.

Over the years, Caledon has argued that these caregivers not only require occasional relief. Sometimes they also must take an extended period of time away from work because of unusual or serious circumstances related to their caregiving responsibilities.

The Canada Labour Code allows workers to take 28 weeks of *unpaid leave* within a 52-week period in order to provide care and support to a gravely ill family member. The Code applies to employees working in a federally regulated sector, who comprise about six percent of the Canadian workforce.<sup>1</sup>

The purpose of these compassionate care provisions is to ensure that workers can take crucial leave for personal reasons without fear of job loss or retribution from employers. Other employees are subject to the provisions set out by the provincial or territorial ministry of labour in their respective jurisdictions.

*Paid leave* for compassionate care is available to all Canadian workers who have made the required contributions for special benefits under the Employment Insurance (EI) program. Compassionate care benefits are Employment Insurance benefits paid to people who have to be away from work temporarily to provide care or support to a family member who is gravely ill and who has a significant risk of death within 26 weeks.<sup>2</sup>

One of the main problems around the compassionate care benefits within EI, in particular, was remedied by the former government. Employment Insurance used to allow only a maximum six weeks of paid leave. Caledon had recommended that the duration of these benefits be lengthened. Fortunately, the Harper government announced in the 2015 federal Budget that it would extend, effective January 2016, the period of compassionate care benefits from six weeks to six months.

But two concerns remain with the current provisions.

We have argued and continue to contend that the eligibility criteria for compassionate care benefits are too stringent. Second, the Employment Insurance program has atrophied so significantly in recent years that only a minority of Canadian workers – a national average of 40 percent at last count – qualify for regular benefits under the program. And only a mere 40 Canadians took compassionate care benefits in August 2016.

Both the relevant context and our concerns related to the coverage provided by this EI program are discussed below.

## WHO ARE THE CAREGIVERS?

In 2012 (the latest available data), more than one-quarter (28 percent) – an estimated 8.1 million Canadians ages 15 years and older – provided care to a chronically ill individual, person with a disability or aging family member or friend in the 12 months preceding the survey. Age-related needs topped the list, with 28 percent of caregivers assisting elderly parents. Cancer was next at 11 percent, followed by cardiovascular disease at 9 percent and mental illness at 7 percent [Statistics Canada 2013].

Depending on the circumstances, caregivers carry out one, several or all of the following roles. They help with personal care, bathing, dressing, feeding and grooming. They do shopping, cooking and housecleaning, and provide transportation and coordination of medical appointments. Caregivers often perform routine health-related tasks, such as changing surgical bandages or cleaning breathing tubes, for which they have received basic instruction. They provide important social companionship and emergency assistance, where required.

Given these wide-ranging roles and responsibilities, unpaid or informal caregivers are estimated to deliver more than 80 percent of care required by individuals with long-term conditions.

Caledon has pointed out in various reports over the years that caregivers face multiple pressures as a result of both personal needs and work-related demands. These relate to the:

- provision of care at home
- availability of formal services
- multiple costs incurred in caregiving
- stresses linked to paid employment.

We have proposed actions in all these domains in order to improve the well-being of caregivers and enable them to carry out the crucial roles they assume within families and in society, more generally. This brief focuses on the proposals related to caregiving and employment and, more specifically, the EI compassionate care benefits for employed workers.

More than six million workers – 35 percent of the workforce in Canada – provide unpaid, informal care. The majority (74 percent) of caregivers provide nine or less hours of care per week. However, 16 percent of employed caregivers deliver 10 to 29 hours of care, while 10 percent provide a very intensive level of 30 hours or more [Employer Panel 2015: 9].

Unfortunately and unpredictably, caregiving can seriously disrupt normal work routines. Caregivers may have to refuse a job offer, promotion or transfer; change or resign from a position; reduce the number of employment hours; or take leave from work. Employed caregivers often lose income, benefits and pensions when trying to balance their work and family responsibilities.

