COVID-19
FLATTEN THE CURVE

UNIFOR

COVID-19
FREQUENTLY ASKED QUESTIONS

Revised April 20, 2020

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INTRODUCTION

COVID-19 is a pandemic illness. Public health agencies are monitoring the outbreak of this illness and providing public health and infection control guidance. That guidance is evolving rapidly. In the meantime, many workplace issues are developing about COVID-19.

UNION MEETINGS AND OTHER GATHERINGS

Some meetings, educational and other events have already been cancelled by Unifor. Local unions should consider the interests of our members in light of the advice and directions provided by public health agencies in your province.

For the immediate future, Canada's public health agencies are recommending "social distancing" and reduced travel. In some provinces, public health agencies have issued directions that prohibit large gatherings. This means that many more gatherings will be cancelled.

If membership meetings must be held (for instance, a ratification meeting for a collective bargaining settlement), it cannot be business as usual. Membership meetings may have to be broken into smaller meetings with a reduced number of participants and in a larger space so that the recommended social distancing measures can be maintained. Be aware however that this alternative arrangement is not

without risk. Local union leaders and national union staff will then be exposed to numbers of people for a longer period of time.

It is advised to conduct risk assessments on any Unifor meetings or other gatherings. Risk-informed decision-making for mass gatherings during COVID-19 global outbreak (https://www.canada.ca/en/public-health/services/diseases/2019-novel-coronavirus-infection/health-professionals/mass-gatherings-risk-assesment.html)

Scheduled court, labour board or arbitration hearings

In some provinces, courts and tribunals have announced that some cases will be postponed or dealt with by phone or video conference. Some arbitrators have communicated their interest in taking pandemic-related steps to reduce risk. Arbitrators may be contacted for directions on adjournments or for assistance with making alternative hearing arrangements. Many will be pleased to cooperate in ways to reduce travel. If an adjournment is going to be requested, consent from the employer should first be requested.

If a meeting or hearing cannot be cancelled or adjourned, alternative meeting methods may be considered. This may include telephone or video conferencing.

Steps should be taken to preserve time limits for grievances and referrals to arbitration. This is particularly important in some jurisdictions where an arbitrator may have no power to relieve against missed time limits.

Collective bargaining and other meetings with employers

Consider whether scheduled meetings can be postponed to a later date. In some circumstances, a telephone or video meeting might be a suitable alternative.

If an in-person meeting is required, only individuals who are absolutely essential should attend. All participants should be told in advance to consider their own health and the health of others when deciding whether to attend if they are feeling ill. Attendees should also be encouraged to follow other public health recommendations regarding personal protective practices (hand hygiene, respiratory etiquette, maintaining recommended distance from others, and staying home if ill).

If meetings must be held, consider changing the venue to prevent crowding. In the case of an arbitration or mediation, if only one hearing or mediation room is booked, arrange additional break-out rooms, instead of having people meeting and congregating in congested hallways or common spaces.

Meetings of large numbers of persons may have to be broken up into several smaller meetings. Advise all those attending to take guidance from pubic health agencies and consider their own health and the health of others when deciding whether to attend if they are feeling ill.

If travel to your meeting or hearing location is required, consider whether travelling alone in a personal vehicle is an option rather than taking buses, trains, or planes.

DECLARATIONS OF EMERGENCY

What is an emergency declaration?

In Canada, laws in each jurisdiction empower governments to declare a state of emergency. The Canada Emergencies Act allows the federal government to declare a national emergency. These laws can be declared to apply when there is an imminent event that requires prompt coordination to protect the health, safety or welfare of people, or to limit damage to property or the environment.

Emergency orders

Provinces have declared the spread of COVID-19 to be a public or health emergency. A declaration of an emergency streamlines the legislative process, by giving extensive power to the government to make executive orders to contain the emergency.

How do emergency orders affect employees?

Emergency orders issued under provincial statues can affect employment. Measures taken pursuant to an order may cause businesses to close and lay off employees.

Prior to COVID-19, two provinces had existing job-protected leaves of absence that apply when a person cannot work because of a declared emergency. Section 50.1 of Ontario's Employment Standards Act contains a job- protected leave of absence in cases of a "declared emergency". Pursuant to this provision, employees who cannot work because of an emergency order are immediately eligible for an unpaid leave of absence for the duration of the emergency order. This applies as well where an emergency order creates a need for the employee to care for family members. It may apply for example, where a daycare is closed during a declared emergency. Ontario has expanded that leave of absence to now cover infectious diseases like COVID-19. In Nova Scotia, employees are entitled to the same kind of leave.

