

A Member's Guide to

Employment

Insurance



May 16, 2014

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The Elementary Teachers' Federation of Ontario wishes to thank the Newfoundland and Labrador Teachers' Association and the Alberta Teachers' Association for permission to revise and use their publication, "Teacher's Guide to Employment Insurance".

Although every effort is made to ensure that the information here is accurate, readers should consult Service Canada's website which is the official source of information about employment insurance.

A Member's Guide to Employment Insurance

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*.

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, or compassionate care leaves for members caring for a family member gravely ill and at risk of death within six months.

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

Amount of Benefit Payments

Weekly Benefit Calculation

The maximum EI weekly benefit is \$574 (in 2014), which is based on 55% of the average insured earnings up to a yearly maximum of \$48,600. The benefit will vary as is described below in the “Benefit Calculations” section.

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

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.

TABLE

| Regional Rate of Unemployment | Divisor |
|--------------------------------------|----------------|
| Not more than 6% | 22 |
| More than 6% but not more than 7% | 21 |
| More than 7% but not more than 8% | 20 |
| More than 8% but not more than 9% | 19 |
| More than 9% but not more than 10% | 18 |
| More than 10% but not more than 11% | 17 |
| More than 11% but not more than 12% | 16 |
| More than 12% but not more than 13% | 15 |
| More than 13% | 14 |

The divisor table cannot be less than 14 or greater than 26.

Clawback from High Income Earners

Members who have received regular EI benefit payments and have a net income of \$59,250 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 \$59,250.

Members earning less than \$59,250 are not subject to this claw back. Neither are first-time claimants. Claimants who receive special benefits (maternity, parental, sickness or compassionate care) are also not subject to clawback 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, school boards report the number of hours of insurable hours they have worked. The board 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.

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 EI benefits** – between 420 and 700 insurable hours to qualify depending upon the regional rate of employment. A chart outlining the relationship between insurable hours and the regional rate of employment is found in this publication in the section entitled “Regular EI Benefits”.
- 2) **Special benefits** – a minimum of 600 insurable hours in the previous 52 weeks is required.

“New entrants” or “re-entrants” are members entering the workforce for the first time, members who have less than 490 hours of Labour Force Attachment in the 52 weeks preceding the qualifying period, or members who are re-entering the workforce after two years’ absence. To be in a position to become entitled to regular benefits, “new entrants” or “re-entrants” may need 910 insurable hours. This requirement is not necessary for entitlement to special benefits.

INSURABLE HOURS

| Regional Rate of Unemployment | Required number of hours of insurable employment in the last 52 weeks |
|-------------------------------|---|
| 0% to 6% | 700 hours |
| 6.1% to 7% | 665 hours |
| 7.1% to 8% | 630 hours |
| 8.1% to 9% | 595 hours |
| 9.1% to 10% | 560 hours |
| 10.1% to 11% | 525 hours |
| 11.1% to 12% | 490 hours |
| 12.1% to 13% | 455 hours |
| 13.1% and over | 420 hours |

Regular EI Benefits

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 the non-teaching 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 in applying for regular EI benefits: an application form (available online @ www.servicecanada.gc.ca) and a Record of Employment (sometimes called a Separation Certificate) 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 a Record of Employment from each employer.

The Record of Employment (ROE) is the most important single document in the EI program. Everyone who applies for benefits needs a 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 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 (September to June), the EI Commission has disqualified teacher members from benefits on the grounds that there are few or no employment opportunities in education.

Similarly, during the non-teaching period (see discussion below), applicants must seek work outside the field of education since teaching positions are virtually non-existent in this period. Applicants intending to return to teaching 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 that 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 you will be precluded from benefit entitlement in the non-teaching 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;
- 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. antagonistic relations between an employee and a supervisor for which the employee is not primarily responsible;
- k. employer’s practices that are contrary to law;
- l. discrimination with regard to employment because of membership in an employee organization;
- 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 usually a two-week waiting period from the Sunday of the week of application before benefits are payable.

Duration of Regular EI Benefit Period

The following table illustrates the maximum number of weeks of EI benefits payable. The entitlement is based on the number of hours a person has worked and the regional unemployment rate (see chart Table of Weeks of Benefit). The number of weeks to be paid is determined at the start of the claim.

