



Canadian Union of Public Employees

Submission to Consultation on Maternity
and Parental Benefits and Leaves

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CUPE Submission to Consultation on Maternity and Parental Benefits and Leaves

The federal government launched the consultation *More Flexibility for Parents* regarding changes to Employment Insurance (EI) maternity and parental benefits, as well as job-protected leaves under the *Canada Labour Code*. The consultation is taking place between October 6 and November 4, 2016.

The government is consulting on whether to allow combined maternity and parental benefits and unpaid leaves to be extended to up to 18 months at a lower EI benefit rate and allowing the current amount of parental benefits and unpaid leave to be taken in smaller blocks of time over a period of up to 18 months rather than over 12 months.

The consultation also covers whether to allow earlier access to maternity leave for workers in jobs that pose a risk to the health and safety of the mother.

CUPE represents 639,000 workers throughout the country working in municipalities, health care, school boards, social services, and post-secondary education. CUPE has a keen interest in comprehensive supports for parents that allow workers to combine paid work with caring responsibilities. Accessible maternity and parental leaves are a key component of these supports but must also be combined with a quality, publicly funded and managed, affordable early learning and child care system for all.

CUPE has opted to submit our comments in this brief in addition to filling in the online survey. We are concerned about the limited scope of this consultation given the significant limitations of Canada's existing maternity and parental leave benefit structure. We encourage the federal government to take this opportunity to have a robust discussion on more comprehensive changes to EI special benefits for new parents. We also urge the federal government to expand access and benefit levels for EI unemployment benefits alongside changes to maternity and parental leave Special Benefits.

Background

There are three components to Canada's maternity and parental leave system: leave benefits through EI Special Benefits or the Quebec Parental Insurance Plan (QPIP) in Quebec; job protected leaves through 14 employment standards acts; and employer-paid 'top ups'. This submission will focus on leave benefits through EI Special Benefits.

In order to be eligible for leave benefits through EI, workers require 600 insurable hours in the previous year. Workers who qualify can access 15 weeks of maternity leave and 35 weeks of parental or adoption leave at a 55% wage replacement level up to maximum insurable earnings of \$50,800. Up to an 80% wage replacement level is provided for lower-income EI recipients through the Family Supplement. Self-employed workers have been able to opt-into coverage as of 2011. Quebec introduced the Quebec Parental Insurance Plan (QPIP) in 2006, which lowered eligibility criteria, increased wage replacement levels and introduced five weeks of paternity leave.¹

The current EI maternity and parental leave regime is limited and excludes a significant number of individuals. The government's proposal to introduce more flexible and extended forms of parental leave with no increase in EI benefit levels will be inaccessible to the vast majority of parents. It runs counter to the OECD trends of higher benefit levels, more accessibility and the introduction of dedicated paternity/second parent leaves.

CUPE recommends a number of changes to expand eligibility and make leaves more affordable for parents, in addition to the introduction of a second parent leave. These changes could be implemented with a modest increase in EI premium rates, rather than lowering rates as is planned for 2017.

Recommendations:

- Raise EI premium rates to fund improvements in special benefits.
- Improve national level data collection on maternity, parental and newly-created second parent leave.

The connection between leaves and wage gaps

Caregiving for children is still overwhelmingly the responsibility of women, who make up 68% of CUPE members. The federal government should take measures to support parents with these responsibilities in a way that fosters gender equality.

It is important to note that the government's current proposal would entrench the gendered nature of caring responsibilities, decrease women's participation in the labour market and enhance the "motherhood wage gap".

Though job-protection and paid maternity leave provisions have generally had a positive impact on women's labour force participation and on reducing motherhood wage gaps, research shows that the length of a leave is important. Leave provisions that are too short have led to health complications while more prolonged leave provisions break mothers' attachments to the workforce.ⁱⁱ Long leave policies also reinforce traditional and unequal division of work between mothers and fathers at home.ⁱⁱⁱ Given that women make up 93% of recipients of parental leave benefits,^{iv} extending leaves to 18 months will likely have an impact on women's participation in the labour market and the gendered distribution of household work.

The government's proposal would also do nothing to increase the number of fathers accessing parental leaves. Increased emphasis on paternity and parental leave for fathers is intended to reduce wage discrimination and over-reliance on women for child care. This can help reduce the 'motherhood wage penalty': the estimated 8% loss in earnings for mothers.^v Research shows that higher wage replacement levels are needed in order to have a greater number of fathers take parental leave.^{vi} The proposal to extend parental leave with no increase in benefits will likely even further reduce the number of fathers taking leave in Canada (excluding Quebec).

