

Pregnancy, Parental and/or Adoption Leave

Reviewed Date		Number	<i>HR0707</i>
Revised Date	<i>November 27, 2019</i>	Approved Date	<i>January 1, 1992</i>

Introduction

The Board of Health believes in providing fair and equitable benefits to all its employees consistent with the health unit's mandate to promote and protect public health in the community.

Purpose

This policy details the parameters and employee entitlements in relation to Pregnancy Parental or Adoption Leave. This policy applies to all non-union employees of the health unit. This policy does not apply to unionized employees who will refer to their collective agreement regarding their Pregnancy, Parental and Adoption leave entitlements.

Legislative Authority

Ontario's Employment Standards Act, 2000

Policy Definitions and Interpretation

N/A

Policy

A non-union employee who is the parent of a child is entitled to a leave of absence without pay following the birth of their child for a period of up to seventy eight (78) weeks. This leave of absence will include seventeen (17) weeks Pregnancy Leave and up to sixty one (61) weeks of Parental Leave. Parental Leave ends sixty-one (61) weeks after it began, if the employee also took Pregnancy Leave, and sixty-three (63) weeks after it began, otherwise.

A non-union employee is entitled to a leave of absence without pay for the coming of a child into the employee's custody, care and control for the first time. Leave of absence without pay, for Adoption, for a period up to sixty three (63) weeks will be given to non-union employees. This will constitute sixty-three (63) weeks Parental Leave of absence without pay.

Procedures

SECTION 1: Health unit Notification

- a) Application must be made in writing to the health unit a minimum of four (4) weeks in advance of their intended last day of work and include the start and return dates.
- b) The employee will return to his or her former position on expiration of his or her leave of absence.

- c) The employee must make known in writing at least four (4) weeks prior to the expiration date of his or her leave of absence of his or her intentions of returning to work. The health unit shall immediately respond and copy the Human Resources Generalist. An employee may request an earlier return from his or her leave with thirty (30) calendar days' notice. Included in this letter will be their request to use or be paid out for the vacation accrued during the leave.
- d) All group benefits for which the health unit is responsible will be continued for the duration the employee is on Pregnancy Leave and Parental Leave, up to a maximum of seventy eight (78) weeks.
- e) All group benefits for which the health unit is responsible will be continued for the duration the employee is on Adoption Leave up to a maximum of sixty-three (63) weeks.

SECTION 2: Overview of the Benefits

An employee entitled to benefits, who is on Pregnancy Leave who has applied for and is in receipt of Employment Insurance (EI) benefits pursuant to the *Employment Insurance Act*, shall be paid a Supplemental Employment Benefit (SEB). That benefit will be equivalent to the difference between seventy five (75%) of their regular weekly earnings and the sum of their weekly EI benefits and any other earnings. During the one (1) week waiting period prior to the employee's receipt of fifteen (15) weeks of EI Pregnancy Leave benefits, an employee who is entitled to EI benefits will be paid seventy-five percent (75%) of their regular earnings. Payment of the SEB top up shall commence upon receipt by the health unit of the employee's EI statement as proof that they are in receipt of EI Pregnancy Leave benefits, and shall continue while the employee is in receipt of such benefits to a maximum of fifteen (15) weeks. The employee's regular weekly earnings shall be determined by the EI formula currently in effect.

An employee entitled to benefits, who is on Parental Leave or Adoption Leave as provided under this policy for sixty-one (61) weeks after it began, if the employee also took Pregnancy Leave, or sixty-three (63) weeks after it began otherwise, and who has applied for and is in receipt of EI benefits pursuant to the *Employment Insurance Act*, shall be paid a SEB. That benefit will be equivalent to the difference between seventy five (75%) of his or her regular weekly earnings and the sum of his or her weekly EI benefits and any other earnings. During the one (1) week waiting period, an employee who is entitled to EI benefits will be paid seventy-five percent (75%) of his/her regular earnings. Payment of the SEB top up shall commence upon receipt by the health unit of the employee's EI statement as proof that he or she is in receipt of EI Parental Leave benefits, and shall continue while the employee is in receipt of such benefits to either a maximum of thirty five (35) weeks if the employee also took a Pregnancy Leave or to a maximum of fifty (50) weeks if the employee did not take a Pregnancy Leave. The employee's regular weekly earnings shall be determined by the EI formula currently in effect.

