

May 19, 2020

SENT VIA EMAIL

The Honourable Minister Carla Qualtrough, P.C., M.P.
Minister of Employment, Workforce Development and Disability Inclusion
Carla.Qualtrough@parl.gc.ca

Dear Minister Qualtrough,

Re: Short and Long Term Considerations for Employment Insurance Policy in Canada

The economic fallout resulting from public health measures to address the COVID-19 pandemic continues to challenge workers in Canada, across every industrial sector. Our union recognizes the work your government has done to support those affected by the crisis. This includes enhancements to layoff mitigation programs, like Work-Sharing, to improve accessibility. It also includes the establishment of the Canada Emergency Response Benefit (CERB), ensuring that affected workers can access needed federal funds, as layoffs mount and employment earnings dry up. Delay and dithering, as demanded by some in Ottawa, would have led to despair for working people and further destabilized the economy as a whole – an outcome Canada could ill afford.

In previous correspondence to your office, our union has highlighted significant and persistent gaps in these programs that need immediate attention. Notably, we urge the federal government to reverse its policy of denying Supplemental Unemployment Benefit (SUB) payments to workers receiving monies through CERB. We also urge the federal government to take the necessary steps to expand CERB or other income supports to undocumented workers with expired work permits and Social Insurance Numbers (SINs), as well as migrant workers with approved permits and SINs who have not yet arrived in Canada. The CERB program should also be extended to cover the longer term unemployed (for instance, in the United States, emergency benefits cover workers with UI claims ending as far back as July 2019). We continue to look to your ministry for leadership and guidance on these and other pressing matters.

CERB expiry and the return to regular EI benefits: Canada's looming income crisis

In March, the federal government moved quickly to identify solutions to address income assistance gaps at the onset of this crisis. Without the CERB program, millions of workers in

Canada would be in crisis. The inability of Canada's existing Employment Insurance system to both process the requisite number of claims and ensure coverage for those left without income is a telling reminder of its deep, structural flaws.

The qualifying criteria for EI are needlessly complex and restrictive. Benefit clawbacks, unreasonable disqualifications, replacement earnings caps and withholding periods incentivize workers' desperate re-entry to survival jobs rather than best practices in labour market transition. EI disproportionately denies equivalent levels of benefit access to Canada's most vulnerable workers, including those in low-income brackets, women and racialized and disabled workers.

As fiscal policy goes, EI is Canada's foremost 'automatic stabilizer' – a keystone that provides income protection for the unemployed, precisely when workers need support the most. However, and as you are well aware, less than half of Canada's unemployed receive benefits in any given year. According to the Canadian Centre for Policy Alternatives, in 2017 only 42 per cent of the unemployed qualified for EI benefits. For those in low income (i.e. earning \$15 per hour or less) just 28 per cent qualified for benefits, despite having contributed a higher share of their employment income to the EI program. If EI denies access to those who need it most, then it has failed as a policy program.

In the coming months, we anticipate millions of individuals will exhaust their 16-week CERB entitlement. As provincial emergency orders extend and workplaces gradually reopen (many operating at reduced capacity), many workers will be left without income assistance and still be without work. Our own conservative estimates suggest 2 million EI-eligible workers will seek to re-enter the system in July, including approximately 400,000 – 500,000 claims requiring manual processing - an extraordinary figure. On this, our concerns are two-fold: that the EI system lacks the flexibility to manage an influx of new claims and that its inflexible design continues to exclude significant groups of working people from qualifying, including former CERB recipients that are ineligible for EI.

Minister, it is imperative that over the coming weeks, federal officials prepare for a forthcoming wave of EI applications. We imagine this will include changes to EI administrative policies. At the same time, it is equally imperative your office consider these immediate fixes in the context of longer-term, permanent improvements to the EI system – reforms desperately needed to extend access and build greater resiliency and preparedness for crises in the future.

In light of these twin objectives, the Ministry ought to approach enhancements to the EI system guided by the following principles:

- Speed, with quick processing times and seamless transition from the CERB;
- Inclusion, aiming to capture the greatest number of unemployed workers in need; and
- Robust support for workers, foregoing those punitive measures meant to accelerate labour market re-entry (often to the detriment of workers seeking to maintain if not improve their wages, benefits and working conditions).