Recommendation:

- Conduct a gender analysis of the impact of the federal government's policy recommendations of increasing the length of maternity and parental leaves to 18 months with no increase in compensation.

Access

Right now, parents in Canada (excluding Quebec) require 600 insurable hours in order to qualify for EI maternity and parental leave benefits. This high bar excludes many mothers – particularly lower income earners – from accessing benefits. We can compare this with QPIP, which significantly increased access to maternity and parental leave for mothers.

In Canada, only 64.3% of mothers receive benefits versus 89.3% of mothers in Quebec. This number varies even more for mothers earning under \$30,000 with only 43.6% of mothers covered in Canada and 85.4% in Quebec.^{vii} Quebec's lower eligibility rules of \$2000 of insurable earnings have greatly increased access to maternity and parental leave for mothers in the province, particularly lower-income mothers.

Two key policy options exist for lowering eligibility to special benefits: The Quebec model of \$2000 in insurable earnings (175 hours at Ontario's minimum wage) or 360 hours, which is consistent with the position of the labour movement on lowering eligibility requirements to Employment Insurance overall. It is unclear how many more workers would be covered under the 360-hour requirement versus the current 600 hours, however, research from McKay and Doucet indicate that the Quebec model greatly expanded access particularly for lower-income mothers. With an eligibility reach back period of five years, the 360 hours' requirement would cover a much larger segment of the population as well.

Recommendations:

- Expand access to maternity, parental and newly created second parent leave either through a lower eligibility threshold:
 - Quebec model of \$2,000 of income in eligibility period;
 - Reduce hours required to 300.
- Expand the eligibility period to look back 5 years instead of 1 year.
- Participation in EI special benefits should be mandatory for self-employed workers.

Affordability

CUPE believes the government should ensure that all families can afford to take leaves under EI Special Benefits regardless of income level or attachment to the labour force. At 55%, wage replacement levels for parents on maternity or parental leave are currently very low. This makes it difficult for parents without a negotiated collective agreement 'top up' to afford taking leave.

This falls short of payment levels in Quebec and many other countries internationally. Under QPIP, both biological and adoptive parents may receive 70% wage replacement for maternity, paternity and seven weeks of parental leave under the basic plan.^{viii} Even higher wage replacement levels exist for shorter durations under the Quebec special plan. The 55% rate is one of the lowest in the world, both in developed and in developing countries.^{ix} In most countries, there are high earnings-related payments for maternity leave, except in Canada (excluding Quebec) and a few other countries.^x According to international leave analysis by Koslowski et al., well-paid leaves involve payment at 66% of earnings or above.^{xi}

Furthermore, a floor for special benefits should be established that is not below full-time minimum wage. In addition, the up to 80% wage replacement for low-income earners should be maintained. This will ensure that lower-income families can afford to take leaves.

In some provinces, EI unemployment or special benefits are clawed back from partner's provincial and territorial income support payments. For example, Ontario claws back a partner's EI from disability benefits. These claw backs entrench poverty and limit the access and affordability of EI for lower-income individuals.

A government-funded flat rate allowance should also be provided to ineligible parents. The government could explore integrating this allowance with the Canada Child Benefit. This would address the fact that income support to provide care within our society should not be solely tied to participation in the labour market.

Recommendations:

- Increase the wage replacement rate for maternity, parental and second parent leaves to 70%.
- Establish a floor for special benefits that is not below full-time minimum wage.
- Maintain up to 80% wage replacement for low-income earners.
- Eliminate the waiting period for special benefits.
- Increase the maximum insurable earnings cap and tie it to inflation.
- The federal government should ensure EI unemployment and special benefits are not clawed back from partner's income support payments.
- Provide a government-funded flat rate allowance to ineligible parents.

Paternity/second parent leaves

The introduction of QPIP with a five-week 'use it or lose it' paternity/second parent leave has significantly increased the number of fathers taking leave. In 2013, the overall participation rate for fathers in QPIP was 86.6 per cent compared to 12.2 per cent in the rest of Canada. It is unlikely that the number of fathers taking leave in the rest of Canada will increase without targeted policy interventions.

Research has shown that in heterosexual couples, gender norms have resulted in primarily women taking parental leave.^{xii} A number of countries including Iceland, Sweden, Finland, Korea, Japan, Portugal, France, Belgium, Norway and Luxembourg have introduced leave entitlements that can only be taken by the father or second parent in order to counteract these norms.

