

Taking time off work:

Pregnancy and Parental Leaves and Benefits

This booklet is for new and expecting birth parents and adopting parents. It covers:

- parental and pregnancy leaves, and
- parental and pregnancy Employment Insurance (EI) benefits.

Leaves of absence

for new parents

If you are going to have a baby or adopt a child, Ontario law says you can take time off work without losing your job. This is called taking a leave. Your employer does not have to pay you during a leave, but they have to give you back your job, or a similar job, when you return.

There are two types of leaves of absence for new parents:

- pregnancy leave, and
- parental leave.

Parental leave is for new birth parents and adopting parents. Pregnancy leave is only for women who are pregnant or who have just given birth.

EI benefits

for new parents

If you have worked enough hours to qualify for Employment Insurance (EI), you can get EI benefits for some of the time you are on leave. Depending on your income and the number and ages of children in your family, you can get between 55% and 80% of your wages, up to a maximum of \$435 a week.

This booklet has two parts:

- **Part One: Leaves of absence** (pages 2-9)
- **Part Two: EI pregnancy and parental benefits** (pages 10-15)

Part One:

Leaves of absence

Pregnancy leave

Only a birth mother can take pregnancy leave. Pregnancy leave is sometimes called maternity leave. It can be taken during pregnancy, after the birth of the baby, or a combination of both.

If you started working for your employer at least 13 weeks before your due date, the law says that your employer must let you take a pregnancy leave.

How much time can I take off work?

Your employer must let you take at least 17 weeks of pregnancy leave. But if your pregnancy ends in a miscarriage or stillbirth, your leave ends 6 weeks after the miscarriage or stillbirth. This could make your leave longer or shorter than 17 weeks.

When can I start my pregnancy leave?

You can choose when to take your pregnancy leave, but there are some limits.

Earliest you can start:

Usually, the earliest you can start your pregnancy leave is 17 weeks before your baby is due. But if your baby is born earlier than that, you must start your leave on the date of the birth.

Latest you can start:

You must start your pregnancy leave no later than your due date. If your baby is born before your due date, you must start your leave on the date of the birth.

Parental leave

Any new parent who has worked at least 13 weeks for their employer can take parental leave. This includes all new parents, not just birth mothers. It also includes anyone who is in what the law calls a “relationship of some permanence” with a parent of a child, and who is going to treat the child as their own.

Each parent can take a full parental leave, either at the same time or at different times.

Birth mothers can take both pregnancy leave and parental leave.

How much time can I take off work?

The following chart shows the number of weeks you can take off work depending on your situation.

Pregnancy and Parental Leave			
	Pregnancy Leave	Parental Leave	Total Leave
Birth mothers	17 weeks	35 weeks	52 weeks
All other new parents		37 weeks	37 weeks

When can I start my parental leave?

Usually, a birth mother who takes pregnancy leave must begin her parental leave as soon as her pregnancy leave ends. But if her baby has not come into her custody and care by then, she can wait until that happens before starting parental leave. For example, her baby may need to stay in the hospital past the end of her pregnancy leave.

Other parents can start their parental leave any time within 52 weeks after the birth date or the date the child first comes into their custody and care.

How do I get my pregnancy or parental leave?

You must give your employer a letter that says the day you want to start your pregnancy or parental leave. Your employer must get the letter at least 2 weeks before you want your leave to start. If you are taking both pregnancy leave and parental leave, you must give your employer a separate letter for each one.

Birth mothers who want to take pregnancy leave must also give their employer a medical note that says when the baby is due, if their employer asks for one.

What if I change my mind about when I want to start my leave?

If you change your mind about when you want to start your leave, you must give your employer a new letter telling them this.

If you want to start your leave earlier, you must give your employer the new letter at least 2 weeks before you want your leave to start.

If you want to start your leave later, you must give your employer the new letter at least 2 weeks before the date you originally said your leave was going to start.

What if I have to stop work early?

Sometimes, a medical emergency forces a pregnant woman to stop work right away and take *pregnancy leave* with less than 2 weeks' notice. If this happens, you must send your employer a new letter, and a medical note if they ask for one, within 2 weeks after you stopped working.

Your letter must say the date you had to stop working. The medical note must include:

- the date of the birth, stillbirth, or miscarriage, if any of these happened, or
- the medical reasons you cannot work and your due date.

You can start your *parental leave* earlier than planned if your newborn or adopted child arrives earlier than expected. If this happens, you must send your employer a new letter within 2 weeks from the day you stopped working. This letter must include the date you started your parental leave.