The health unit shall continue to pay the premiums for benefit plans for employees who are on Pregnancy, Parental and Adoption Leave.

SECTION 3: The Application of the Benefits

Prior to the commencement of a Parental Leave an employee shall advise the health unit in writing of their choice of one of the following two EI SEB top up options:

1. To receive their entitled thirty-five (35) or fifty (50) week SEB top up (depending on if they did or did not take a Pregnancy Leave) over thirty-five (35) or fifty (50) continuous weeks; or
2. To receive their thirty-five (35) or fifty (50) week SEB top up entitlement spread over the entire period of time they are in receipt of Parental Leave EI benefits. The total duration of which shall be either sixty-three (63) weeks or sixty (61) weeks if the employee also took a Pregnancy Leave.

Should option 2 be selected, where the employee has elected to have reduced Parental Leave EI benefits spread over the duration of their Parental Leave, the health unit's SEB top up portion shall be calculated as follows:

- Upon receipt by the health unit of the employee's first Parental Leave EI benefits statement, the health unit will establish the amount of top up required to be *equivalent to the difference between seventy five (75%) of his or her regular weekly earnings and the sum of his or her weekly EI benefits and any other earnings*. This top up will be referred to as the SEB;
- The health unit will then take the calculated SEB and multiply it by either thirty-five (35) weeks of eligibility or the fifty (50) weeks of eligible SEB to arrive at a total gross amount of SEB to which the employee may be eligible for as long as he/she is in receipt of Parental Leave EI benefits. Again, this depends on whether the employee has already taken fifteen (15) weeks of SEB top up through a Pregnancy Leave which reduces the employee's top up eligibility to thirty-five (35) weeks.
- To arrive at the SEB top up amount giving the employee the *equivalent to the difference between seventy five (75%) of his or her regular weekly earnings and the sum of his or her weekly EI benefits and any other earnings* for each of the Parental Leave EI benefits statements the health unit receives from the employee, the health unit will divide the total gross amount of the SEB the employee may be eligible for by either the sixty-three (63) or sixty-one (61) weeks of payment. This SEB top up amount will be provided to the employee as long as the employee is in receipt of Parental Leave EI benefits from Employment Insurance.

The following example, using a thirty-five (35) week SEB top up maximum dollar amount spread over sixty-one (61) weeks where the employee has already taken fifteen (15) weeks Pregnancy Leave clarifies the intent of Option 2 above:

- An employee's first EI statement submitted is \$328.00. The required SEB is \$861.13 each week for thirty-five (35) eligible weeks of SEB top up.
- To determine the amount of SEB top up payable over sixty-one (61) weeks the health unit multiplies the SEB of \$861.13 x 35 weeks of eligibility = \$30,139.55 which is the total gross amount of SEB top up the employee may be eligible for as long as the employee is in receipt of Parental Leave EI benefits from Employment Insurance.
- The \$30,139.55 is then divided by the number of weeks of Parental Leave eligibility (61 or 63). In this example sixty-one (61) weeks eligibility is used as the employee has already taken a fifteen (15) week Pregnancy Leave. The \$30,139.55 is divided by sixty-one (61) weeks = \$494.09 SEB top up each week for as long as the employee is in receipt of Parental Leave EI benefits from Employment Insurance. Once the employee is no longer in receipt of Parental Leave EI benefits from Employment Insurance the SEB

top up ceases and no further SEB payment(s) is owing. This would be the case for example if an employee returned to work prior to the end of his/her eligible Parental Leave duration.

