



## Government of Canada Changes Sickness Benefits: What Does This Mean For Employers?

### December 2022 Employer Alert

When an employee is ill or disabled, and cannot be reasonably accommodated, then the employee is normally placed on a leave of absence. This leave of absence is initially unpaid, except to the extent that: i) the employee wishes to use earned and unpaid vacation pay; ii) the employer is required to provide paid sick days due to the jurisdiction it falls under (e.g. provincially regulated employers in Quebec and Prince Edward Island, and federally regulated employers); and iii) the employer has voluntarily provided paid sick days. After the initial days off, the leave will then normally become unpaid. If the employee is still unable to return (with or without accommodation) after several weeks, the employee can then apply for either **EI sickness benefits** and/or short-term disability coverage (if any). Once this entitlement expires, the employee can then apply for long-term disability coverage (if any). To allow employees to apply for EI sickness benefits, employer should remember to issue a Record of Employment with a Reason Code D, upon an employee's leave of absence.

As of December 18, 2022, the Government of Canada has revised EI sickness benefits. In particular, the entitlement has increased from a maximum length of 15 weeks to 26 weeks. EI sickness benefits remain only available after the employee has been unable to work for at least a week. EI sickness benefits are paid at a rate of 55% of the employee's average weekly insurable earnings, up to a current maximum entitlement of \$638 per week.

### Authors

**Christine Ashton**  
905-940-0526  
cashton@wvllp.ca

### Our Employment/Labour Lawyers



**Christine Ashton**



**Daniel Condon**



**Doug Langley**



**Shalinee Malhotra**

As a result of this change to EI sickness benefits, companies may need to make changes to various obligations owed to their employees. For example, companies may wish to revisit the current terms and conditions of any long-term disability coverage. In particular, companies may wish to revise the long-term disability coverage policy to provide that eligibility is not triggered until after 26 weeks. Accordingly, the employee would then only be entitled to apply for long-term disability coverage, after they had exhausted their EI sickness benefits. Similarly, for unionized companies, they may wish to revise any relevant provisions in the collective agreement that assumed long-term disability leaves would commence after 15 weeks.

As an employer, it is important to understand pay and benefit obligations and entitlements, when an employee requires a leave of absence. These obligations and entitlements vary workplace from workplace, depending on the jurisdiction the company falls under and the compensation packages provided to the company's employees. For all employers in Canada, though, it is important to be mindful that now your employees will be entitled to EI sickness benefits for up to 26 weeks.

For more information or for assistance with handling leaves of absence, please contact [our firm](#).

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**905.940.8700**

**information@wvllp.ca**

60 Columbia Way, 7th Floor | Markham, Ontario | Canada L3R 0C9

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