Immediate EI changes needed – Unifor recommendations

As ministerial and ESDC staff prepare for the extraordinary inflow of EI claimants, Unifor recommends the following immediate and interim measures:

- Automate the EI application processing as much as possible, especially with ROEs that identify the ‘Reason for Layoff’ as “other” (i.e. Code “K”) or include employer comments: We have serious concerns that Service Canada lacks sufficient resources to process, manually, potentially hundreds of thousands of individual EI claims. ROEs that code “Reason for Layoff” as “Other” are particularly problematic, requiring extensive resources for investigation. The fact is, during these extraordinary times, workers cease employment for a variety of reasons – many unforeseen. Ensuring a rapid payment of benefits requires a system of automatic approval for claims with Records of Employment coded as “Other” (i.e. Code “K”, in Block 16).
- Eliminate the allocation of separation payments, most especially during COVID. One of the most punitive measures in Canada’s EI system is the assignment of severance and termination monies to the front end of an EI claim, failing to recognize their distinct purpose as compensation for adjustment costs when workers must seek new employment. It is also an exceedingly complex calculation for Service Canada, leading to errors, overpayments and appeals which should be avoided at this critical time. Workers accessing social assistance benefits also face benefit clawbacks, as do workers who earn an income in excess of annual maximums (i.e. 1.25x maximum insurable earnings) and are working while on claim. These measures negatively affect workers’ earnings, despite workers having a legitimate and statutory claim to these monies. The EI system must not deny workers crucial added income, especially during this crisis period.
- Temporarily standardize insurable hours qualifying rules to the lesser of 280 hours or 12 weeks, and deem time spent on an existing EI claim or CERB period as insurable hours for future claims. Unemployed workers in receipt of CERB payments after having exhausted an EI claim will not have the requisite insurable hours to qualify for a new claim. This also applies to unemployed workers who started a claim prior to March 15 that expires toward the close of the CERB period (currently October 3, 2020). This is problematic for many workers, especially those seeking access to Maternity or Parental Leave benefits as well as Compassionate Care benefits, or other Special Benefits, which requires 600 insurable hours. Standardizing the insurable hour requirement to the lesser of 280 hours or 12 weeks, and deeming the period spent in receipt of either an existing EI claim or CERB as insurable hours (e.g. 160 hours for each 4-week CERB period) will help extend benefit protection for workers during this crisis. Over the long-term, we believe there is merit to permanently standardizing the insurable hours requirement (e.g. to the lesser of 360 hours or 12 weeks, post-crisis), as a means to improve future access.
- Expand the replacement wage to 75% of earnings: EI benefits are woefully inadequate. For many workers, benefits provided under CERB (equivalent to \$500 per week) far outpace those prescribed under EI. As CERB eligibility expires, and while the economic and jobs crisis lingers, unemployed workers need stability. Expanding the targeted EI replacement wage to 75 per cent will serve as an added income stabilizer for workers in need of support, and transitioning back

to work.

- Assign all EI and EI Emergency Response Benefit costs during the COVID-19 to General Revenues, not the EI Account. EI actuarial costing did not anticipate a global health pandemic. Workers and employers cannot afford an increase in EI premiums.

Structural improvements to Employment Insurance – a long-term view

Minister, there are obvious critical steps that must be taken to prepare the EI system for a forthcoming wave of claimants. In addition to the recommendations provided we offer our assistance, wherever necessary, to ensure these changes happen quickly and fairly, and are communicated widely.

As your office continues to navigate these challenges and implements changes, it is crucial these occur with a view to long-term, permanent EI improvements. As noted, the EI system has shown itself to be unable to withstand severe economic shock. Decades of harmful restrictions, disqualifying measures and other restrictive guidance has undermined our country's pre-eminent income stabilization program. EI benefits, while still critical, provide too few benefits for unemployed workers and leave far too many with no assistance at all. We take heart in the fact that this COVID-19 crisis will eventually subside, and the lessons learned during this period may usher in major improvements and enhancements to Canada's critical social infrastructure, including supports for unemployed workers.

Unifor implores you to undertake a comprehensive review of Canada's EI system, guided by the principles of speed, inclusion, and robust support for workers. Examining the deep structural failings of EI and exploring alternative solutions will set us down the path to repairing this vital institution for workers today and for generations to come.

I look forward to further discussions with you on these matters.

Sincerely,



Jerry Dias
National President

cc. Irek Kusmierczyk, M.P.; Pierre Laliberté; Judith Andrew; Taras Zalusky; Andrew Brown; Graham Flack; and Federal Cabinet Committee on COVID-19: The Honourable Minister Chrystia Freeland, P.C., M.P.; The Honourable Jean-Yves Duclos, P.C., M.P., FRSC; The Honourable Melanie Joly, P.C., M.P.; The Honourable Navdeep Bains, P.C., M.P.; The Honourable Bill Morneau, P.C., M.P.; The Honourable Patty Hajdu, P.C., M.P.; The Honourable Bill Blair, P.C., C.O.M., M.P.; The Honourable Kirsty Duncan, P.C., M.P.

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