Canada Emergency Wage Subsidy (CEWS) Factsheet

Note: On May 15, it was announced that the CEWS would be extended for an additional 12-week period, until August 29. Details on the updated program are forthcoming.

On April 11, the Federal government passed Bill C-14 (www.parl.ca/DocumentViewer/en/43-1/bill/C-14/royal-assent), which amends the federal Income Tax Act and Financial Administration Act, paving way for the implementation of the Canada Emergency Wage Subsidy (CEWS). The CEWS covers 75% of eligible employees’ earnings, up to a maximum benefit of $847 a week for up to 12 weeks. Employees will be eligible for the CEWS whether or not they are actively working.

This factsheet provides relevant information that Unifor local union representatives as well as national staff may find useful in determining whether employers are eligible for the CEWS and in advocating against unnecessary lay-offs and wage cuts. The factsheet also provides some simple guidance on how the CEWS interacts with other federal emergency benefit measures, including the Canada Emergency Response Benefit (CERB).

Eligibility criteria and revenue calculation

All employers are eligible to apply for the CEWS except for public institutions (i.e. municipal authorities, non-taxable corporations, schools, school boards, health authorities, and public universities and colleges).

There are three qualifying periods for receiving the CEWS:

- Period 1: March 15 – April 11
- Period 2: April 12 – May 9
- Period 3: May 10 – June 6

In order to qualify, the eligible entity must show the following revenue decline:

- 15% or more for Period 1
- 30% or more for Period 2
- 30% or more for Period 3
**Note:** If an employer qualifies for a period, they automatically qualify for the next period. For example, a 20% revenue decline in Period 1 qualifies the employer for Periods 1 and 2. A 35% revenue decline in Period 2 qualifies the employer for Periods 2 and 3.

To calculate the decline in revenue, employers have **two** options:

- Compare the revenue in the qualifying period with the following months from 2019:
  - March 2019 for Period 1;
  - April 2019 for Period 2;
  - May 2019 for Period 3; or

- Compare the revenue in the qualifying period with the average monthly revenue over January and February 2020.

  **Note:** The amount of CEWS benefits received by an employer in a qualifying period is ignored for the purpose of calculating the decline in revenue.

<table>
<thead>
<tr>
<th>QUALIFYING PERIOD</th>
<th>CLAIMING PERIOD</th>
<th>REQUIRED REVENUE DECLINE</th>
<th>REFERENCE PERIOD FOR ELIGIBILITY</th>
</tr>
</thead>
<tbody>
<tr>
<td>PERIOD 1</td>
<td>March 15 to April 11</td>
<td>15%</td>
<td>March 2020 over:</td>
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<tr>
<td></td>
<td></td>
<td></td>
<td>• March 2019 or</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>• Average of Jan and Feb 2020</td>
</tr>
<tr>
<td>PERIOD 2</td>
<td>April 12 to May 9</td>
<td>30%</td>
<td>Eligible for Period 1 or April 2020 over:</td>
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<tr>
<td></td>
<td></td>
<td></td>
<td>• April 2019 or</td>
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<td></td>
<td></td>
<td></td>
<td>• Average of Jan and Feb 2020</td>
</tr>
<tr>
<td>PERIOD 3</td>
<td>May 10 to June 6</td>
<td>30%</td>
<td>Eligible for Period 2 or May 2020 over:</td>
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<tr>
<td></td>
<td></td>
<td></td>
<td>• May 2019 or</td>
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<tr>
<td></td>
<td></td>
<td></td>
<td>• Average of Jan and Feb 2020</td>
</tr>
</tbody>
</table>

**Example:** XYZ Inc. reported revenues of $120,000 in March 2019. In March 2020, its revenues dropped to $90,000. Because its revenues in March 2020 are 25% lower than $120,000 (i.e. greater than 15%), XYZ Inc. would be eligible for the CEWS for Period 1 and Period 2.

To be eligible for Period 3, XYZ Inc. revenues would have to be $84,000 or less (30% lower than $120,000) for the month of April or May 2020 compared to April or May 2019.