On March 17, 2020, Saskatchewan added a protected leave for public health emergencies, retroactive to March 6, 2020. Other provinces are likely to enact similar changes.

On March 23, 2020, British Columbia added a COVID-19-related leave of absence in section 52.12 of the Employment Standards Act.

For federally-regulated employees, there is now a new COVID-19 leave of absence in section 239.01 of the Canada Labour Code.

REFUSING UNSAFE WORK BECAUSE OF COVID-19

Do employees have the right to refuse work if concerned about exposure to COVID-19?

Workers in Canada have the right to a healthy and safe work environment. Health and safety legislation requires employers to take reasonable steps to protect the health and safety of their employees. This may include responding to new and potentially hazardous situations, such as the COVID-19 virus.

In every jurisdiction in Canada, workers have the right to refuse work if they honestly and reasonably believe their health and safety is in danger in their workplaces; if they communicate this belief to their supervisors; and if the seriousness of the perceived danger justifies the work refusal.

Whether a work refusal is justified will largely depend on the facts. The measures that an employer takes to ensure a healthy and safe work environment will be taken into consideration and weighed against the potential risks to workers.

Workers should be cautioned that Tribunals and Arbitration Boards have largely sided with employers when workers have refused work over contagious infection concerns in the workplace. In Hogue-Burzynski v. VIA Rail Canada [2006] (https://www.canada.ca/en/occupational-health-and-safety-tribunal-canada/programs/decisions/archived/2006/ohstc-2006-015.html), four workers refused to work out of concerns that a train had not been cleaned properly following an outbreak of Norwalk virus or a similar illness. The Canada Occupational Health and Safety Tribunal determined that the employer's efforts to sanitize the train, including disinfecting all hard surfaces and steam cleaning soft surfaces, were reasonably practicable to eliminate and control the risk of further illness.

The steps taken by your employer to limit the spread of COVID-19 will likely factor into whether a work refusal is considered reasonable. Such efforts might include:

- Installing hand sanitizer stations in high-traffic areas;
- Making hand sanitizer available in washrooms;
- Directing cleaning staff to sanitize high traffic surfaces and frequently-touched objects (door knobs, etc.);
- Reducing activities that require physical contact between workers and/or members of the public, if possible; and
- Recommending that employees wash their hands frequently; practice social distancing; and stay home from work if they exhibit symptoms of COVID-19.

The nature of your workplace may also factor into whether a work refusal is reasonable. In Hogue-Burzynski v. VIA Rail Canada [2006], the Health and Safety Officer who first investigated the work refusal determined the nature of the employee's work involved inherent risk to exposure to illness by virtue of the fact that they serviced large numbers of the public on a daily basis. If your workplace regularly requires you to provide services to members of the public, including those who may be ill, or employs a large number of workers at the workplace at the same time, it may be determined that exposure to viral infection is a risk inherent to the workplace.

Your risk of serious complications from COVID-19 may also be relevant to the reasonableness of a work refusal. Health officials have warned that older individuals, those with certain conditions, such as lung or heart disease or individuals with suppressed immune systems are at greater risk of becoming seriously ill from COVID-19. It is possible that individuals at greater risk will require heightened accommodation from employers.

What about health agency advice about large public gatherings?

Public health agencies in most provinces have advised or directed that large public gatherings should be cancelled. This does not necessarily mean that large workplaces must close. Employees should not assume that the government has given them permission to refuse work if their workplace contains a large number of employees or a large number of customers.

Public health agency directions to cancel large public gatherings may be relevant to the reasonableness of a belief that a workplace is unsafe because of the risk of COVID-19. As outlined above, when considering whether to refuse work, workers must weigh both the risks of transmission against the risks that are inherent to their work, and also the steps their employer has taken to reduce the risk of a COVID-19 outbreak in their workplaces.

What are the potential consequences of refusing to work over COVID-19 concerns?

