

# Maternity/Legal Adoption/Parental Leave

## Eligibility and Administrative Guidelines

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## Eligibility for the Supplement to Employment Insurance Benefit (SUB) Program

- a) Have completed thirteen (13) weeks of consecutive service, with no break in service, in order to be eligible for payments under the Supplement to Employment Insurance (EI) Benefits (SUB) program.
- b) Must have applied for and been approved for a Definite Leave of Absence (DLOA) in accordance with the applicable agreement and legislation:
  - [PS/GE SGEU](#) - Maternity in accordance with SGEU Article 18.1.1.1;
  - [PS/GE SGEU](#) Legal Adoption or Parental Leave in accordance with SGEU Article 18.1.1.2;
  - [CUPE 600](#) – Maternity/Adoption/Parental Leave in accordance with Article 21.03; and
  - Out-of-Scope - Section 67 of *The Public Service Regulations, 1999*
- c) Must be in receipt of and provide proof of Employment Insurance (EI) benefits.
- d) Return to work for the employer immediately following the leave for a period of time equal to the number of weeks that the employee received the SUB program benefits for (return service commitment).

## Application Forms

It is required that the employee completes and submits a SUB program application to the Human Resources Service Centre (HRSC). If applying at the time of the leave commencement, submit the application form to the HRSC with the approved leave of absence request form. If applying retroactively, submit the application form within seventeen (17) weeks upon return from leave or rehire (if applicable).

The following application forms are available:

- [Application for All Employees](#) (apply for benefits at the time of the leave of absence)
- [Application for Retroactive Payment – All Employees](#) (apply for benefits upon return to work or commencement of eligible employment – submitted after the leave has commenced)

On the application form, the employee must indicate whether they intend to share SUB program benefits with a partner that also works for the Government of Saskatchewan.

## EI Benefits (providing documentation)

If the employee is eligible to participate in the program during the one (1) week EI waiting period, they are eligible for the benefit for a maximum of seventeen (17) weeks under the SUB program (i.e., one week waiting period plus sixteen (16) weeks top-up).

The employee is required to submit proof to the HRSC directly that they are in receipt of EI maternity/ parental leave benefits (i.e., official notification documentation from Service Canada stating that the employee has been accepted and will be receiving EI maternity/parental benefits OR the cheque stub/payment details from the first EI benefit payment). Following receipt of proof, the benefit for the one (1) week waiting period can be

processed by the HRSC.

For the remaining portion of the program (i.e. maximum of sixteen (16) additional weeks), the employee is required to submit their EI benefit cheque stubs or a copy of the “My Payment Details “ from their Service Canada account to the HRSC.

**Note:** Email submissions are preferable however, faxed copies are acceptable for those employees who do not have access to a scanner. As long as the image is clear, the HRSC will accept the EI documentation in a variety of formats (e.g. scanned documents, screen shot, or a photo taken with your phone of the payment details screen).

Given the requirement for proof of EI benefits, there will be a delay in the processing and receipt of SUB program benefits. In exceptional circumstances, if the employer is in arrears due to a delay in receiving initial notification that the employee has been approved to receive EI benefits, a manual payment may be processed upon request (to be direct deposited). Thereafter, upon receipt of the EI benefit, the HRSC will process the supplementary payment through the regular payroll process and pay period schedule. These can be found on Taskroom - [Payroll Schedules](#).

**Note:** The beginning of the SUB program benefit period coincides with the commencement date of the EI one (1) week waiting period.

Should an employee’s EI maternity/parental leave benefits cease prior to the end of the seventeen (17) week period, participation in the SUB program ceases.

## Supplement to Employment Insurance (SUB) Benefit Calculation

The SUB benefit provides employees on maternity/parental/adoption leave with a top-up payment to 95 per cent (%) of their regular weekly earnings in effect immediately prior to commencement of a definite leave of absence.

The top-up is calculated from the gross maximum weekly EI Benefit OR 55 per cent (%) of your regular weekly earnings, whichever is less. The calculation below illustrates how the top-up is calculated using the 2021 maximum EI benefit amount of \$595.

HRSC Calculates	95% of weekly earnings
Minus	55% of weekly earnings OR \$595 (whichever is less)
Difference	= Top-Up Amount (\$)

## Weekly Earnings Defined

Regular weekly earnings are determined in accordance with the below calculations:

**a. Permanent Full-Time**

Weekly earnings are determined by the salary rate in effect immediately prior to the commencement of the definite leave of absence for maternity/legal adoption/parental.

