

## Reduced waiting period for Employment Insurance

Effective January 1, 2017, the waiting period to collect Employment Insurance (EI) was reduced from two to one weeks. The reduced waiting period will apply to all forms of EI benefits including regular, special (maternity, parental and sickness), and fishing.

This change may affect CUPE members whose collective agreements provide supplemental unemployment benefit (SUB) plans and top-ups to maternity, parental, sick leave and short-term disability. Employer payments (i.e. vacation pay) are normally clawed back from EI payments, however SUB and top-up plans are treated differently. Members covered by SUB plans may earn a maximum of 95% of normal weekly earnings. In the case of maternity and other top-up plans, the amount is 100%.

To avoid unintended claw backs to negotiated SUBS and top-ups, the federal government has agreed to a four year “transition period” that will end on January 3, 2021. The transition period will provide the union and the company an opportunity to amend negotiated SUBs and top-ups and avoid claw backs by EI when income exceeds the allowable limits.

For example, a negotiated payment to cover the second week of the waiting period might exceed the 100% threshold, as it combines normal weekly earnings as well as the first EI payment. In such a case, the employer and union could agree to move the payment to the end of the EI claim, or spread the payment over the duration of the benefit period, to avoid a claw back. The transition period also allows the union and employer to work with third party insurance providers to amend their plans. For example, EI approved STD and sick plans allow employers to pay a lower EI premium rate, including during the elimination period between the time an injury or illness occurs and benefit coverage begins. In 2021, entitlement to the reduced premium rate during the elimination period will also be reduced from 14 to 7 days. This will reduce savings to the employer, and may cause some to be reluctant to shorten the elimination period to one week.

It is important to note that during the transition period, the normal maximum of 95-100% of normal weekly earnings may be exceeded without penalty. After January 3, 2021, all plans must comply to continue to qualify for special treatment under the EI Act.

Local union with negotiated SUBs, STD and sick leave plans, and top ups should take immediate steps to assess the impact of the new rules on their members and identify what type of changes require discussion with the employer. For example, if a negotiated top-up payment only specifies coverage for the “waiting period” rather than the number of weeks, employers would be within their rights to reduce the payment to one week to align with the new rule. The elimination period for sick and STD plans may also be affected. For more information contact your staff representative.

JD:sg/cope491  
January 24, 2017