



[TRANSLATION]

Citation: *CS v Canada Employment Insurance Commission*, 2021 SST 317

**Social Security Tribunal of Canada  
General Division – Employment Insurance Section**

## Decision

**Appellant:** C. S.

**Respondent:** Canada Employment Insurance Commission

---

**Decision under appeal:** Canada Employment Insurance Commission reconsideration decision (417103) dated March 24, 2021 (issued by Service Canada)

---

**Tribunal member:** Charline Bourque

**Type of hearing:** Videoconference  
**Hearing date:** May 19, 2021  
**Hearing participant:** Appellant  
**Decision date:** June 2, 2021  
**File number:** GE-21-685

## Decision

[1] The appeal is dismissed. The Appellant's claim for Employment Insurance (EI) benefits cannot be extended, and the Appellant is not entitled to sickness benefits.

## Overview

[2] The Appellant claimed EI critically ill child benefits from September 22, 2019, after her child was born prematurely. Later, she claimed Québec Parental Insurance Plan (QPIP) benefits from December 15 to September 19, 2020. She then claimed EI sickness benefits from September 20, 2020, after an injury that kept her from returning to work.

[3] The Commission initially extended the benefit period to allow the Appellant to receive sickness benefits. The Commission determined that it could extend it because there was still a week of benefits payable—that of September 13 to 19, 2020. So, the Commission paid sickness benefits to the Appellant from September 20 to December 12, 2020.

[4] The Commission then changed its decision when it saw that the Appellant had received QPIP benefits for the week of September 13 to 19, 2020. Because of the change to the end date of the QPIP benefits, the Commission decided that the 15-week extension for sickness benefits could no longer be allowed, since the criteria were not met. The reason being that the Appellant's claim for benefits had ended on September 19, 2020.

[5] The Appellant says she could have received last-resort benefits if the Commission had decided correctly from the beginning.

[6] This puts her in a precarious position, having had no income for that period and having to pay back overpayments of \$5,530 and \$1,580.<sup>1</sup> So, she wants the Commission to write off the overpayments because the information she provided was accurate and because the situation is penalizing her, since she has been unable to have other income due to the late reversal of the Commission's decision.

## **Matter I have to consider first**

[7] The Appellant wants the overpayments to be written off. She says she asked the Commission to write them off, but it informed her that it was not possible because the decision had been reconsidered within 12 months.

[8] First, I note that the Commission does not seem to have made any decision on this matter that would allow the Appellant to appeal it to, for example, the Federal Court.

[9] I also have to inform the Appellant that I do not have jurisdiction to review a decision about a write-off.<sup>2</sup> However, I invite the Commission to formally respond to the Appellant's request, if it has not already done so, and to consider the financial burden this creates for the Appellant. I would point out that the fact that the decision was made within 12 months refers to only part of the grounds for a potential write-off.<sup>3</sup>

## **Issues**

[10] Can the Appellant's EI benefit period be extended?

[11] Can the Appellant receive EI sickness benefits because of this extension?

---

<sup>1</sup> The Commission says that an overpayment of \$4,740 was created because the renewal as sickness benefits should not have happened. In addition, an overpayment of \$790 was created for the weeks of September 6 and 13, 2020; the Appellant received QPIP benefits for those weeks, so she should not have received sickness benefits (GD3-37). Lastly, the Commission says that an overpayment of \$1,580 was created from December 16, 2019, to January 11, 2020, for critically ill child (family caregiver) benefits, since the Appellant was receiving QPIP benefits (GD4-1).

<sup>2</sup> Section 112.1 of the *Employment Insurance Act* says that a decision of the Commission made under the *Employment Insurance Regulations* respecting the writing off of any penalty owing, amount payable, or interest accrued on any penalty owing or amount payable is not subject to review under section 112.

<sup>3</sup> See section 56 of the *Employment Insurance Regulations*.

