



Citation: *LF v Canada Employment Insurance Commission*, 2021 SST 535

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

**Decision**

**Appellant:** L. F.  
**Respondent:** Canada Employment Insurance Commission

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**Decision under appeal:** Canada Employment Insurance Commission  
reconsideration decision (420994) dated April 15, 2021  
(issued by Service Canada)

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**Tribunal member:** Solange Losier  
**Type of hearing:** Teleconference  
**Hearing date:** September 2, 2021  
**Hearing participant:** Appellant  
**Decision date:** September 3, 2021  
**File number:** GE-21-1263

## Decision

[1] The appeal is dismissed. The Claimant's election for extended parental benefits cannot be revoked because employment insurance parental benefits have already been paid at the extended rate.

## Overview

[2] The Claimant gave birth to her child on November 14, 2019 and applied for maternity and parental benefits on November 18, 2019. She received the maximum 15 weeks of maternity benefits. For the parental benefit option, she picked the extended benefit option asking for 61 weeks with a return to work date on May 2, 2022 (GD3-3 to GD3-21).

[3] A few weeks after receiving parental benefit payments she contacted the Commission on April 1, 2021. She asked them to change it from extended benefit option to the standard benefit option. She is experiencing financial hardship and may need to return to work early than she expected.

[4] The Commission denied her request to switch to the standard benefit parental benefit rate. They said that her election for extended parental benefits is irrevocable by law because she had already been paid when she made the request.

## Issue

[5] Can the Claimant change her election from extended parental benefit option to the standard option because she is experiencing financial hardship?

## Analysis

[6] The EI parental benefits program offers financial support for parents who are not working while they care for their newborn or newly adopted child. A claimant can pick either the standard or extended parental benefit option. Depending on which option is picked, the claimant can also pick the number of weeks they want to collect, up-to a maximum amount.

[7] There are some differences depending on which parental benefit option is picked by a claimant. For example, the maximum number of weeks for the standard option is 35 weeks and the extended parental benefit option is 61 weeks.<sup>1</sup>

[8] Also, parental benefits under the standard option are paid at a rate of 55% of the weekly insurable earnings up to a maximum amount.<sup>2</sup> Under the extended option, parental benefits are paid at a rate of 33% of the weekly insurable earnings up to a maximum amount.<sup>3</sup>

[9] After a claimant picks either standard or extended parental benefit option it cannot be changed by law if parental benefits have been paid under either option.<sup>4</sup>

### **Agreed Facts**

[10] The Claimant applied for maternity and parental benefits on November 5, 2020 and her child was born on November 14, 2020.

[11] The Claimant asked for 61 weeks of extended parental benefits and she expected to return to work in May 2, 2022 (GD3-3 to GD3-21).

[12] The first parental benefit payment under the extended option was issued on March 7, 2021 (GD3-19).

### **The Claimant's election for extended parental benefits cannot be changed**

[13] The Claimant testified that she wants to change her election for extended parental benefits to the standard parental benefit option.

[14] The Claimant's living arrangements have changed because her mother is now selling the house that she lives in. She has ongoing monthly expenses that exceeds her

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<sup>1</sup> Subsection 12(4.1)(a)(b) of the *Employment Insurance Act*; Subsection 23(1.1) of the *Employment Insurance Act*.

<sup>2</sup> Subsection 14(1) of the *Employment Insurance Act*.

<sup>3</sup> Subsection 14(1) of the *Employment Insurance Act*.

<sup>4</sup> Subsection 23(1.2) of the *Employment Insurance Act*.

monthly income. The Claimant said that she might have to return to work early and intends to move out of province because it is too expensive where she currently resides.

[15] I agree with the Commission. I find that the Claimant's election for the extended parental benefit option for 61 weeks is irrevocable and cannot be changed because parental benefits have already been paid to her.<sup>5</sup>

[16] The evidence shows that the first parental benefit payment under the extended option was issued on March 7, 2021 (GD3-19). The Claimant only made contact with the Commission to request to change her election on April 1, 2021 (GD3-20 to GD3-21). This was a few weeks after the first parental benefit was already issued. However, it was already too late because the law does not allow her to change it after benefits have been paid.

### **The Claimant has compassionate circumstances**

[17] I acknowledge that the Claimant has very compassionate circumstances. She is experiencing significant financial hardship because of the reduced parental benefit payments. However, I do not have the authority in law to change or revoke her election for extended parental benefits.

### **Conclusion**

[18] The appeal is dismissed.

Solange Losier

Member, General Division – Employment Insurance Section

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<sup>5</sup> Subsection 23(1.2) of the *Employment Insurance Act*.