Refusing to work in defiance of an employer direction to work is insubordination. An employer's response to insubordination might be discipline. If an employee is disciplined for refusing to work, and a Tribunal or Arbitrator determines that the refusal was reasonable, the discipline might be overturned. If the refusal is found to be unreasonable, the discipline may stand.

Does my employer have to provide me with safety equipment to protect against COVID-19?

Occupational health and safety laws require employers to take every precaution reasonable in the circumstances for the protection of the worker. In the context of the COVID-19 pandemic, reasonable precautions to prevent the transmission of the illness to workers may include providing workers with additional safety equipment. The kind of equipment that is appropriate will vary by occupation. It will depend on the danger to the individual worker in light of the current knowledge about how the virus is transmitted. Guidance about how to combat known dangers about COVID-19 can be obtained from the Public Health Agency of Canada (https://www.canada.ca/en/public-health/services/diseases/2019-novel-coronavirus-infection/health-professionals/public-health-measures-mitigate-covid-19.html) and provincial health agencies.

If I cannot refuse to work, what should I do to protect myself?

If you have concerns over the measures your employer is taking or failing to take in response to COVID-19, you should raise them with your supervisor, union representatives or health and safety representatives. Health and Safety Committees should work with employers to develop a plan for minimizing the risk of a COVID-19 outbreak in your workplace.

DISCLOSURE OF PANDEMIC ILLNESS

Do employees have to tell their employer that they have a COVID-19 illness, or that they may have been exposed to the virus?

Employer policies should be designed to encourage self-disclosure by allowing employees to continue working from home where possible, and protecting their wages and benefits when they cannot continue working.

Mandatory disclosure of pandemic illness will likely be reasonable

It is likely reasonable for an employer to require employees to self-disclose a pandemic illness or even the possible exposure to the source of that illness. Occupational health and safety laws generally require employers to protect workers from health and safety hazards on the job. This is a basis for the employer to require disclosure. Employers may have additional responsibilities in a pandemic. Public health authorities may require employers to take specific measures to address public health emergencies.

Policies requiring employee disclosure must not offend human rights laws. For example, they cannot require some employees to disclose based on race or national origin. Any required reporting must be reasonable and bona fide, taking into account the work actually performed. An employer might reasonably, for instance, ask any individuals returning from travel to high-risk countries, to self-disclose and self-isolate.

Where an employee self-identifies as having been exposed to a pandemic illness, an employer has a continuing duty to accommodate that worker, up to the point of undue hardship. Employers must consider such things as whether a worker can continue to work, possibly in a different way. Working from home is possible for some employees.

What if an employee does not disclose a pandemic illness, or an exposure to a source of infection?

Where an employee is infected, or is aware they may have been exposed and there is a risk of exposure of an infectious disease to others, and an employee fails to disclose that risk, the employee is likely to be in violation of employer polices where such polices exist. It may also be a violation of occupational health and safety laws that require employees to report workplace hazards. Even if there is not a policy, the employee could be disciplined.

Can the employer stop an employee from coming to work?

In appropriate cases, even where there has been no disclosure of a possible COVID-19 risk, an employer may have a limited right to hold an employee out of work if the employee is not fit for duty. If an employer has reasonable concerns about the safety of other employees or the public, it can ask the employee to provide medical or other evidence that they are fit to work. But if the request is not

reasonable, and the employee remains off work, the employer could be required to pay the lost wages of the employee.

If an employer is following the direction of a health agency in requiring proof of fitness to work, this requirement would likely would not be found to be unreasonable. For example, the employer may know of an employee's recent travel history, or contacts with infected persons.

TEMPERATURE SCREENINGS

Can employers require employees to submit to a temperature screening before coming to work?

Some employers have started to use temperature checks to exclude from their workplace any employee who might carry the COVID-19 virus. These measures might provide some comfort to both employers and employees but probably do not reliably screen for possible COVID-19 risk.

