



JOHNSTONE'S JOURNAL is published monthly, and designed to provide topical information of interest not only to plan administrators, but to all employees who enjoy coverage under the benefit plan. Feel free to make copies, and use as a payroll staffer.

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## Maternity and Parental Leaves of Absence

### Employment Insurance

While some provincial jurisdictions may vary slightly, in general, the Government of Canada Employment Insurance program (EI) pays 15 weeks of **maternity leave** (also termed pregnancy leave) benefits plus up to 35 weeks **parental leave** benefits (for a total of up to 50 weeks). Combined with the two-week waiting period, a new parent is eligible for one year of benefits.

Parental benefits are available to both biological and adoptive parents and can be shared by the mother and father. Maternity leave benefits may also be available for mothers whose pregnancies did not come to term. For details on when to file claims for maternity or parental leave, Service Canada urges the expectant parents to contact them as early as possible at 1-800-206-7218. For details on maternity and parental leave, visit their website at [www.servicecanada.gc.ca](http://www.servicecanada.gc.ca).

### Benefit Continuation

Employees within seven jurisdictions—federal, B.C., Saskatchewan, Manitoba, Nova Scotia, Ontario, and Quebec—are governed under legislation that **requires the employer to maintain coverage at the employee's option**. In most of these jurisdictions, while the employee can opt out of coverage, the employer must continue all coverage that is 100% employer paid. Additionally, during a leave the employer is required to maintain their share of the premium (except in Nova Scotia, where the employer can require the employee to pay both the employer and employee share).

In all other provinces and territories, there is no legislated requirement for benefit continuation during the leave, although human rights guidelines may apply.

### Opting Out

In all jurisdictions, the employee is allowed to opt out of coverage. However, the employee must decide at the beginning of the leave. Once employees have opted out of their plans and started their leaves, they cannot change their minds. Whether required by legislation or not, **an employer can require an employee to continue coverage**.

**\*\*\*Employees should be cautioned before choosing to opt out\*\*\***

For employees who opt out of coverage during leave, we advise you to have the employees sign a waiver to confirm that they understand the implications of discontinuing coverage. In particular, there are four points that you need to point out to these employees:

- There is **no benefit coverage** while away
- They may not be able to return to work
- They may need to re-serve the waiting period
- Pre-existing conditions may commence again

Even if employees are covered under their spouses' plans, coverage is limited to health and dental benefits only; disability or life benefits will not be paid for illnesses or deaths that occur during the leave.

The employee is required to physically return to work before coverage is reinstated. In the event of an accident or sickness while on leave, it may not be possible to return to work and coverage cannot be reinstated.

The employee may be required to complete a new waiting period before becoming eligible for coverage. This is the same waiting period a new employee is required to serve before benefits begin.

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In some cases, the insurer may agree to reinstate coverage without having to re-satisfy the waiting period. However, coverage may be subject to the pre-existing conditions and other limitations as if he or she was a new employee. In these situations, the effective date is the date the employee returns to work and pre-existing conditions and other limitations may reference that new effective date of coverage.

### Disability Coverage

Within the seven legislated jurisdictions, employers are required to extend disability coverage. In the other jurisdictions, employers can choose to discontinue disability coverage. However, both short and long term disability must be handled in the same way. Employers should be aware, though, that their **practices must be consistent with other leaves of absence. This means that if** the employer usually extends disability coverage during other leaves, discontinuing coverage during maternity leave may violate human rights guidelines.

### Disability Benefits During Leave

Generally, disability benefits are not paid during maternity or paternity leaves. If a disability begins during a leave, time during the leave can accumulate towards satisfying the waiting period. However, disability benefits will not begin until the planned returned date of the maternity or paternity leave and the waiting period is fully satisfied. If a disability begins before the maternity or paternity leave, benefits are suspended during the leave and begin again once the leave is over.

### Review Your Policies

It is always a good idea to review your company policies with regards to maternity and paternity leaves. This should include the method in which the employee portion of premiums is collected for the duration of the leave. We also advise you to document your maternity and parental leave provisions and then clearly communicate the information to your employees.

If we can help you, please contact us.