



Citation: *Canada Employment Insurance Commission v MV*, 2023 SST 640

Social Security Tribunal of Canada Appeal Division

Decision

Appellant: Canada Employment Insurance Commission
Representative: Isabelle Thiffault

Respondent: M. V.

Decision under appeal: General Division decision dated April 12, 2023
(GE-23-372)

Tribunal member: Jude Samson

Decision date: May 26, 2023

File number: AD-23-406

Decision

[1] Leave to appeal is granted and the appeal is allowed. The Claimant, M. V., is entitled to 15 weeks of family caregiver benefits for critically ill adults starting from January 22, 2023.

Overview

[2] The Claimant applied for family caregiver benefits in November 2022 because she needed to provide care and support for her brother. The Canada Employment Insurance Commission (Commission) refused her application. For the Claimant to qualify for these benefits, the Commission said there needed to be a significant change in her brother's baseline state of health.

[3] The Claimant appealed the Commission's decision to the General Division. It allowed the Claimant's appeal based on a new medical note. In this note, a doctor wrote that that the health of the Claimant's brother worsened in January 2023.

[4] The Commission now wants to appeal the General Division to the Appeal Division. The Commission acknowledges that the Claimant qualifies for family caregiver benefits. However, it says that the General Division made an error of law by failing to say when the Claimant's benefits should start.

[5] I reviewed the file and then invited the parties to a settlement conference.

The parties agree on the outcome of the appeal

[6] At the settlement conference, the parties reached the following agreement:

- The General Division made an error of law by not specifying when the Claimant's family caregiver benefits start;
- As a result, I should give the Commission permission to appeal, allow its appeal, and give the decision the General Division should have given;

- The Claimant is entitled to 15 weeks of family caregiver benefits for critically ill adults starting from January 22, 2023.

I accept the proposed outcome

[7] The Claimant applied for family caregiver benefits in November 2022. However, the medical evidence on file didn't show a significant change in her brother's baseline state of health until January 2023.¹ As a result, I agree that the General Division made an error of law by failing to specify when the Claimant's benefits should start.

[8] In the circumstances, I'm giving the Commission permission to appeal, allowing its appeal, and giving the decision the General Division should have given.

[9] The evidence shows that the Claimant's brother was hospitalized in late January 2023.² So, the Commission recognizes that the Claimant's entitlement to family caregiver benefits started on Sunday, January 22, 2023. These benefits can be paid for a maximum of 15 weeks.

Conclusion

[10] The General Division made an error of law by not specifying when the Claimant qualified for family caregiver benefits. So, I'm giving the Commission permission to appeal, allowing its appeal, and giving the decision the General Division should have given. The Claimant's family caregiver benefits start on January 22, 2023, and continue for 15 weeks.

Jude Samson
Member, Appeal Division

¹ See page GD7-2.

² See pages GD3-31 and GD7-2.