In one survey, about four in ten employed caregivers (43 percent) indicated that they had arrived late to work, had to leave work early or had to take time during the day to care for their ill family member or friend. This figure rose to 54 percent for those delivering 20 or more hours of caregiving per week [Sinha 2013: 14].

In 2012, an estimated 1.6 million caregivers took leave from work. Nearly 600,000 reduced their work hours, 160,000 turned down paid employment and 390,000 had quit their jobs to provide care [Employer Panel 2015: 9].

On the work front, Caledon has proposed a number of ways in which employers can better respect and accommodate caregiver and family needs. Flexibility of work schedules is one of the most supportive employer responses.

The needs of the frail elderly, in particular, are often unpredictable and require adaptability on the part of the caregiver. The same can be said for someone with an episodic condition, such as multiple sclerosis, in which symptoms recur and remit (i.e., come and go). Many companies are beginning to recognize that some employees may require more than personal or vacation time to deal with family-related circumstances or emergencies.

Another policy option is to improve existing benefits – namely those related to compassionate care.

## COMPASSIONATE CARE LEAVE

Under the provisions of the Canada Labour Code, employees working in federally regulated industries are entitled to up to 28 weeks of *unpaid leave* within a 52-week period to provide care and support to a gravely ill family member.

To be eligible for the leave, a certificate is required from a qualified medical practitioner, stating that the family member has a serious medical condition with a significant risk of death within 26 weeks. Care or support of a family member means:

- providing psychological or emotional support

- arranging for care by a third party or
- directly providing or participating in the care.

The purpose of this provision within the Canada Labour Code is to ensure protection against employee dismissal, lay-off, suspension, demotion or discipline because of absence due to compassionate care leave. But the Code applies to job security only. There is no provision for payment during this leave of absence.

However, all workers in Canada are entitled, at least in theory, to paid leave under the *Employment Insurance Act*. To be eligible for these compassionate care benefits, employees must be able to show that:

- their regular weekly earnings from work have decreased by more than 40 percent; and
- they have accumulated 600 insured hours of work in the last 52 weeks, or since the start of their last claim – i.e., during the qualifying period.

One positive feature of the Employment Insurance provisions is the broad definition of “family member.” It permits a wide range of relationships including wife, husband, common-law partner, father, mother, grandparents, grandchildren, and sons- and daughters-in-law.

Of special note is the fact that employees who are close friends or neighbours can also apply for compassionate care benefits in order to care for a gravely ill person who considers them a family member. The gravely ill individual or legal representative must sign a Compassionate Care Benefits Attestation, which serves to verify the nature of the relationship. This component is significant, given that close friends often assume caregiving roles – especially later in life after the death of a spouse or partner, or if a child has moved away.

## POLICY OPTIONS

Caledon has proposed that the compassionate care provisions be expanded to permit leave for other caregiving circumstances, not just terminal illness, and extended with respect to the duration of the caregiving period. As noted, the Harper government did announce in the 2015 federal Budget that it would increase, effective January 2016, the duration of the compassionate care benefits from six weeks to six months.

But the first concern remains. The current eligibility criteria are simply too limited to provide meaningful help to most caregivers.

Caledon has recommended that the reason-for-leave provision be expanded to permit work absence for other caregiving circumstances, not just terminal illness and palliative care [Torjman 2015; 2011]. Caregivers often face periods during which they need to take a short block of time to care for a loved one, even when that person has a disability or chronic illness that is not necessarily sudden or acute.

A person with an episodic disability, for example, may need time-limited intensive care. That individual may take a turn for the worse and may require an operation or medical procedure that involves an extended recovery. A person may be moving from one residence to another that requires a period of adjustment. A frail elderly individual may be transitioning, for instance, from independent living to a group residence or institutional setting.