**b. Permanent Part-Time/Term/Relief/Casual/Contract\***

Weekly earnings are determined by an average of the regular hours paid during the twenty-six (26) full pay periods preceding the maternity/legal adoption/parental leave (or the period of active employment if less than twenty-six (26) full pay periods).

The example below illustrates the calculation for an employee working less than full time that is paid on a bi-weekly basis. The assumption used in the example below is that the employee has worked a total of 1550 hours and the hourly rate of pay immediately prior to going on leave is \$30.00 per hour.

- $1550 \text{ hrs} / 26 \text{ pp} = 59.6 \text{ hours bi-weekly}$
- $59.6 / 2 = 29.8 \text{ hours per week}$
- $29.8 \times \$30.00 \text{ (hourly rate)} = \$894.00 \text{ (regular weekly earnings)}$

In the above example, for 2021, the weekly earnings of \$894 is greater than the EI maximum benefit, therefore the top-up calculation would use the EI maximum of \$595.

\*Contract – if eligible under Employment Contract

**c. Labour Service**

Weekly earnings are determined in accordance with the same calculation as Permanent Part-Time.

## Non-permanent Employees (Term/Contract)

Non-permanent employees are only eligible for definite leave of absence for maternity/legal adoption/parental leave purposes for the duration of their term/contract appointment. As such, non-permanent employees are only eligible for participation in the SUB program upon commencement of the leave if the duration of their term/contract appointment or contract provides for sufficient time to cover both the periods of their leave plus the return service commitment.

For example, if there are four (4) weeks remaining in the appointment upon return from DLOA, and the employee meets all program eligibility requirements, the employee would be eligible to receive four (4) weeks of benefits under the SUB program. The duration of benefits under this program will be based on the anticipated end date of the term/contract appointment, on the day immediately prior to commencement of the definite leave of absence for maternity/legal adoption/parental leave. If benefits are restricted, in whole or in part by these provisions, the employee may be eligible for a Retroactive Payment. Refer to the section on Retroactive Payments for more information.

Note: Contract employees are subject to eligibility provisions in the Employment Contract.

## Employees in Simultaneous Multiple Jobs

For employees in simultaneous multiple assignments (same ministry or different ministries), the SUB program benefit is calculated using the total earnings in all assignments over the last twenty-six (26) pay periods. The total benefit is paid as a single amount.

- In cases where one or more of the multiple assignments is permanent part-time, there are no issues surrounding the employee's participation in the program and their ability to meet their return service commitment.
- In cases where all of the multiple assignments are non-permanent /term/contract appointments, the employee is only eligible for participation in the SUB program at the time of the leave if the duration of the non-permanent/term/contract appointment with the latest expiry date provides sufficient time to cover the period of the leave PLUS the return service commitment. If benefits are restricted, in whole or in part by these provisions, the employee may be eligible for a Retroactive Payment – see the retroactive payment section for more information.

## Labour Service Employees

Labour Service employees are eligible for SUB program benefits if all the program requirements are met:

- Must have completed thirteen (13) weeks of consecutive service, with no break in service, to be eligible for payments under the Supplement to Employment Insurance (EI) Benefits (SUB) program
- Must have applied for and been approved for a maternity/legal adoption/parental leave of absence; and,
- Must be in receipt of maternity or parental EI benefits or provide proof of receipt of EI benefits upon retroactive application.

Labour Service employees who become eligible while on seasonal layoff become eligible for top-up benefits on the date of recall.

## Payment Processing

Payment of this benefit will be processed through the payroll system in accordance with the employee's regular payroll schedule. This allows for the deduction of income tax, Canada Pension Plan contributions and union dues. This approach also allows the benefit to be charged to the appropriate ministry salary budget.

## Benefits while on Leave of Absence without Pay

Benefits will be handled in accordance with the normal provisions applicable to definite leaves of absence. Refer to Section 702: Leave of Absence without Pay ([702- Appendix C – Benefit Coverage while on leave of absence without pay](#)).