Keep photocopies of all the letters you send, and a record of the dates you sent them or gave them to your employer.

What if I want to take a shorter leave?

You have the right to end your pregnancy or parental leave earlier if you give your employer a letter telling them when you plan to return to work. You must give this letter to your employer at least 4 weeks before the day you want to return to work.

Or, you can end your leave at any time if you and your employer both agree.

What if I want to do some paid work while I am on leave?

You can do some part-time or temporary paid work for your employer while you are still on leave, *if* you and your employer agree. But *do not* give your employer the letter described above, because that would end your leave

permanently. You can also work for a different employer during your leave.

If you do any work for any employer while you are on leave, your EI benefits can be affected. See [pages 13 and 14](#) for more information about earning other income while you are receiving EI benefits.

Working during your leave does not extend your leave. The date your leave ends stays the same.

What will happen to my benefits and job while I am on leave?

While you are on pregnancy or parental leave, your employer must continue to give you the benefits you usually get, such as health coverage and pension contributions, as long as you continue to pay your share.

If you have passed the probationary period in your job, your seniority or length of service will continue to increase while you are on leave. But if you were still on probation when you started your leave, you will have to complete it when you return to work.

When your leave is over, your employer must give you your old job back, with no cut in pay. If the pay for your job has gone up since you went on leave, you must get the higher amount. If your old job no longer exists, your employer must give you a similar job with no cut in pay.

What if my employer will not let me take a leave or will not give me my job back?

If this happens, or if your employer gives you a hard time about anything to do with the leave, contact your union or the Employment Standards Information Centre of the Ministry of Labour and ask how to start a complaint. You can check the Employment Standards Information Centre web site at <www.labour.gov.on.ca/english/es>, or call them:

Toronto area:	416-326-7160
Toll-free:	1-800-531-5551
Toll-free TTY:	1-866-567-8893

Or, you can make an application to the Human Rights Tribunal of Ontario. For more information you can check their web site at <www.hrto.ca>, or call them:

Toronto area:	416-326-1519
Toll-free:	1-866-598-0322
Toronto area TTY:	416-326-2027
Toll-free TTY:	1-866-607-1240

There are deadlines for taking these steps. An Employment Standards complaint must be made within 2 years of the date your employer breaks the law. If your complaint is about pay that your employer owes you, you should start your complaint within 6 months after the pay was due. An application to the Human Rights Tribunal of Ontario should be started within one year.

Who is not covered by this law?

The rights described in Part One of this booklet come from the Ontario Employment Standards Act. These rights apply to most employees in Ontario. They do not apply in workplaces that are regulated by the federal government, for example, banks, airlines, and broadcasting. Workers in those industries are covered by the Canada Labour Code. Those workers also have rights to parental and pregnancy leave but some of the rules are different.

Where can I get more information and help?

For more information or help contact a community legal clinic, your union, or your MPP. To find your MPP, you can check the Elections Ontario web site at www.electionsontario.on.ca.

You can usually find the community legal clinic nearest you by looking under “Legal Aid” or “Lawyers” in the phone book. You could also check Legal Aid Ontario’s web site at www.legalaid.on.ca or call them:

Toronto area:	416-979-2352
Toll-free:	1-800-668-8258
Toronto area TTY:	416-598-8867
Toll-free TTY:	1-866-641-8867

Part Two:

EI pregnancy and parental benefits

While you are on pregnancy or parental leave, you might be able to get pregnancy or parental Employment Insurance (EI) benefits. You may be able to get these special benefits even if you cannot get regular EI benefits.

How many hours do I need to have worked to get these EI benefits?

Usually, you need to have worked at least 600 hours in the last 12 months. In some cases, you can go back more than 12 months. But if you received EI benefits any time in the last 12 months, you can only count the time since you last received EI.

Any hours you were on paid leave are counted as hours worked.

If the government has given you a notice of violation for breaking EI rules any time since July 1, 1996, the number of required hours will be higher than 600.

How much money can I get?

Most parents receive 55% of their previous earnings. But the most you can get from EI is \$435 a week.

Sometimes, parents can also get the Family Supplement. This can increase the rate to as much as 80% of their previous earnings. But the \$435 maximum still applies. To be eligible for this, you or your spouse must receive the Canada Child Tax Benefit, and your annual family income cannot be more than \$25,921.