**Amount of subsidy**

The CEWS will cover up to 75% of an employee’s baseline eligible remuneration for employees who are arm’s length (i.e. those who are employees, not owners, of a firm), capped at a maximum of $847 a week in the claim period. Eligible remuneration includes fees, commissions or other amounts paid for services, as well as taxable benefits (such as employer-paid transportation allowances, fitness memberships, life insurance premiums among others), paid during the claim period.
There are three situations that will determine how the subsidy is calculated for arm’s length employees:

- Employees earning $1,129.33 per week or more in the claim period;
- Employees earning $1,129.32 per week or less in the claim period, who have not experienced a reduction in pay since before the crisis; or
- Employees earning $1,129.32 per week or less in the claim period, who have experienced a reduction in pay since before the crisis.

For employees earning **$1,129.33 or more** in gross pay per week in the claim period, the basic amount of subsidy that will be paid is $847 per week (since 75% of any amount higher than $1,129.33 is more than the maximum amount of $847).

For those earning **$1,129.32 or less** in gross pay who have **not** experienced a reduction in pay, the CEWS basic amount will be 75% of their gross weekly pay.

**Example:**

<table>
<thead>
<tr>
<th>EMPLOYEE EARNING</th>
<th>WEEKLY GROSS PAY DURING CLAIM PERIOD</th>
<th>CEWS BASIC AMOUNT* PER WEEK</th>
<th>CEWS BASIC AMOUNT* FOR 4- WEEK CLAIM PERIOD</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>MORE THAN $1,129.33/ WK</strong></td>
<td>e.g. $1,500/week (75% = $1,125)</td>
<td>$847</td>
<td>$3,388 ($847 x 4 weeks)</td>
</tr>
<tr>
<td><strong>LESS THAN $1,129.33/WK (NO REDUCTION)</strong></td>
<td>e.g. $1,000/week (75% = $750)</td>
<td>$750</td>
<td>$3,000 ($750 x 4 weeks)</td>
</tr>
</tbody>
</table>

For employees earning $1,129.32 or less who have experienced a reduction in pay, their CEWS basic amount will be the lesser of:

- 100% of their weekly gross pay during the claim period;
- 75% of their average weekly pay from the period January 1 to March 15, 2020; or
- The maximum subsidy of $847 ($1,129.33 x 75% = $847)

**Example:**

<table>
<thead>
<tr>
<th>AVERAGE WEEKLY GROSS PAY FROM JAN. 1 – MAR. 15, 2020</th>
<th>WEEKLY GROSS PAY DURING CLAIM PERIOD</th>
<th>CEWS BASIC AMOUNT* PER WEEK</th>
<th>CEWS BASIC AMOUNT* FOR 4- WEEK CLAIM PERIOD</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>E.G. $1,500 (75% = $1,125)</strong></td>
<td>e.g. $1,000</td>
<td>$847 (i.e. the lesser of $1,000, $1,125, and $847)</td>
<td>$3,388 ($847 x 4 weeks)</td>
</tr>
<tr>
<td><strong>E.G. $1,000 (75% = $750)</strong></td>
<td>e.g. $500</td>
<td>$500 (i.e. the lesser of $500, $750, and $847)</td>
<td>$2,000 ($500 x 4 weeks)</td>
</tr>
</tbody>
</table>
*The CEWS basic amount does not include deductions for any EI work-sharing or temporary wage subsidy amounts and/or refunds for employer-paid contributions for employees on paid leave (see other considerations below).

**Other considerations**

The government is encouraging employers receiving the CEWS to top up employee wages to 100% of pre-crisis pay, although are not legally required to do so. Access to CEWS supports does not enable employers to circumvent provisions established under a collective agreement, with respect to negotiated wage rates, layoff provisions or other rules.

Employers are only eligible to subsidize the wages of employees if those employees have **not** had 14 consecutive days or more **without pay** from the employer **in each qualifying period**. This suggests, for example, that an employer who stopped paying all of their employees from March 15 until March 28 would be **ineligible** for the CEWS for Period 1 but would be eligible for Period 2 if those employees received pay on or after April 12.

For employees who are currently receiving the **Canada Emergency Response Benefit (CERB)**, Finance Canada has stated that the Government is considering options to limit duplication of benefits, including "a process to allow individuals rehired by their employer during the same eligibility period to cancel their CERB claim and repay that amount."