## Analysis

### Issue 1: Can the Appellant's EI benefit period be extended?

[12] First and foremost, and because of the confusion caused by the different dates, here are the dates indicated by the Appellant and the Commission:

- The Appellant says she received critically ill child (family caregiver) benefits after her child was born prematurely on September X, 2019.
- According to the Appellant, she received the critically ill child benefits from September 9, 2019, whereas the Commission says that the benefits were paid from September 22, 2019.<sup>4</sup> This means that the Appellant received 11 weeks of benefits out of the 15 she was entitled to. However, there is a gap between the Appellant's desired start date for her benefits and the date the Commission started her claim.<sup>5</sup>
- According to the Appellant, she received the critically ill child benefits until December 15, 2019, the expected date of birth. After that, she received QPIP benefits.
- The Appellant received QPIP benefits from December 15, 2019, to September 19, 2020, which the Commission confirms.<sup>6</sup>
- The Appellant was injured while on maternity leave. As a result, she could not return to work when her leave ended, and she claimed sickness benefits from September 20, 2020.

---

<sup>4</sup> See the [translation] "family caregiver benefits for children" table, which shows that the benefits started on September 22, 2019 (GD3-29).

<sup>5</sup> Under section 23.2(3) of the *Employment Insurance Act*, the claim for benefits started based on the date of issue of the certificate that states that the child is critically ill.

<sup>6</sup> See the maternity and parental benefit table (GD3-34).

[13] It has been established that a person cannot receive different types of benefits for the same period. This also applies to QPIP benefits.<sup>7</sup>

[14] So, the Appellant's initial claim is the one for critically ill child benefits. It started on September 22, 2019.<sup>8</sup>

[15] A claim for benefits lasts 52 weeks.<sup>9</sup> This means that the Appellant's claim ended on September 19, 2020. Only certain criteria make it possible to extend an EI benefit period.<sup>10</sup>

[16] According to these criteria, in situations where a claimant cannot receive the maximum number of weeks for the specific types of special benefits claimed during the benefit period, the benefit period can be extended under certain conditions. Therefore, a claimant can receive the maximum number of weeks established for the types of special benefits already claimed. More specifically, only those types of special benefits that were paid during the initial benefit period can be paid during the extended period.<sup>11</sup>

[17] This means that, in this case, the Appellant cannot ask for an extension of the benefit period for another type of special benefit, such as sickness benefits, since she did not receive any for at least one week of benefits.

[18] As a result, the benefit period cannot be extended.

[19] I want to stress that my role is to apply the *Employment Insurance Act* (Act); I cannot change it. The Act sets out specific criteria a claimant has to meet to be entitled to benefits. In addition, I cannot change a decision on the basis that the Commission misled a party, or refuse to apply the law on grounds of equity.<sup>12</sup>

---

<sup>7</sup> See section 76.19 of the *Employment Insurance Regulations*, which indicates that benefits paid under the QPIP are considered to be benefits paid under the EI program.

<sup>8</sup> See the [translation] "family caregiver benefits for children" table, which shows that the benefits started on September 22, 2019 (GD3-29).

<sup>9</sup> See section 10(2) of the *Employment Insurance Act*.

<sup>10</sup> The criteria for extending a benefit period are set out in sections 10(10) to 10(15) of the *Employment Insurance Act*.

<sup>11</sup> See section 10(13) of the *Employment Insurance Act*.

<sup>12</sup> See *Granger v Commission (CEIC)*, FCA, A-684-85; and *Wegener v Canada (Attorney General)*, 2011 FC 137.

[20] However, I have to point out that the Commission had access to the Appellant's QPIP claim information and the dates for which the Appellant received benefits. I think that a simple check could have spared the Appellant a difficult and precarious situation, and she would not have been left without income and with a large debt to pay back.

**Issue 2: Can the Appellant receive EI sickness benefits because of this extension?**

[21] No. The Appellant cannot receive EI sickness benefits from September 20, 2020.

[22] The Appellant's claim for benefits ended on September 19, 2020, and no extension that would allow her to receive sickness benefits is possible.

**Conclusion**

[23] The appeal is dismissed.

Charline Bourque  
Member, General Division – Employment Insurance Section