



Social Security  
Tribunal of Canada

Tribunal de la sécurité  
sociale du Canada

Citation: *JG v Canada Employment Insurance Commission*, 2020 SST 1121

Tribunal File Number: GE-20-2287

BETWEEN:

**J. G.**

Appellant (Claimant)

and

**Canada Employment Insurance Commission**

Respondent (Commission)

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**SOCIAL SECURITY TRIBUNAL DECISION**  
**General Division – Employment Insurance Section**

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DECISION BY: Linda Bell

HEARD ON: December 14, 2020

DATE OF DECISION: December 16, 2020

## **DECISION**

[1] I am allowing the appeal. The Claimant has shown that she meets the requirements to extend her benefit period to August 1, 2020. She has also met the requirements to extend her parental window to August 1, 2020. This means she is entitled to receive her combined special benefits as established for 15 weeks of maternity, 7 weeks of family caregiver, plus 35 weeks of standard parental benefits.

## **OVERVIEW**

[2] The Claimant submitted an initial application for Employment Insurance (EI) benefits on July 4, 2019. She requested 15 weeks of maternity and 35 weeks of standard parental benefits. Her benefit period started on June 23, 2019. The benefit period is the 52-week period during which benefits may be paid.

[3] After collecting 15 weeks of maternity and 8 weeks of standard parental benefits, the Claimant requested family caregiver<sup>1</sup> benefits for her older daughter. She states she needed to provide care for her critically ill daughter who underwent open-heart surgery.

[4] The Commission approved the Claimant's request for family caregiver benefits. When the Commission adjusted her claim, she received 15 weeks maternity, 7 weeks family caregiver, and 31 weeks of standard parental benefits ending on July 4, 2020. The Commission determined that the Claimant was not entitled to receive the full 35 weeks of standard parental benefits because her 52-week benefit period ended on June 20, 2020. The Commission maintained this decision upon reconsideration.

[5] The Claimant appeals to the General Division of the Social Security Tribunal. She states that the Commission's agent told her she was entitled to a benefit period extension to allow payment of the maximum 35 weeks of standard parental benefits. Upon review of the Claimant's appeal, the Commission states they overpaid the Claimant by two weeks of standard parental benefits because they paid her benefits after her benefit period ended on June 20, 2020. They say

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<sup>1</sup> Section 23.2(1) of the *Act* provides benefits for family members to care for critically ill children. The Commission calls these benefits family caregiver benefits.

the Claimant is not entitled to a benefit period extension. I disagree. The Claimant has shown that she qualifies for a benefit period and parental window extension, as set out below.

## **ISSUES**

[6] Does the Claimant qualify for a benefit period extension?

[7] Does the Claimant qualify for an extension to her parental window?

[8] Is the Claimant entitled to the maximum established weeks for maternity, standard parental, and caregiver benefits?

## **ANALYSIS**

### **Benefit Period**

[9] In order to receive EI benefits, a claimant must make an application (claim). If they meet the qualifying conditions, a benefit period is established. A benefit period is the 52 weeks during which benefits may be paid.<sup>2</sup> A benefit period may be extended in certain circumstances<sup>3</sup> to allow the payment of combined special benefits. Special benefits include maternity, parental, compassionate care and family caregiver benefits.<sup>4</sup>

[10] In this case, the Claimant made a claim for 15 weeks of maternity and 35 weeks of standard parental EI benefits. A benefit period was established effective June 23, 2019. So, her 52-week benefit period is from June 23, 2019, to June 20, 2020.

[11] A few weeks after establishing her benefit period, the Claimant requested family caregiver benefits. The Commission approved the retroactive payment of 7 weeks of family caregiver benefits from November 10, 2019, to December 28, 2019. Then they converted her claim back to standard parental benefits as of December 29, 2019. The Claimant requests a benefit period extension to allow payment for the maximum 35 weeks of standard parental

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<sup>2</sup> See section 10 of the *Employment Insurance Act (Act)*.

