

BULLETIN

## Compassionate Care Benefit

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by LEANNE WALSH



My mother is very ill. I have heard that there is a new employment insurance paid leave for which I can apply so that I can take time off work to care for her. What are the details?



There have been recent changes to the *Employment Insurance Act*. As of January 4, 2004, this legislation now includes a [Compassionate Care Benefit.] This Compassionate Care Benefit is available to eligible workers in order that they may provide care or support for certain family members for whom death is very probable within the next six months. The Compassionate Care Benefit allows the recipient to receive an EI monetary benefit for up to six weeks while directly providing care for a family member, providing them with psychological or emotional support, or arranging for the care of that family member by a third party. As with any EI benefit, a two-week waiting period must be served. However, the two-week waiting period may be waived in some circumstances.



I work only part-time. Am I eligible to apply for the Compassionate Care Benefit?



To be eligible for this benefit, you must be eligible to receive employment insurance generally. That is, you must have worked 600 insured hours in the last 52 weeks or since you last filed an employment insurance claim. Unfortunately, this restriction means that part-time workers [ many of whom are women ] will not be able to take advantage of the Compassionate Care Benefit.



Can my spouse and I each take a six-week Compassionate Care Benefit to look after our gravely ill son in turn?



No. However, you and your spouse could share one leave benefit by each taking a portion of the benefit period.

You and your spouse can decide how best to share the six-week leave period; it need not be split equally. As with any EI benefit, a two-week waiting period must be served. In this case, only one qualifying period would need to be served.



What sort of job protection is there if I take this leave?



The *Canada Labour Code*, which covers federally regulated employees, was amended to be consistent with the new changes to the Act. Therefore, federally regulated employees have job protection should they wish to take a Compassionate Care Benefit leave.

On the provincial front, Nova Scotia, PEI, New Brunswick, Ontario, Manitoba, and the Yukon Territories have passed amendments to their employment standards legislation in order to harmonize their employment standards legislation with the *Employment Insurance Act* changes. However, British Columbia has not yet done so. Such an amendment provides certain job protections to an employee who takes a Compassionate Care Benefit, and preserves the right of such employees to take the leave. Currently, without such an amendment, the employer has the sole discretion to grant the leave.

The *Employment Standards Act* in BC does offer an unpaid five-day family responsibility leave under Section 52. This leave can be used by an employee to provide care, health or education for a child who is in that employee's care or to provide care or health of any other member of that employee's immediate family. Under the *Employment Standards Act*, an employer *must* grant such a leave when one is requested by an employee.



Is my employer required to grant this Compassionate Care Benefit leave if I request one?



Certain rights to bereavement leave, special leave, and, leave of absence without pay have been negotiated into most HSA collective agreements. These leaves vary in length and purpose, and your eligibility depends on certain factors. Check with your particular collective agreement to ascertain the details. These leaves are distinct from the Compassionate Care Benefit.



Can I receive this benefit while caring for a cousin with whom I am very close?



No. The Compassionate Care Benefit may be utilized to care for only the following family members: a child, parent (including parents-in-law, and parents of your common-law partner), spouse or common-law partner. Since this is a very new change to the *Act*, this list may be expanded by legislators in the future. 

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