

Employers' Anxious Wait is Over with the Arrival of the Federal Government's New EI Parental Sharing Benefit

March 18, 2019

Are we ready for this?

Many first-time parents ask themselves this very question, especially as their baby's due date approaches ever nearer. Now, with the federal government's introduction on March 17, 2019 of its new Employment Insurance ("EI") Parental Sharing Benefit, many Canadian employers will be joining them in pondering the very same thing. But in their case, the "this" will obviously have less to do with the trials and tribulations of childcare and more to do with navigating the potential rise in parental leave requests many are expecting to follow.

What may add to the anxiety for some employers is that, in this case, the "birth" of the new EI Parental Sharing Benefit came a few months sooner than expected. The benefit was first introduced in the federal government's 2018 budget tabled in February of last year with the intention that it would not take effect until June 2019. That timeline was accelerated earlier this year.

What Is the Employment Insurance Parental Sharing Benefit?

Employers are surely already quite familiar with the protections afforded to expectant mothers and new parents in employment standards legislation, as well as with the EI benefits eligible employees are able to access in such circumstances. What the new EI Parental Sharing Benefit effectively does is provide an additional "use-it-or-lose-it" leave extension that is triggered only where both parents take parental leave. The duration of the additional leave is up to 5 weeks where parents select the standard duration of parental benefits (i.e. 35 weeks paid at 55% of average insurable weekly earnings)¹.

Thus, whereas under the old system, parents would be required to decide as between themselves how they would divvy up the 35 weeks of EI parental benefits to which they would jointly be entitled, under the new system, there are an additional 5 weeks of EI benefits available, but only where each of the two parents takes at least 5 weeks.

What Prompted this New EI Benefit?

According to a Government of Canada backgrounder, one of the considerations behind the introduction of the new EI Parental Sharing Benefit is the fact that "child care duties [in Canada] continue to fall disproportionately to mothers, both in the short term following the arrival of their child, and over the long

term, often due to the challenges of re-entering the workforce after time spent away". It is presumed, then, that by encouraging the "second parent", typically the father, to also take time away from work to take on primary caregiving responsibilities, even if for only a few weeks, the status quo will begin to change insofar as the division of parental responsibilities is concerned.

What Does this New Benefit Mean for Employers?

Only time will tell just how extensive the impact of the new EI Parental Sharing Benefit will be on Canadian workplaces. If nothing else, employers should certainly expect to see a greater number of parental leave requests and, in particular, more requests coming from new fathers (and non-birth mothers) who previously would not have considered taking parental leave and, in so doing, "cutting into" what some have traditionally viewed as a benefit primarily intended for the birth mother.

According to Statistics Canada, in Quebec, where the Quebec Parental Insurance Plan already includes benefits that apply exclusively to the second parent, 81.2% of new fathers in that province either claimed or intended to claim parental benefits in 2017. In the rest of Canada, the comparable figure was only 11.9%. With the introduction of the EI Parental Sharing Benefit, that gap is sure to narrow significantly.

Employers would be well advised to prepare for two main changes in employee behaviour. First, birth mothers may now be more likely to avail themselves of the full 35 weeks of EI parental leave benefits, knowing that their partner will still have an additional stand-alone entitlement of 5 weeks' EI benefits. This means it may become even more common for birth mothers to take a full year off for pregnancy and parental leave before returning to work.

Second, given that this new EI benefit will cover a maximum of five additional weeks (where employees select the standard duration of parental benefits), employers should anticipate a notable increase in shorter term parental leave requests from new fathers and non-birth mothers.

While the former of these scenarios can be managed through the recruitment of replacement employees on one-year fixed-term contracts, the latter scenario may pose some additional challenges, particularly in the case of key employees who cannot be easily substituted with short-term staffing agency employees. Unfortunately, in such cases, employers may well have to become a little more creative in scheduling around employee absences.

If you require further information or support in preparing for the impact of the new EI Parental Sharing Benefit, please contact Adrian Jakibchuk or any member of the Cassels Brock Employment & Labour Group.

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¹ Up to 8 weeks where parents select extended parental benefits instead (i.e. 61 weeks at 33% of average insurable weekly earnings).

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