



Citation: *SM v Canada Employment Insurance Commission*, 2024 SST 535

Social Security Tribunal of Canada
General Division – Employment Insurance Section

Decision

Appellant: S. M.

Respondent: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission
reconsideration decision (647143) dated February 10, 2024
(issued by Service Canada)

Tribunal member: Angela Ryan Bourgeois

Type of hearing: Videoconference

Hearing date: May 8, 2024

Hearing participant: Appellant

Decision date: May 15, 2024

File number: GE-24-991

Decision

[1] I am dismissing the Appellant's appeal. The Canada Employment Insurance Commission (Commission) cannot pay her more Employment Insurance (EI) benefits. She has received the maximum weeks of benefits allowed under her benefit period. Her benefit period cannot be extended.

Overview

[2] The Appellant was sick during her pregnancy and had to stop working twice. While off work, she applied for and received EI sickness benefits. After she had the baby, the Commission paid her EI maternity and then EI parental benefits.

[3] In total, the Commission paid the Appellant a total of 54 weeks of benefits (15 weeks of EI sickness benefits, 15 weeks of EI maternity benefits and 24 weeks of EI standard parental benefits) between September 18, 2022, and December 30, 2023.

[4] The Appellant would like to be paid 11 more weeks of EI parental benefits. This would give her the maximum weeks of EI standard parental benefits payable under the law. The Commission told her she would receive EI benefits until March 2024 but then ended her benefit period on December 30, 2023.

[5] The law says that EI benefits can only be paid during a benefit period.

[6] The Commission says it can't pay the Appellant the remaining 11 weeks of EI parental benefits because her benefit period ends on December 30, 2023. It says she doesn't meet the conditions to extend her benefit period further.

[7] The Appellant says that she couldn't return to work in January 2024 because her baby was only 9 months old.

[8] I must decide if the Commission can pay the Appellant more weeks of EI parental benefits.

Issue

[9] Can the Appellant's benefit period be extended to allow for the payment of more weeks of EI parental benefits?

Analysis

[10] There is no dispute about these facts:

September 18, 2022	Benefit period established for EI sickness benefits ¹
September 18, 2022	One-week waiting period ²
September 25, 2022, to November 19, 2022	Commission paid the Appellant 8 weeks of EI sickness benefits ³
November 21, 2022, to February 10, 2023	Appellant returned to work ⁴
February 12, 2023, to April 1, 2023	Commission paid the Appellant 7 weeks of EI sickness benefits ⁵
April 5, 2023	The Appellant delivered her baby. ⁶
April 2, 2023, to July 15, 2023	Commission paid the Appellant 15 weeks of EI maternity benefits ⁷

¹ The Appellant was put off work from September 19, 2022, to November 18, 2022. See medical note on page GD3-8.

² See page GD3-37. Earnings from this week were deducted from the benefits paid during the week of September 25, 2022. Section 13 of the *Employment Insurance Act* (EI Act) says that no benefits are paid during the first week of the benefit period, known as the waiting period.

³ See page GD3-37.

⁴ See page GD3-38 to GD3-39.

⁵ The Appellant was put off work from February 13, 2023, until delivery, which was expected April 3, 2023. See medical note on page GD3-21. See also page GD3-39 to GD3-40.

⁶ See page GD3-51.

⁷ See page GD3-36 and page GD3-40 to GD3-41.

July 16, 2023, to December 30, 2023	Commission paid the Appellant 24 weeks of EI parental standard benefits ⁸
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[11] In summary, the Commission paid the Appellant a total of 54 weeks of benefits (15 weeks of EI sickness benefits, 15 weeks of EI maternity benefits and 24 weeks of EI parental benefits) between September 18, 2022, and December 30, 2023.⁹

[12] There is no evidence that the Appellant could have had enough hours to start a new benefit period at any time between September 18, 2022, and December 30, 2023.¹⁰

[13] The Appellant asked for her maternity benefits to start immediately after her sickness benefits.¹¹ The maximum number of weeks of EI maternity benefits is 15 weeks.

[14] The Appellant asked for 35 weeks of EI standard parental benefits, which is the maximum allowed.¹²

[15] The Commission wrote to the Appellant and told her that she would receive EI sickness benefits from February 12, 2023, until April 1, 2023. She would then receive 15 weeks of EI maternity benefits followed by 35 weeks of EI parental benefits.¹³

[16] The Appellant says that Service Canada assured her by telephone that she would receive benefits until March 16, 2024.¹⁴

[17] The Commission now says that the Appellant can't be paid 35 weeks of EI standard parental benefits. It says that it can't pay her more weeks of EI benefits

⁸ See page GD3-36, and pages GD3-41 to GD3-44.

⁹ See also "Entitlement weeks paid" on page GD3-35, and "Total weeks paid" on page GD3-36.

¹⁰ See page GD3-56, showing that the Appellant work 200 hours during this period, which isn't enough to start a benefit period. The Appellant confirmed this at the hearing.

¹¹ See page GD3-22.

¹² See page GD3-23.

¹³ See letter to the Appellant on page GD3-45.