If you and your spouse both get EI benefits at the same time, only one of you can receive the Family Supplement. Usually, it is better for the spouse receiving less EI to claim the Family Supplement.

Usually, there is a 2-week “waiting period” to get EI. You do not receive EI benefits for those 2 weeks. The first benefits you get will be for the week after your 2-week waiting period.

EI pregnancy benefits

Only birth mothers can get EI pregnancy benefits. Pregnancy benefits are sometimes called maternity benefits.

You can get pregnancy benefits for up to 15 weeks. Because of the 2-week waiting period, you must take at least 17 weeks off work to get the full 15 weeks of pregnancy benefits.

You cannot start your pregnancy benefits earlier than 8 weeks before your baby is due. And you usually cannot continue to receive them later than 17 weeks after the baby is born.

EI parental benefits

Parental benefits are for all new parents, not just birth mothers.

The following chart tells you how many weeks of benefits you can receive, depending on your situation.

Pregnancy and Parental EI Benefits			
	Pregnancy Benefits	Parental Benefits	Total Benefits
Birth mothers	15 weeks	35 weeks	50 weeks
All other new parents		35 weeks	35 weeks

If both parents have worked enough hours to receive EI parental benefits, they can both get them. But they have to share the maximum number of benefit weeks. For example, if the parents are each entitled to 35 weeks of parental benefits, one parent could claim 20 weeks and the other could claim 15 weeks.

You cannot receive parental benefits later than 52 weeks after your child is born or placed with you for adoption, unless your child was hospitalized during that time.

How do I apply for EI benefits?

You must fill out an application form. You can get one from any Service Canada Centre. To find the nearest office, look in the government section of the phone book under “Employment” or “Human Resources”, or visit the Service Canada web site at <www.servicecanada.gc.ca>. You can also apply online at this web site.

To complete an application you will need your:

- Social Insurance Number, and
- Record of Employment (ROE) from your employer (also called a separation slip).

Apply as soon as you can, even if you do not have your ROE yet. If you do not apply within 4 weeks after you stop working, you might not get as many payments.

You will have to sign a statement saying when your baby is due or was born, or when the child you are adopting was placed with you or is going to be placed with you.

What if I earn other income while I am receiving my EI benefits?

You can keep some of the money you earn while you are receiving *parental benefits*. Each week you can earn up to \$50 or 25% of your weekly benefits, whichever is higher, before any money will be deducted from your EI parental benefits.

But, any money that you earn during a week in which you are receiving *pregnancy benefits* will be deducted from those benefits.

For more information, see “What if I want to do some paid work while I am on leave?” on [pages 6 and 7](#) of this booklet.

Some employers have special benefit plans for employees who go on parental or pregnancy EI benefits. If the plan has been approved by the government, the amount from this type of benefit will not be deducted from an employee’s EI benefits.

Can I get special EI benefits if I am outside Canada?

Yes. You can receive pregnancy and parental benefits if you are out of the country, but you must tell the Service Canada Centre that you are going.

Other situations

You might be entitled to more benefits if:

- you are sick,
- you were sick before your child was born,
- you have a miscarriage or stillbirth,
- your baby is sick and must stay in hospital for a while,
or
- your baby or adopted child has special needs.

What if I did not get all the EI benefits I should have received?

If you think that you did not get the benefits you are entitled to, get legal advice right away. Usually you must start your appeal within 30 days from the day you receive the decision.

Where can I get more information and help?

For more information or help contact a community legal clinic, your union, or your MP. To find your MP, you can check the Parliament of Canada web site at www.parl.gc.ca.

You can usually find the community legal clinic nearest you by looking under “Legal Aid” or “Lawyers” in the phone book. You could also check Legal Aid Ontario’s web site at www.legalaid.on.ca or call them:

Toronto area:	416-979-2352
Toll-free:	1-800-668-8258
Toronto area TTY:	416-598-8867
Toll-free TTY:	1-866-641-8867

This publication contains general information only.
It is not a substitute for getting legal advice for
your particular situation.

Written and produced by:

CLEO (Community Legal Education Ontario /
Éducation juridique communautaire Ontario)

With funding from:

Legal Aid Ontario
Department of Justice Canada

This publication is part of a series produced by CLEO.
CLEO has free publications on other legal topics as well.

We revise our publications regularly to reflect changes in
the law. Our Discard List tells you which publications are
out of date and should be thrown away.

For a copy of our current Order Form or Discard List,
please visit our web site at <www.cleo.on.ca> or call
416-408-4420, extension 33.