



[TRANSLATION]

Citation: *JC v Canada Employment Insurance Commission*, 2022 SST 696

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

Decision

Appellant: J. C.

Respondent: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission reconsideration decision (462387) dated March 31, 2022 (issued by Service Canada)

Tribunal member: Josée Langlois

Type of hearing: Teleconference

Hearing date: July 7, 2022

Hearing participant: Appellant

Decision date: July 8, 2022

File number: GE-22-1401

Decision

[1] The appeal is allowed.

[2] I find that the Appellant is entitled to family caregiver benefits for adults because she has shown that her spouse, who she cared for and supported during his recovery, was critically ill.

Overview

[3] The Appellant applied for family caregiver benefits for adults on February 10, 2022. She then provided a form, filled out by a doctor, indicating that her spouse's life wasn't at risk as a result of illness or injury, but that he had had surgery and required the care or support of a family member for six weeks.

[4] On March 31, 2022, the Canada Employment Insurance Commission found that the Appellant wasn't entitled to Employment Insurance family caregiver benefits for adults because the medical certificate she provided didn't indicate that her spouse was critically ill as a result of illness or injury.

[5] In her notice of appeal to the Tribunal, the Appellant attached a modified form from the doctor indicating that her spouse's life was at risk during that period. So, she argues that her spouse was critically ill and is asking for six weeks of benefits.

[6] I have to determine whether the Appellant is entitled to benefits for caring for or supporting her ill spouse.

Issue

[7] Was the Appellant's spouse critically ill?

Analysis

[8] A claimant can receive benefits for caring for or supporting a critically ill family member if a doctor or nurse practitioner has issued a medical certificate indicating that

the adult is critically ill and requires the care or support of one or more of their family members.¹

[9] A critically ill adult is a person who is 18 years of age or older whose baseline state of health has significantly changed and whose life is at risk as a result of illness or injury.²

[10] The Appellant says that her spouse had surgery on his right shoulder on February 1, 2022. For this reason, she cared for and supported him for six weeks. Without her support, the Appellant [*sic*] could not have gone home and would have been cared for in hospital. She says that he could not take care of his basic hygiene and that she had to feed him, help him go to the bathroom, help him take his bath, help him get dressed, go with him to various medical or paramedical appointments, etc. She says that she could not leave him home alone for several hours either.

[11] The Appellant says that, after receiving information from a Commission employee, the doctor modified the original certificate he had filled out. He said that her spouse's life was at risk during that period and that his patient had significant limitations in taking care of his basic hygiene.

[12] The Commission argues that the original medical certificate signed by the doctor indicated that his life wasn't at risk and that, without being able to further verify this document, its decision must be upheld.

[13] As noted, a critically ill adult is a person who is 18 years of age or older whose baseline state of health has significantly changed and whose life is at risk as a result of illness or injury.³

[14] To receive family caregiver benefits for adults, the Appellant has to provide a medical certificate from a doctor or nurse practitioner indicating that the adult in question is critically ill. As the Commission points out, the "Medical Certificate for

¹ Section 23.3 of the *Employment Insurance Act*.

² Section 1(7) of the *Employment Insurance Regulations* (Regulations).

³ Section 1(7) of the Regulations.

Employment Insurance Family Caregiver Benefits” form that the Appellant submitted and that her spouse’s doctor signed on February 1, 2022, indicates that her spouse’s life wasn’t at risk, but that his baseline state of health had significantly changed. The doctor then specified that the patient would need the care or support of a family member until March 15, 2022.⁴

[15] When the Commission reconsidered the decision, the Appellant provided the same medical certificate. But, after a discussion with his patient’s spouse, the doctor changed the medical certificate at the beginning of April 2022 and answered “yes” to the following question: “The patient’s life is at risk as a result of illness or injury.” So, he admits that the Appellant’s spouse’s life was at risk because of illness or injury during that period.

[16] By providing this medical certificate, signed by her spouse’s doctor and specifying that he needed the care or support of a family member because his life was at risk, the Appellant has shown that her spouse was critically ill during those six weeks.

[17] I find that the Appellant’s spouse was critically ill within the meaning of the Act and Regulations and that the Appellant is entitled to benefits during that period.

Conclusion

[18] The appeal is allowed.

Josée Langlois
Member, General Division – Employment Insurance Section

⁴ GD3-19.