The definition issue was addressed somewhat by the former government. In 2013, it announced a new Employment Insurance special benefit intended specifically for the parents of critically ill children. Parents must be able to show that their regular weekly earnings from work have dropped by more than 40 percent because they need to provide care or support to their critically ill or injured child.

For the purposes of this paid leave, a critically ill child must have a life-threatening illness or injury, which can include various acute phases of illness and for which continued parental care or support is required. It does not include a child with a chronic illness or condition that is their normal state of health. There must be a significant change from the child’s normal or baseline state of health at the time of assessment by a specialist medical doctor.

As in the case of compassionate care benefits, the measure for the parents of critically ill children is confined to acute states of health. Yet there are many other circumstances under which these parents may need some time to provide vital extended care – and not necessarily under life-threatening conditions.

Caledon's second concern relates to the eligibility for special benefits. Tighter eligibility criteria for Employment Insurance that were introduced by the federal government in 1996 have significantly shrunk the coverage of this so-called 'insurance program.' The rules have made it more difficult for the majority of unemployed Canadians to get coverage. Only an estimated 40 percent of unemployed workers in Canada now qualify for regular benefits under the program.

We stand by our long-held conclusion that general reforms to Employment Insurance are essential in order to provide broader coverage and to ensure that the majority – not a minority – of Canadians are able to benefit from its provisions. The current program is seriously limited in its impact. [Mendelson, Battle and Torjman 2009].

**TABLE 1<sup>4,5</sup>**  
**EMPLOYMENT INSURANCE PROGRAM (EI), BENEFICIARIES BY PROVINCE,**  
**TYPE OF INCOME BENEFITS, SEX AND AGE, UNADJUSTED FOR SEASONALITY**  
**MONTHLY (PERSONS) 2016**

Type of Income Benefits	April	May	June	July	August
<b>All types of income benefits</b>	869,990	741,500	688,360	784,230	841,150
<b>Regular benefits<sup>1</sup></b>	611,610	490,070	436,630	532,340	585,000
<b>Regular and not a Part II Employment Benefit participant</b>	587,790	471,570	421,540	525,850	579,590
<b>Regular and a Part II Skills Development participant</b>	22,860	17,490	13,980	5,150	4,180
<b>Regular and a Part II Job Creation Partnership participant</b>	60	70	140	360	330
<b>Regular and a Part II Self-Employment participant</b>	890	940	970	990	900
<b>Work-sharing benefits</b>	6,950	7,840	7,640	7,550	8,010
<b>Fishing benefits</b>	13,100	5,220	5,210	7,260	9,390
<b>Special benefits<sup>2</sup></b>	238,330	238,370	238,880	237,090	238,740
<b>Sickness benefits</b>	72,690	72,550	73,520	72,800	72,340
<b>Maternity benefits</b>	46,810	48,100	48,880	48,880	50,740
<b>Parental benefits</b>	118,800	117,680	116,430	115,370	115,620
<b>Compassionate care benefits<sup>3</sup></b>	30	40	40	40	40

<sup>1</sup> Includes people who receive regular income benefits whether or not they participate in one of three employment benefit programs, namely Skills Development Program, Job Creation Partnerships Program and Self-employment Program.

<sup>2</sup> Does not include parents of critically ill children benefits.

<sup>3</sup> Compassionate care benefits start in January 2004.

<sup>4</sup> Estimates for the current and previous month are subject to revision.

<sup>5</sup> The number of beneficiaries represents a count of persons who qualified for employment insurance benefits during the Labour Force Survey reference week, usually containing the 15th day of the month.

Source: Statistics Canada 2016. CANSIM Table 276-0020.

The eligibility criteria for special benefits, including compassionate care, are less stringent than the regular program for unemployed workers. Special benefits require contributions of 600 hours within a 52-week period compared to 910 hours of contributions for regular benefits.