When fathers take leave, it not only changes themselves and their relationships with their children, but also the workplace culture.^{xiii} Paternity or second parent leaves have been associated with positive outcomes for both child development and gender equity, with fathers assuming a higher share of child rearing and domestic labour and mothers experiencing fewer career interruptions. It may also help reduce discrimination against women in the workplace both in terms of hiring and wages as men will also be expected to take care-taking leaves.^{xiv}

At the same time, in order for father's leave-taking to increase, research has shown that wage replacement levels need to be higher and it's best if leave can be taken flexibly in shorter chunks of time.^{xv}

Of course, this leave should be available to all families including lesbian, gay and gender non-conforming parents. Options should be explored for single parents such as extended leave, transferring leave to an alternate caregiver or a cash allotment in lieu of leave. This will ensure leave provisions are equitable to all Canadian families.

The OECD average for fathers'/second parent leaves is 8 weeks; however, many countries offer more than 12 weeks up to 52 and 53 weeks in Japan and Korea respectively. Twelve weeks would position Canada just above the OECD average.

Recommendations:

- Introduce 12 additional weeks of non-transferrable second parent leave^{xvi}
 - Introduce incentives for consecutive rather than concurrent leave taking for a portion of the leave
 - Address the need to ensure that single parents are not disadvantaged by introducing second parent leave. Explore options for single parents to take the leave, transfer leave entitlements to other caregivers or cash allotments in lieu of second parent leave

Preventative withdrawal from work

The government is seeking feedback on whether to extend EI maternity benefits to cover preventative withdrawals from work due to health and safety concerns. It should be pointed out that preventative withdrawal from work is not a social measure or a form of maternity leave but rather an occupational health and safety matter. As such, this type of leave should be incorporated into the province's *Occupational Health and Safety Act*. This would serve to counter working conditions that may pose a threat to women workers or their unborn children and to reinforce employers' legal responsibility to provide workers with a safe and secure working environment.

Recommendations:

- Establish entitlement to preventative withdrawal from work where there is a health and safety concern for pregnant women similar to Quebec's system under health and safety legislation and worker's compensation regimes.

Notes

ⁱ Same-sex spouses are entitled to benefits under QPIP.

ⁱⁱ Hegewisch, Ariane, Gornick, Janet C., The impact of work-family policies on women's employment: a review of research from OECD countries, *Community, Work & Family*, 14(2), 119-138, 2011.

ⁱⁱⁱ Ibid.

^{iv} CANSIM Table 276-0020: Employment Insurance program (EI), beneficiaries by province, type of income benefits, sex and age, monthly (persons). Ottawa: Statistics Canada.

^v Budig, Michelle et al. (2012). "The Motherhood Penalty in Cross-National Perspective: The Importance of Work-Family Policies and Cultural Attitudes." *Social Politics*, Volume 19.2.

^{vi} Katherine Marshall (2008). "Fathers' use of paid parental leave." *Perspectives on Labour and Income*, vol 9.6. Ottawa: Statistics Canada.

^{vii} McKay, Lindsey, Mathieu, Sophie, Doucet, Andrea, Parental-leave rich and parental-leave poor: Inequality in Canadian labour market based leave policies, *Journal of Industrial Relations* 58(4):543-562, September 2016.

^{viii} The remaining 25-week portion of Quebec's parental leave program is paid at 55% like the rest of Canada.

^{ix} PEI Women's Network, "Summary of International Best Practices" (Appendix A), 2006.

^x Koslowski, A, Blum, S, Moss, P, 12th International Review of Leave Policies and Related Research 2016.

^{xi} Koslowski, A, Blum, S, Moss, P, 12th International Review of Leave Policies and Related Research 2016.

^{xii} See OECD, Parental leave: Where are the fathers?, March 2016 and Doucet, Andrea, McKay, Lindsey, Canada's two parental leave policy regimes: An argument for dedicated leave time for fathers.

^{xiii} Doucet, Andrea, Speech, CUPE Child Care Roundtable, September 27, 2016.

^{xiv} OECD, Parental leave: Where are the fathers?, March 2016.

^{xv} OECD, Parental leave: Where are the fathers?, March 2016.

^{xvi} In addition to fathers, this benefit must be open to parents from 'non-traditional' families including lesbian, gay and gender non-conforming parents.