



[TRANSLATION]

Citation: *RM v Canada Employment Insurance Commission*, 2023 SST 378

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

**Decision**

**Appellant:** R. M.  
**Respondent:** Canada Employment Insurance Commission

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**Decision under appeal:** Canada Employment Insurance Commission reconsideration decision (564620) dated January 26, 2023 (issued by Service Canada)

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**Tribunal member:** Josée Langlois  
**Type of hearing:** Videoconference  
**Hearing date:** March 23, 2023  
**Hearing participant:** Appellant  
**Decision date:** March 24, 2023  
**File number :** GE-23-528

## Decision

[1] The appeal is dismissed.

[2] I find that the Appellant isn't entitled to compassionate care benefits for when he was caring for his sick partner, since he hasn't shown that her life was at risk.

## Overview

[3] The Appellant applied for family caregiver benefits for adults on June 30, 2022. He provided a certificate completed by a medical doctor indicating that his partner's life wasn't at risk as a result of an illness or injury but that her state of health had changed significantly and she required the care or support of a family member for a period of time.

[4] On January 26, 2023, the Canada Employment Insurance Commission (Commission) decided that the Appellant wasn't entitled to Employment Insurance (EI) family caregiver benefits for adults because the adult he had cared for didn't meet the definition of a critically ill or injured adult as defined in the *Employment Insurance Regulations* (Regulations).

[5] The Appellant says that his partner was critically ill even though the medical doctor doesn't have the same interpretation and indicated on the form that her life wasn't at risk. The Appellant took time off work to help his partner and look after the children.

[6] I have to determine whether the Appellant is entitled to benefits for having cared for or supported his sick partner.

## Issue

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

## Analysis

### Was the Appellant's partner critically ill?

[8] A claimant can get benefits to care for or support a critically ill family member if a medical doctor or nurse has issued a medical certificate that states that the adult is critically ill and requires the care or support of one or more of their family members.<sup>1</sup>

[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 an illness or injury.<sup>2</sup>

[10] The Appellant took time off work to care for his partner. He says that she had spinal surgery on July 12, 2022, and could not stay home alone. He helped her walk, get up, lie down, and eat. At the hearing, he explained that he also had to take the children to school in the mornings.

[11] The Appellant understands that the medical doctor indicated on the form that his partner's life wasn't at risk, but he has a different interpretation than the medical doctor. On this point, he sent the Commission a form, the "Medical Certificate for Employment Insurance Family Caregiver [Benefits]" form, signed by a medical doctor on three different dates. Despite indicating that the patient's state of health had changed significantly and that she required the care or support of a family member, the medical doctor indicated each time that her life wasn't at risk.

[12] The Appellant says that his partner was critically ill and that he assessed alternatives, but that he had to take time off work.

[13] The Commission says that the Appellant isn't entitled to family caregiver benefits for adults because the medical certificates he provided don't show that the three criteria are met. Even though he mentioned a period of disability for the Appellant's partner, the

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<sup>1</sup> Section 23.3 of the *Employment Insurance Act* (Act).

<sup>2</sup> Section 1(7) of the *Employment Insurance Regulations* (Regulations).

medical doctor indicated three times that her life wasn't at risk. Because of this, the Appellant isn't entitled to benefits.

[14] As mentioned, 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 an illness or injury.<sup>3</sup>

[15] To get family caregiver benefits for adults, the Appellant has to provide a medical certificate from a medical doctor or nurse indicating that the adult in question is critically ill. But, the "Medical Certificate for Employment Insurance Family Caregiver [Benefits]" form that the Appellant submitted three times shows that the medical doctor indicated that his partner's life wasn't at risk even though her state of health had changed significantly and that she required the care or support of a family member.

[16] I can't find that the Appellant's partner was critically ill within the meaning of the Regulations, since the forms signed by the medical doctor indicate that her life wasn't at risk.

[17] Even though I understand the Appellant's situation, compassionate care family caregiver benefits for adults are paid when the three criteria shown on the form are met. In other words, the medical doctor had to certify that his partner's state of health had changed significantly, that she required the care or support of a family member, and that her life was at risk. Concerning the last criterion, a patient's life is at risk when a medical doctor or nurse is of the opinion that there is a risk of death within six months after the ill adult's injury or surgery.<sup>4</sup>

[18] So, it isn't enough for the Appellant to think that his partner's life was at risk, since the Act says that the ill adult's condition has to be confirmed by a medical doctor or nurse.

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<sup>3</sup> Section 1(7) of the Regulations.

<sup>4</sup> Section 23.1 of the Act.

[19] I understand the Appellant's disappointment. Unfortunately, under the Act, EI benefits can't be paid in this case. His partner required the care or support of a family member, but her life wasn't at risk. The Appellant isn't entitled to benefits.

[20] I find that the Appellant's partner wasn't critically ill within the meaning of the Act and Regulations.

## **Conclusion**

[21] The appeal is dismissed.

Josée Langlois

Member, General Division – Employment Insurance Section