



Citation: *MV v Canada Employment Insurance Commission*, 2023 SST 641

Social Security Tribunal of Canada General Division – Employment Insurance Section

Decision

Appellant: M. V.

Respondent: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission reconsideration decision (567710) dated January 30, 2023 (issued by Service Canada)

Tribunal member: Sylvie Charron

Type of hearing: Teleconference

Hearing date: April 4, 2023

Hearing participant: Appellant

Decision date: April 12, 2023

File number: GE-23-372

Decision

[1] The appeal is allowed. The Tribunal agrees with the Appellant.

Overview

[2] The Appellant applied for critically ill adult benefits. These benefits are also called family caregiver benefits.

[3] The Appellant stopped working on November 25, 2022, to take care of her brother who suffers from Down's Syndrome. She provided a medical certificate that indicated that the patient's life was at risk as a result of illness or injury. However, the certificate indicated that there had not been a significant change in the baseline state of health of the patient. The certificate was signed on December 14, 2022.

[4] The Canada Employment Insurance Commission (Commission) decided that the Appellant was not entitled to critically ill adult benefits.

[5] The Commission says that the Appellant doesn't meet the requirements of the *Act* because the medical certificate did not indicate that her brother's baseline state of health had changed.

Matter I have to consider first

[6] The Appellant sent new evidence after the hearing. It consists of a new medical certificate completed by the same doctor who issued the first certificate found in the file. While this evidence has not been considered by the Commission, I accept it as relevant and will take it into account in rendering my decision.

Issue

[7] Is the Appellant entitled to receive family caregiver benefits?

Analysis

[8] On the application for EI benefits, it states that family caregiver benefits are for individuals who are, "providing care or support to a critically ill family member."

[9] A “critically ill adult” is defined, in part, as 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 an illness or injury.¹ To receive benefits as a family caregiver to a critically ill adult, a medical doctor or a nurse practitioner must issue a certificate. The certificate must state that the adult’s life is at risk, their baseline state of health has significantly changed, and that they require the care or support of one or more of their family members. It must also set out the period during which the adult requires that care or support.²

[10] The Appellant requested this type of benefit, in relation to providing care for her brother. She initially provided a Medical Certificate for Employment Insurance Family Caregiver Benefits, which confirmed that as of December 14, 2022, her brother’s baseline state of health had NOT significantly changed but that he required the care or support of one or more family members. It also stated that his life was at risk. It indicated that the support was needed until February 28, 2023.

[11] Since the document stated there had NOT been a significant change in the baseline health of the patient, even though the patient’s life was at risk, the Commission determined the Appellant did not qualify for family caregiver benefits.

[12] The Appellant requested reconsideration. There was no new medical information. The Commission upheld its decision that the Appellant was not entitled to benefits.

[13] The Appellant appealed to the Tribunal. She stated that her brother has Down’s Syndrome and needs constant care. He primarily lives with their parents. Unfortunately, her father has been in hospital since November 26, 2022, and her mother spends much time in the hospital to help feed her husband. As a result, the Appellant takes care of her brother who is unable to stay alone and unsupervised.

[14] At the hearing, the Appellant repeated the information submitted on the Notice of Appeal. She adds that she is quite frustrated at Service Canada employees, who told her to apply for the care of her brother, and this was then refused.

¹ *Employment Insurance Regulations*, section 1(7).

² *Employment Insurance Act*, section 23.3(1).

[15] I explained the problem of the medical certificate; the Appellant testified that she could explain the situation to her brother's doctor and obtain a new medical certificate.

[16] I gave the Appellant three days to obtain a new medical certificate; the Appellant sent it in as requested.

[17] On April 4, 2023, the Appellant submitted an updated medical form. The document is signed by the same doctor who completed the original medical certificate. It states that as of April 4, 2023, the Appellant's brother's life was at risk due to illness or injury as a result of a G-I bleed in January 2023, and there was a significant change in his baseline state of health. He requires the care of one or more family members until May 31, 2023.

[18] I find that the Appellant's new medical certificate supports that her brother's life was at risk, and there has been a significant change in his baseline state of health. She has proven her entitlement to benefits.

[19] I find the Appellant's additional medical certificate is reliable.

[20] Since the Appellant has provided a medical certificate confirming her brother's condition met the requirements to receive family caregiver benefits, I find she is entitled to receive the benefits.

Conclusion

[21] The appeal is allowed.

Sylvie Charron
Member, General Division – Employment Insurance Section