Notwithstanding, if at any time during the employee's Adoption Leave; Pregnancy Leave; or Parental Leave in either Options 1 of 2 above, should the employee's EI benefits statement be less than his/her first submitted EI statement the health unit's SEB top up shall be capped at the amount initially calculated by the health unit as the SEB top up. For clarification, as an example, this top up scenario would occur if while on Adoption, Pregnancy or Parental Leave an employee chooses to supplement his/her income while in receipt of EI benefits from Employment Insurance. Using Parental Leave as one example:

- If the employee chose to supplement his/her income during fifty (50) continuous weeks of Parental Leave by working one day per week at \$540.00, resulting in a reduced EI statement from \$547.00 to \$7.00, the health unit's SEB would not change and would remain capped at the initial SEB top up calculation of \$642.13 per week.

SECTION 4: The Employee and the Health Unit's Roles and Responsibilities

The following procedures apply to an employee requesting Pregnancy, Parental or Adoption Leave. Employees requesting Pregnancy Leave will request their Parental Leave in conjunction with the request for Pregnancy Leave.

- Employees are responsible for reviewing relevant policies and procedures related to Pregnancy, Parental and Adoption Leave and for contacting their local Employment and Social Development Canada Office (Employment Insurance office) for the process of claiming EI.
- Vacation earned up to the date of Parental or Adoption Leave must be taken prior to the Leave starting. For Pregnancy, Parental or Adoption Leaves starting before June 30, any vacation carryover must also be taken prior to the leave starting.
- The employee will contact the Human Resources Generalist for questions related to dates to be used for Pregnancy, Parental or Adoption Leave and time to be utilized prior to the leave starting, benefits, pension, and vacation/sick credit accrual during the Pregnancy, Parental or Adoption Leave.
- The employee will contact the Payroll Administrator regarding their final pay, record of employment and salary top up processes prior to going on Leave.
- The employee will advise their Direct Supervisor and the applicable Human Resources Generalist in writing of their pending Pregnancy, Parental or Adoption Leave a minimum of four (4) weeks in advance of their intended last day of work. This letter will outline the duration of the Pregnancy, Parental or Adoption Leave. In the event the employee comes into custody, care and control of a child for the first time sooner than expected, the employee must, within two (2) weeks after having stopped work, give the health unit written notice that he/she wishes to commence their Leave.
- The Direct Supervisor will respond to the employee within two (2) weeks of receipt of the request and copy this response to the applicable Human Resources Generalist.

- The employee will notify the Human Resources Generalist within thirty (30) days of delivery or coming into custody, care or control of the child to provide the name, date of birth and sex. Failure to do so will result in late entrant provisions for benefit purposes and restricted benefit coverage for the new dependent.
- An employee commencing Pregnancy, Parental or Adoption Leave may take the vacation entitlement to be earned while on leave in advance of the Pregnancy, Parental or Adoption Leave starting.
- At the expiration of the Pregnancy, Parental or Adoption Leave, the employee must use the vacation accrued during the leave using one or a combination of the following:
 - Extend leave by amount of vacation accrued on leave
 - Reduce their fte utilizing vacation accrued on leave
 - Request a payout of outstanding vacation accrued on leave
 - Within two (2) weeks of receiving the intention to return to work letter from the employee, the Direct Supervisor will review the employee's plan for return to work and request for use or pay out of vacation time accrued and provide a response in writing back to the employee. A copy of this response will be forwarded to the Human Resources Generalist.

Complications during Pregnancy

The requirement to give four (4) weeks advanced notice of Pregnancy Leave will not apply where an employee stops work due to complications caused by pregnancy or because of birth, still birth or miscarriage that happens earlier than the employee was expected to give birth. In these instances, the employee must within two (2) weeks of stopping work, give the health unit written notice of the date the Pregnancy Leave began or is to begin. A medical certificate will be required in the event of pregnancy complications.

In the event of miscarriage or still birth an employee may be entitled to a Leave of absence in accordance with the Employment Standards Act and may also qualify for benefits from Employment Insurance.

Related Policies

N/A

Related Forms

N/A

Final Approval Signature: _____

Review/Revision History:

June 26, 2002 - revised

September 2010 Policy re-numbered, previous number B5.100

August 28, 2019 – revised, amendments to the ESA included

November 27, 2019 Unionized employees clarification