But even with less stringent eligibility criteria for compassionate care benefits, their coverage is infinitesimally small. Only 40 workers claimed the benefit in August 2016 – up a whopping 10 people from April in that year. Compare this pinpoint to the substantial number of Canadians – an estimated 1.6 million workers – who took leave from paid work (in 2012) as a result of their caregiving responsibilities.

This shockingly tiny ratio of compassionate care beneficiaries/caregivers ratio speaks volumes to the fact that something is drastically wrong with the current provisions. Canada's approach to caregiving must be far more robust and far-reaching than this minimalist program. Caledon has proposed additional measures for helping caregivers through direct financial assistance, such as refundable tax credits or allowances outside of Employment Insurance, and indirect supports through an improved range of services [Torjman 2015].

In fact, we have recommended that a broader strategy for caregivers, involving multiple federal departments, is in order given both the social and economic pressures of Canada's rapidly aging population. It is also important to provide information to employers to enable both short and longer periods of absence from work for caregiving responsibilities. The need for work flexibility and various forms of paid leave will only continue to grow.

## ENDNOTES

1. Part III of the Canada Labour Code (the Code) and related Regulations describe the federal labour standards which apply to employees and employers who fall under the legislative authority of the Parliament of Canada. They include:

- interprovincial and international services such as:
  - o railways
  - o road transport
  - o telephone, telegraph and cable systems
  - o pipelines
  - o canals
  - o ferries, tunnels and bridges
  - o shipping and shipping services
  
- radio and television broadcasting, including cablevision
- air transport, aircraft operations and aerodromes
- banks
- undertakings for the protection and preservation of fisheries as a natural resource
- some First Nations communities and activities
- undertakings declared by Parliament to be for the general advantage of Canada, such as:
  - o most grain elevators
  - o flour and seed mills, feed warehouses, and grain-seed cleaning plants
  - o uranium mining and processing, and atomic energy.

Most federal Crown corporations, such as the Canada Mortgage and Housing Corporation and the Canada Post Corporation, are also covered by the Code's labour standards. Federal public service employees are not covered.

2. Employment Insurance covers 26 weeks of compassionate care benefits while the Canada Labour Code allows 28 weeks. The purpose of the additional two weeks of compassionate care leave is to cover the two-week waiting period that is added to the maximum 26-week compassionate care benefits available under Employment Insurance.

## REFERENCES

- Chenier, L., C. Hoganson and K. Thorpe. (2012). *Making the Business Case for Investments in Workplace Health and Wellness*. Ottawa: Conference Board of Canada. <http://www.conferenceboard.ca/topics/humanresource/makingthebusinesscase.as>
- Employer Panel for Caregivers. (2015). *When Work and Caregiving Collide: How Employers Can Support Their Employees Who Are Caregivers*. Ottawa: Her Majesty the Queen in Right of Canada.
- Mendelson, M., K. Battle and S. Torjman. (2009). *Canada's Shrunken Safety Net: Employment Insurance in the Great Recession*. Ottawa: Caledon Institute of Social Policy, April.
- Sinha, M. (2013). *Portrait of Caregivers, 2012*. Statistics Canada Catalogue no. 89652X-00. Ottawa: Minister of Industry, September.
- Statistics Canada. (2016). *Table 276-0020 – Employment Insurance program (EI), beneficiaries by province, type of income benefits, sex and age, unadjusted for seasonality, monthly (persons)*. CANSIM (database).
- Statistics Canada. (2013). "Caregivers in Canada, 2012." *The Daily*. Ottawa, September 10. <http://www5.statcan.gc.ca/cansim/a26?lang=eng&id=2760020>
- Torjman, S. (2015). *Policies in Support of Caregivers*. Ottawa: Caledon Institute of Social Policy and Mowat Centre for Policy Innovation, May.
- Torjman, S. (2011). *Caring for the Carers*. Ottawa: Caledon Institute of Social Policy, June.
- Torjman, S. (2009). *The Three Ghosts of Poverty*. Ottawa: Caledon Institute of Social Policy, October.