Table of Weeks of Benefit

Regional Rate of Unemployment

| Number of hours of Insurable employment In the qualifying period | 6% and under | More than 6% but not more than 7% | More than 7% but not more than 8% | More than 8% but not more than 9% | More than 9% but not more than 10% | More than 10% but not more than 11% | More than 11% but not more than 12% | More than 12% but not more than 13% | More than 13% but not more than 14% | More than 14% but not more than 15% | More than 15% but not more than 16% | More than 16% |
|---|---------------------|--|--|--|---|--|--|--|--|--|--|----------------------|
| 420-454 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 26 | 28 | 30 | 32 |
| 455-489 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 24 | 26 | 28 | 30 | 32 |
| 490-524 | 0 | 0 | 0 | 0 | 0 | 0 | 23 | 25 | 27 | 29 | 31 | 33 |
| 525-559 | 0 | 0 | 0 | 0 | 0 | 21 | 23 | 25 | 27 | 29 | 31 | 33 |
| 560-594 | 0 | 0 | 0 | 0 | 20 | 22 | 24 | 26 | 28 | 30 | 32 | 34 |
| 595-629 | 0 | 0 | 0 | 18 | 20 | 22 | 24 | 26 | 28 | 30 | 32 | 34 |
| 630-664 | 0 | 0 | 17 | 19 | 21 | 23 | 25 | 27 | 29 | 31 | 33 | 35 |
| 665-699 | 0 | 15 | 17 | 19 | 21 | 23 | 25 | 27 | 29 | 31 | 33 | 35 |
| 700-734 | 14 | 16 | 18 | 20 | 22 | 24 | 26 | 28 | 30 | 32 | 34 | 36 |
| 735-769 | 14 | 16 | 18 | 20 | 22 | 24 | 26 | 28 | 30 | 32 | 34 | 36 |
| 770-804 | 15 | 17 | 19 | 21 | 23 | 25 | 27 | 29 | 31 | 33 | 35 | 37 |
| 805-839 | 15 | 17 | 19 | 21 | 23 | 25 | 27 | 29 | 31 | 33 | 35 | 37 |
| 840-874 | 16 | 18 | 20 | 22 | 24 | 26 | 28 | 30 | 32 | 34 | 36 | 38 |
| 875-909 | 16 | 18 | 20 | 22 | 24 | 26 | 28 | 30 | 32 | 34 | 36 | 38 |
| 910-944 | 17 | 19 | 21 | 23 | 25 | 27 | 29 | 31 | 33 | 35 | 37 | 39 |
| 945-979 | 17 | 19 | 21 | 23 | 25 | 27 | 29 | 31 | 33 | 35 | 37 | 39 |
| 980-1014 | 18 | 20 | 22 | 24 | 26 | 28 | 30 | 32 | 34 | 36 | 38 | 40 |
| 1015-1049 | 18 | 20 | 22 | 24 | 26 | 28 | 30 | 32 | 34 | 36 | 38 | 40 |
| 1050-1084 | 19 | 21 | 23 | 25 | 27 | 29 | 31 | 33 | 35 | 37 | 39 | 41 |
| 1085-1119 | 19 | 21 | 23 | 25 | 27 | 29 | 31 | 33 | 35 | 37 | 39 | 41 |
| 1120-1154 | 20 | 22 | 24 | 26 | 28 | 30 | 32 | 34 | 36 | 38 | 40 | 42 |
| 1155-1189 | 20 | 22 | 24 | 26 | 28 | 30 | 32 | 34 | 36 | 38 | 40 | 42 |
| 1190-1224 | 21 | 23 | 25 | 27 | 29 | 31 | 33 | 35 | 37 | 39 | 41 | 43 |
| 1225-1259 | 21 | 23 | 25 | 27 | 29 | 31 | 33 | 35 | 37 | 39 | 41 | 43 |
| 1260-1294 | 22 | 24 | 26 | 28 | 30 | 32 | 34 | 36 | 38 | 40 | 42 | 44 |
| 1295-1329 | 22 | 24 | 26 | 28 | 30 | 32 | 34 | 36 | 38 | 40 | 42 | 44 |
| 1330-1364 | 23 | 25 | 27 | 29 | 31 | 33 | 35 | 37 | 39 | 41 | 43 | 45 |
| 1365-1399 | 23 | 25 | 27 | 29 | 31 | 33 | 35 | 37 | 39 | 41 | 43 | 45 |
| 1400-1434 | 24 | 26 | 28 | 30 | 32 | 34 | 36 | 38 | 40 | 42 | 44 | 45 |
| 1435-1469 | 25 | 27 | 29 | 31 | 33 | 35 | 37 | 39 | 41 | 43 | 45 | 45 |
| 1470-1504 | 26 | 28 | 30 | 32 | 34 | 36 | 38 | 40 | 42 | 44 | 45 | 45 |
| 1505-1539 | 27 | 29 | 31 | 33 | 35 | 37 | 39 | 41 | 43 | 45 | 45 | 45 |
| 1540-1574 | 28 | 30 | 32 | 34 | 36 | 38 | 40 | 42 | 44 | 45 | 45 | 45 |
| 1575-1609 | 29 | 31 | 33 | 35 | 37 | 39 | 42 | 43 | 45 | 45 | 45 | 45 |
| 1610-1644 | 30 | 32 | 34 | 36 | 38 | 40 | 42 | 44 | 45 | 45 | 45 | 45 |
| 1645-1679 | 31 | 33 | 35 | 37 | 39 | 41 | 43 | 45 | 45 | 45 | 45 | 45 |
| 1680-1714 | 32 | 34 | 36 | 38 | 40 | 42 | 44 | 45 | 45 | 45 | 45 | 45 |
| 1715-1749 | 33 | 35 | 37 | 39 | 41 | 43 | 45 | 45 | 45 | 45 | 45 | 45 |
| 1750-1784 | 34 | 36 | 38 | 40 | 42 | 44 | 45 | 45 | 45 | 45 | 45 | 45 |
| 1785-1819 | 35 | 37 | 39 | 41 | 43 | 45 | 45 | 45 | 45 | 45 | 45 | 45 |
| 1820- | 36 | 38 | 40 | 42 | 44 | 45 | 45 | 45 | 45 | 45 | 45 | 45 |