<sup>3</sup> Section 10(13) of the *Act* stipulates when an extension of the benefit period may be granted in cases where combined special benefits are claimed and no regular benefits were paid.

<sup>4</sup> See sections 12(3), 21, 22, 23, 23.1, 23.2, and 23.3 of the *Act*.

benefits. I will now consider whether the Claimant qualifies for an extension to her benefit period.

**Does the Claimant qualify for a benefit period extension?**

[12] Yes, I find that the Claimant qualifies for a benefit period extension. A claimant may qualify for an extension to their benefit period to allow the payment of the maximum number of combined special benefits, if:

- a) Regular benefits were not paid to the claimant;
- b) benefits were paid to the claimant for more than one type of special benefit<sup>5</sup> and at least one of these benefits was paid for fewer than the maximum number of weeks established for that benefit; and
- c) the maximum total number of weeks established for the combined benefits is greater than 50.<sup>6</sup>

[13] The Claimant states that the Commission told her that they would extend her benefit period to allow the maximum payment for her standard parental benefits. She says that the Commission switched her claim to a manual pay system so she could no longer track her benefits online. Then they just stopped paying her benefits without notice. When she called them, they told her that they would not extend her benefit period.

[14] The Commission says that the Claimant does not qualify for a benefit period extension because her family caregiver benefits were not paid to care for her newborn child. They also state that the Claimant has received two weeks of standard parental benefits after her benefit period ended on June 20, 2020. So, they determined that she was overpaid two weeks of benefits totalling \$1,124.00. I disagree because the criteria for a benefit period extension does not require that family caregiver benefits be for the newborn child for which parental benefits were paid.

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<sup>5</sup>Special benefits are provided in sections 21, 22, 23, 23.1, 23.2, and 23.3 of the *Act*.

<sup>6</sup> See section 10(13) of the *Act*.

[15] As stated above, the Claimant applied for a combination of special benefits. Specifically she applied for maternity, standard parental and family caregiver benefits for a critically ill child. The Claimant did not receive regular benefits during this benefit period. The spreadsheet submitted by the Commission shows that only special benefits were paid.<sup>7</sup> The Claimant received more than one type of special benefit. Specifically, she received maternity, standard parental and family caregiver benefits. The maximum number of weeks established for her combined special benefits is 57 weeks, which is great than 50. This includes 15 weeks maternity, 35 weeks standard parental, plus 7 weeks for family caregiver benefits. All of the grounds for these special benefits occurred prior to the end of her 52-week benefit period. So I find as fact that the Claimant meets all the requirements to extend her benefit period, as set out above. This means she is entitled to extend her benefit period to August 1, 2020, to allow payment for her full entitlement of combined special benefits.

### **Parental Window**

[16] When making a claim for parental benefits, a claimant must choose (elect) between standard parental benefits or extended parental benefits. Standard parental benefits are paid to a maximum of 35 weeks at 55% of the claimant's normal weekly earnings. Extended parental benefits are paid to a maximum 61 weeks at 33% of the claimant's normal weekly earnings.<sup>8</sup> In this case, the Claimant elected 35 weeks of standard parental benefits.

[17] Parental benefits can only be paid during the parental window. For standard parental benefits, the window is 52 weeks. The parental window begins with the week in which the child is born or actually placed with the claimant for the purpose of adoption.<sup>9</sup> A standard parental window may be extended in certain circumstances, such as when combined special benefits are claimed. This extension provides for the payment of the maximum number of weeks claimed for parental benefits.<sup>10</sup>

[18] The Claimant requested standard parental benefits for her son who was born on X. So I find that her 52-week parental window is from June 25, 2019, to June 27, 2020. I will now

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<sup>7</sup> See GD3-47 and GD3-48.

<sup>8</sup> See subsection 23(1.1) and subparagraphs 12(3)(b)(i) and (ii) of the *Act*.