## Return Service Commitment

An employee is required to sign a return service commitment as a promise to immediately upon the completion of the leave, return to work for the employer for a period of time equal to the number of weeks that the employee received the program benefits for (i.e. one (1) week service for one (1) week of SUB program benefits to a maximum of seventeen (17) weeks). Upon approval and receipt of the SUB program benefit, the service commitment is tracked in the payroll system to ensure that the employee has returned to active service for the required number of weeks to fulfil the return service commitment.

If the employee fails to meet this commitment, they will be required to pay back all (i.e. in cases where the employee does not return to work) or a portion (i.e. where they have returned to work, but only for a portion of the return service commitment period) of the SUB program benefit received.

As an example, if an employee received the maximum seventeen (17) weeks of benefit under the SUB program and only returned to work for seven (7) weeks, the employee would be required to repay the employer ten/seventeenths (10/17) of the total benefits paid.

**Note:** On recommendation of the ministry, the Chair of the Public Service Commission may waive all or a portion of the return service commitment and their requirement for repayment of benefits in *exceptional circumstances* such as death of the employee, severe and prolonged disability or job abolishment resulting in termination of the employer/employee relationship.

## Retroactive Payments

An employee who has met all SUB program eligibility requirements may apply for a retroactive payment upon return to work from a maternity/legal adoption/parental leave of absence or upon rehire if non-permanent.

The following are examples of when an employee may be eligible for a retroactive payment:

- The expiry date of the non-permanent/term/contract appointment from which the employee took maternity/legal adoption/parental leave did not allow sufficient time to complete the leave and the required return service commitment. Application for retroactive top-up may be submitted upon re-hire within 24 months of the maternity/legal adoption/parental leave start date.
- A non-permanent/term/contract employee who has taken a leave of absence from their term/contract appointment, has now accepted a permanent full time appointment in which they have requested a leave. The employee is eligible to apply for top-up upon commencement of the permanent position.
- A permanent employee that has not applied for the top-up payment at the commencement of the leave of absence can, within seventeen (17) weeks following the return to work, apply for the top-up payment retroactively.

The following are examples of when an employee is not eligible for a retroactive payment:

- Non-permanent/term/contract appointment expired **prior** to the commencement of the maternity/legal adoption/parental leave.
- If an employee received top-up benefits and the original return service commitment was not fulfilled prior to a voluntary termination of employment. For example, if the employee was required to repay top-up benefits and then was rehired, the employee is not eligible for retroactive top-up benefits for the same leave that was previously paid prior to the termination.
- Top-up benefits cannot be split between multiple leave periods. In situations where maternity or parental leave is split into multiple segments, the first leave is considered mandatory and may be eligible for top-up benefits, however, a subsequent leave would be considered discretionary, and is not eligible for top-up benefits.
- Application for a retroactive payment is not received within seventeen (17) weeks following the return to active employment (return from leave or on re-hire).

If eligible, the employee must apply for the Retroactive Payment and submit the application to the Human Resource Service Centre (HRSC) no later than seventeen (17) weeks following the return to work from maternity/legal adoption/parental leave. Failing to apply within the time period will result in cancellation of eligibility for the payment. The employee must attach copies of the EI benefit payment details (or pay stubs) applicable to the first seventeen (17) weeks following the birth/legal adoption of the child or the period for which the employee is in receipt of parental leave benefits.

The Human Resource Service Centre responsibilities include:

- Review the submitted application form to ensure the employee is eligible for the retroactive payment and meets the program requirements.
- Review EI payment details to determine the number of weeks eligible for the retroactive



payment.

- Identify the date that the return service commitment will be completed based on the number of eligible weeks.
- Prior to payment, confirm that following the return from maternity/legal adoption/parental leave that the appointment will have sufficient time to serve the return service commitment.
- Calculate the weekly earnings in accordance with the calculation for the applicable employee type (i.e., Term, PPT, PFT, etc.)
- As determined above, if the non-permanent/contract (if eligible under the Employment Contract) appointment end date has sufficient time to complete the return service commitment, the retroactive payment may be processed.

The retroactive payment will be processed through the payroll system and subject to Canada Pension Plan contributions, income tax deductions and union dues (if applicable).

The retroactive payment will be paid by the ministry employing the individual during the seventeen (17) weeks immediately following the end date of the maternity/legal adoption/parental leave. The payment will be charged as an expense in the fiscal year in which eligibility for the payment was established.