Employees **do not need to be actively working** in order to be eligible for the benefit. As long as they are employed and on payroll, they will be eligible for the CEWS. If CEWS-eligible employees are not actively working – i.e. they are on **paid leave** – the employer’s contributions to Employment Insurance (EI), Canada Pension Plan (CPP), Quebec Pension Plan (QPP) and Quebec Parental Insurance Plan (QPIP) will be refunded.

If CEWS-eligible employees are not actively working – i.e. they are on paid leave – the employer’s contributions to Employment Insurance (EI), Canada Pension Plan (CPP), Quebec Pension Plan (QPP) and Quebec Parental Insurance Plan (QPIP) will be refunded.

**Interaction with other benefits**

EI benefits received under the Work-Sharing program and benefits received under the 10% Temporary Wage Subsidy for small businesses will reduce the benefit that employers are entitled to receive under the CEWS for a particular qualifying period.

As stated above, CEWS-eligible employees who have been rehired and are currently receiving the CERB through EI or the Canada Revenue Agency (CRA) may have to pay back some of their CERB claim.

In some cases, employers may offer employees a choice between being employed (or rehired) so that they can be paid under the CEWS or being laid off so that they can receive the CERB, depending on which benefit pays more. Workers
given this choice should be made aware of how the CERB works, including, for example, the fact that taxes are not deducted at the source and may lead to a tax liability next year. For more information, please consult our CERB FAQ (www.unifor.org/en/faq-new-canada-emergency-response-benefit-cerb).

Application process

Employers can apply for the CEWS through the CRA’s My Business Account (https://www.canada.ca/en/revenue-agency/services/e-services/e-services-businesses/business-account.html) portal starting April 27, 2020. Applications for each claim period can only be submitted once the claim period is over.

The government has developed an online CEWS calculator (https://www.canada.ca/en/revenue-agency/services/subsidy/emergency-wage-subsidy/cews-calculate-subsidy-amount.html) that allows employers to determine the amount of subsidy they will receive for each claim period. This calculation must be included with their CEWS application.

Employers will also need to sign an attestation form that confirms their eligibility for the CEWS, including the fact that their qualifying revenue has declined by the required amount(s). The form also requires the employer to maintain records demonstrating revenue reduction, employee remuneration and any other information required to verify the amount of the CEWS claim are kept. These must be made available to the CRA upon request.

Employers will need to make sure that their business details and direct deposit information for their payroll accounts are up to date in My Business Account (https://www.canada.ca/en/revenue-agency/services/e-services/e-services-businesses/business-account.html). Those expecting to receive payments of $25 million or more will need to register for the large value transfer system (LVTS) (https://www.canada.ca/en/revenue-agency/services/tax/businesses/topics/corporations/corporation-payments/managing-your-corporation-account/making-adjustments-account-balances/refunds-over-25-million.html).

Frequently Asked Questions (FAQ)

Q: Does the employer have to top wages up to 100%?

A: While employers are not legally required to top up wages as part of the CEWS, they must continue to abide by collective agreement clauses, including wage provisions. Unless workers enter into an agreement to temporarily reduce their wages, employers must pay full wages as stipulated by the collective agreement and/or employment contract.

Q: Can the employer force employees to take vacation while on paid leave?

A: This depends on the collective agreement. If the CA requires vacation time to be mutually agreed upon, the employer must negotiate with the employee to take vacation time while they are on paid leave. However, if the collective agreement is silent on vacation scheduling or it allows the employer to determine vacation scheduling according to
operational requirements, the employer may be able to force vacation time. In most jurisdictions, this would require two weeks’ notice.

Q: If an employer is receiving the CEWS, are they allowed to stop paying pension contributions, health insurance premiums, or other benefit obligations defined in the collective agreement?

A: No. The CEWS does not permit the employer to suspend any part of the collective agreement, including benefit and pensions provisions. However, there may be circumstances where union members are willing to suspend such benefits temporarily. Such agreements must be negotiated between the local and the employer.

Q: Can the employer force an employee to return to work under the CEWS, even if they would make less than they receive through CERB?

A: If the employers plans to reduce wages, no. The employee must be paid in accordance with the collective agreement and/or employment contract.

If wages are not reduced, yes. In such a circumstance, a refusal to return to work could result in the termination of the employee. However, there are various COVID-19 related circumstances in which an employee could insist on a leave of absence and the employer could not reasonably refuse, e.g. child care needs, illness, self-isolation, etc.