¹⁴ See page GD3-51. The Appellant told me that she was also assured of this in October 2023.

because her benefit period ended on December 30, 2023, and can't be further extended.¹⁵

[18] I must decide if the Appellant can receive more weeks of EI standard parental benefits. To do this, I will look at her benefit period and whether it can be extended any further.

– **The Appellant's benefit period**

[19] There is no dispute about the start date of her benefit period. The Appellant was put off work as of September 19, 2022, and she doesn't dispute that the Commission was right to start her benefit period on September 18, 2022.

[20] Unless extended, benefit periods are 52 weeks.

[21] This means that the Appellant's original benefit period was from September 18, 2022, to September 16, 2023. During this period, the Appellant was paid EI sickness, maternity and parental benefits.

[22] Benefit periods can be extended so a claimant can be paid the maximum weeks of EI special benefits, like parental benefits, but only in certain situations.

[23] Benefits can only be paid during a benefit period.¹⁶

– **When a benefit period for special benefits can be extended**

[24] If all these conditions are met, a benefit period can be extended so that special benefits started during the benefit period can be paid to the maximum number of weeks allowed:

a) regular benefits were not paid

b) more than one type of special benefit was paid during the benefit period

¹⁵ For example, see page GD3-48.

¹⁶ See section 12(1) of the EI Act.

- c) at least one of those benefits was not paid to the maximum number of weeks
- d) the maximum total number of weeks established for those benefits is more than 50.¹⁷

[25] The Appellant meets all these conditions, so her benefit period can be extended. The Commission doesn't dispute this and has already extended her benefit period to 67 weeks.¹⁸

[26] The *Employment Insurance Act* (EI Act) says that the extended benefit period cannot be more than the total of 2 weeks plus the maximum number of weeks of each type of benefit paid during the original benefit period.¹⁹

[27] The Appellant was paid sickness, maternity and parental benefits during her original benefit period, so her benefit period is extended to 67 weeks, as follows:

Benefit	Maximum weeks allowed by law²⁰
Sickness	15
Maternity	15
Parental	35
PLUS 2 weeks as set out in the law	2
Maximum benefit period	67 weeks

[28] The Commission extended the Appellant's benefit period to 67 weeks.

¹⁷ See section 10(13) of the EI Act.

¹⁸ For unknown reasons the Commission told the Appellant that her benefit period was 65 weeks. For example, see page GD3-56. However, the Commission actually extended her benefit period to 67 weeks, as September 18, 2022, to December 30, 2023, is 67, not 65 weeks.

¹⁹ See section 10(15) of the EI Act.

²⁰ See section 12(3) of the EI Act. For benefit periods starting December 18, 2022 or later, the maximum weeks of EI sickness benefits is 26 weeks, but at the time the Appellant's benefit period was established the maximum weeks of EI sickness benefits was 15 weeks.

– **Can I extend the benefit period further under other sections of the law?**

[29] Benefit periods can also be extended in some other circumstances, for example if the baby was hospitalized or the Appellant was receiving workers' compensation payments.²¹

[30] The Appellant confirmed that none of these other circumstances apply to her.²²

[31] So these other sections of law can't extend her benefit period any further.

– **Can I extend the benefit period for compassionate reasons?**

[32] The Appellant argues that she should be entitled to more weeks of benefits. Some of her reasons are:

- She couldn't go back to work in January 2024 because her baby was only nine months old and breastfeeding.
- The Commission didn't give her any notice that her benefits were ending, so she hadn't given her employer the required month's notice of her return.
- She didn't have time to arrange for childcare. She doesn't have family or friends in Canada to take care of her baby. Even if she could afford to send her baby to daycare, there were waiting lists and no vacancies.
- Her husband doesn't make enough to cover their living expenses.
- This situation is causing her financial, emotional and mental stress.²³

[33] Despite the Appellant's circumstances, I can't find that she is entitled to more weeks of EI benefits than allowed under the EI Act. I am bound by the EI Act. I have no discretion to extend a benefit period when the conditions of the EI Act aren't met.

²¹ See the circumstances set out in sections 10(10) to 10(12.1) of the EI Act. See also section 10(15) of the EI Act.

²² For example, see page GD3-54. She also told me so at the hearing.

²³ See reconsideration request starting on page GD3-51, and also on page GD2-9. See also notice of appeal, page GD2-5, and her testimony at the hearing.

[34] I have no doubt that the Commission told the Appellant that she would receive EI parental benefits until March 2024, and that she relied upon this information to her detriment. But misinformation from the Commission can't change a claimant's entitlement to benefits or extend a benefit period when the conditions for an extension aren't met.²⁴

[35] The Appellant's benefit period has been extended to the maximum weeks allowed by law, which is 67 weeks. It cannot be further extended, and the Commission can't pay her benefits beyond the end of her benefit period.

Conclusion

[36] The appeal is dismissed. The Commission can't pay the Appellant more weeks of EI benefits.

Angela Ryan Bourgeois
Member, General Division – Employment Insurance Section

²⁴ See *Pannu v Canada (Attorney General)*, 2004 FCA 90.