<sup>9</sup> See subsection 23(2) of the *Act*.

<sup>10</sup> See section 23(3.2) of the *Act*.

determine whether she is entitled to an extension to her parental window to allow payment of the maximum weeks for her combined special benefits.

**Does the Claimant qualify for an extension to her parental window?**

[19] Yes, I find that the Claimant qualifies for an extension to her parental window.

[20] The following criteria must be met to qualify for an extension to the standard parental window when claiming combined special benefits, up to the applicable maximum number of weeks.<sup>11</sup>

- a) Regular benefits were not paid to the claimant;
- b) benefits were paid to the claimant for more than one type of special benefits;<sup>12</sup>
- c) the maximum number of weeks established for those reasons is greater than 50; and
- d) benefits were paid because the claimant is caring for one or more newborn children or children placed with the claimant for the purpose of adoption (parental benefits),<sup>13</sup> but for fewer than the applicable maximum number of weeks established.

[21] The Claimant states the Commission's agent told her that she is entitled to receive the full 35 weeks of standard parental benefits in addition to the 7 weeks of family caregiver benefits. She says that it should not matter that she received the family caregiver benefits for an older child. I agree.

[22] I find that the Commission erred in their interpretation of section 23(3.2) of the *Act*. This section sets out the criteria for an extension of the parental window, as set out above. Specifically, they erred when stating that there are no grounds upon which this extension may be granted because the Claimant's parental benefits were established for a different child than the one for which family caregiver benefits were paid. The current legislation<sup>14</sup> does not stipulate this as a requirement to grant an extension of the parental window for combined special benefits.

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<sup>11</sup> See section 23(3.2) of the *Act*.

<sup>12</sup> See paragraphs 12(3)(a) to (f) of the *Act*.

<sup>13</sup> See paragraph 12(3)(b) of the *Act*.

<sup>14</sup> See section 23(3.2) of the *Act*.

[23] I find that the Claimant meets all the requirements for an extension of her standard parental window. Specifically, the Claimant did not receive payment of regular benefits. She received more than one type of special benefits (maternity, standard parental and family caregiver benefits). As stated above, the maximum number of weeks established for her combined special benefits is 57, which is greater than 50 weeks. The Claimant received less than the 35-week maximum benefits established for standard parental benefits. So I find she is entitled to an extension of her parental window to allow the maximum payment for her combined special benefits, until August 1, 2020.

**Is the Claimant entitled to the maximum established weeks for combined special benefits?**

[24] Yes. As set out above, I find that the Claimant is entitled to a benefit period extension and an extension to her parental window. This allows for the payment of the established combined special benefits, as follows:

- 15 weeks of maternity benefits from June 30, 2019, until October 12, 2019,
- 4 weeks of parental benefits from October 13, 2019, until November 9, 2019,
- 7 weeks of family caregiver benefits from November 10, 2019, until December 28, 2019,
- 31 weeks of parental benefits from December 29, 2019, to August 1, 2020.

[25] Based on the evidence, as set out above, I find that the Claimant has shown she is entitled to payment for the maximum number of combined special benefits as established. Specifically, she is entitled to receive 15 weeks of maternity, 7 weeks of family caregiver, and a total of 35 weeks of standard parental benefits. This means she has not received an overpayment of two weeks of standard parental benefits. Rather, the Claimant is entitled to the benefits previously received up to July 4, 2020, plus four additional weeks of standard parental benefits from July 5, 2020, to August 1, 2020.

**DECISION**

[26] The appeal is allowed. The Claimant is entitled to a benefit period extension ending on August 1, 2020. She is also entitled to an extension of her parental window, ending on August 1,

2020. These extensions allow for payment of the maximum combined special benefits that she established.

Linda Bell

Member, General Division - Employment Insurance Section

HEARD ON:	December 14, 2020
METHOD OF PROCEEDING:	Teleconference
APPEARANCES:	J. G., Appellant (Claimant)