Job Search and Maintaining Benefits

Members must make a reasonable effort to perform a daily job search. Careful documentation of job searches is critical. The following procedures should be carefully adhered to by members receiving EI regular 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, e-mail, written application, and/or by personal contact;
- Keep a record of dates of applications and replies;
- Complete all EI questionnaires and report cards promptly and accurately and return them to the EI office;
- Keep a copy of all correspondence to and from EI;
- 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 efforts.

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 in looking for work:

- Apply for employment with appropriate school boards 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;
- Prepare a brief, clear, well-organized resume and make sufficient copies to distribute to potential employers.

Working While on a Claim (WWC) Pilot Project

Members in receipt of sickness or maternity benefits will have any earnings deducted from their benefits on a dollar for dollar basis.

Previously, claimants working while on a claim were allowed to earn the greater of \$75.00 per week or 40% of their weekly EI benefit. Any earnings above that threshold reduced benefits dollar for dollar.

The current “Working While on Claim Pilot Project” deducts from EI benefits 50% of each dollar of earnings up to a threshold of 90% of the weekly insured earnings used to calculate the benefit amount. After this 90% threshold is reached, earnings are deducted dollar for dollar from benefits. This project will run until August 1, 2015.

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 the Service Canada.

Retired Teachers

Retired teachers 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 is 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-Teaching Periods

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

Statutory Contract Teachers

Regulations in the EI system prevent teachers from receiving regular EI benefits during non-teaching 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-teaching periods may include the Summer, December, and March breaks. Claims based on hours of insurable earnings accumulated in non-teaching 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 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-teaching 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-teaching period. Members in receipt of EI benefits may be eligible to receive additional income from employment under the Working While a Claim Pilot Project (see Working While on Claim).

ESP, PSP, and DECE Members

ESP, 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 leading to disentanglement. Members in receipt of EI benefits may be eligible to receive additional income from employment under the Working While a Claim Pilot Project (see Working While on Claim).

Special Benefits

There are five types of special EI benefits:

1. Maternity benefits - payable to a maximum of 15 weeks.
2. Parental/adoption benefits - payable to a maximum of 35 weeks.
3. Sickness benefits - payable to a maximum of 15 weeks.
4. Compassionate care benefits - payable to a maximum of six weeks in a 26 week period.
5. Parents of Critically Ill Children – payable to a maximum of 35 weeks.

The cumulative duration of special benefits must not exceed 50 weeks unless a medical extension is required for a natural birth mother. A birth mother who claims sickness benefits during her pregnancy may have the special benefits limit increased by one week for each week of sickness benefits for which she is eligible.

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. Earnings during the special claims period are deducted dollar for dollar.

Maternity

These benefits are available only to the natural birth mother. 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 two-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)

A maximum of 35 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, submit a 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.

Sickness

Teachers 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 two weeks 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 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.

Compassionate Care

A maximum of six weeks of benefits may be available for members who have to be away from work temporarily to care for a “family member” who is gravely ill with a significant risk of death. Medical proof of the need for care/support and risk of death within 26 weeks is required. There is a prescribed list of applicable “family members” on the Service Canada website. 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.

Parents of Critically Ill Children (PCIC)

Beginning June 9, 2013, 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 PCIC benefit, you must be able to show that:

- 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
- 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
- you are the parent of a child who is critically ill or injured your child is under 18 years of age at the time the 52-week window during which PCIC benefits can be paid opens (based on the date the specialist medical doctor states that your child became critically ill or injured)

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 A-Z

For further information about employment insurance, visit http://www.servicecanada.gc.ca/eng/ei/information/az_index.shtml