Occupational health and safety laws require employers to take reasonable precautions to protect the health and safety of workers. In the context of the COVID-19 pandemic, this means that employers have a duty to take steps to prevent the spread of COVID-19 in their workplaces. This duty could support an employer's efforts to identify who has a fever because that is one of the symptoms of COVID-19. However, temperature screening does not appear to be a safety method recommended by the Public Health Agency of Canada, which has published guidelines for employers. See the publication Risk-informed decision-making guidelines for workplaces and businesses during the COVID-19 pandemic (https://www.canada.ca/en/public-health/services/diseases/2019-novel-coronavirus-infection/guidance-documents/risk-informed-decision-making-workplaces-businesses-covid-19-pandemic.html)

In a unionized workplace, employers can make reasonable policies. If there is a dispute in a unionized workplace about this kind of policy, an arbitrator would consider a number of factors when assessing reasonableness. The usefulness and accuracy of the test would be a relevant factor. People may be infected by COVID-19 and not have a fever or other detectable symptoms. At the same time, other employees may have a fever unrelated to COVID-19. They could be sent home out of concern that they might spread an illness that they do not have. If a temperature check is not an effective method of screening for COVID-19, an arbitrator might find that the policy is unreasonable. Other factors would also be relevant including:

- The nature of the work, particularly for health care workers and others who come into contact with individuals especially vulnerable to COVID-19;
- The number of workers in the workplace;
- The ability of workers to maintain the physical distancing recommended by public health officials in their work environment;
- The spread of COVID-19 in the local community; and

- The impact of a significant number of absentee workers on the employer's operations and the services it provides.

Can an employee refuse to submit to a temperature screening?

Refusing a proper employer direction is insubordination. If a worker believes that an employer direction violates the collective agreement or legislation, the common advice is to "work now, grieve later."

A number of exceptions to the "work now, grieve later" rule exist. One exception is if a direction violates the employee's privacy interests. In the case of temperature checks, this may depend on the method used. An infrared thermometer or thermal camera would be safer and much less invasive than some other methods that require bodily contact.

Another exception is when an employer direction might endanger the health and safety of workers. A temperature screening policy that uses invasive methods such as mouth thermometers might increase the risk of spreading the virus in the workplace, particularly if administered by unskilled persons. Workers could be justified in refusing to submit to a temperature screening in such circumstances.

WHAT HAPPENS WHEN EMPLOYEES ARE ABSENT FROM WORK BECAUSE OF COVID-19 ILLNESS OR EXPOSURE?

Public health agencies have issued guidelines about social distancing. This includes when we should avoid crowds, isolate from others, and monitor our own health. See for example PHAC, Community-based measures to mitigate the spread of coronavirus disease (COVID-19) in Canada (https://www.canada.ca/en/public-health/services/diseases/2019-novel-coronavirus-infection/health-professionals/public-health-measures-mitigate-covid-19.html).

These guidelines describe a range of protective measures that individuals should take, including self-monitoring, and self-isolation.

When is self-isolation required?

Public health guidelines have changed rapidly during recent weeks. The Public Health Agency of Canada is currently **recommending** a 14 day period of self-isolation if:

- you have a suspected or confirmed cases of COVID-19;
- you have returned from travel outside of Canada before March 26, 2020; and/or
- you have had close contact with someone who has a probable or confirmed diagnosis of COVID-19

As of March 26, 2020, the Public Health Agency of Canada is requiring travelers returning from outside of Canada to self-isolate for a 14 day period, pursuant to the federal Quarantine Act.

Some provinces have issued public health orders to require 14 days of self-isolation for those who enter that province.

The Public Health Agency of Canada currently recommends a 14 day period of self-monitoring where you have no symptoms of COVID-19 (e.g. shortness of breath, a cough and/or fever) and:

- you believe you may have been exposed to a person with COVID-19; and/or
- you have had close contact with older adults or medically vulnerable people

Some provinces are exempting health-care workers from the recommendation to self-isolate for 14 days after international travel, and are instead asking those individuals to return to work but to self-monitor for that period. Health care workers who have returned from international travel should consult with their local public health authority for specific guidance.

For more information on when self-isolation and self-monitoring are recommended, see: https://www.canada.ca/en/public-health/services/publications/diseases-conditions/self-monitoring-self-isolation-isolation-for-covid-19.html

People should also continue to monitor public health guidelines in their own province for guidance about when self-isolation is recommended. Note that the guidance for employees of the same employer may vary depending on the province in which they work. A VIA-Rail employee in Montreal may receive different public health guidance than a VIA Rail employee in Halifax.

What is self-isolation?

Employees who have been asked to self isolate should take the following steps:

- Stay at home;
- Do not go into public places;
- Do not take public transportation, taxis or ride-sharing programs;
- Keep a distance of at least two meters between yourself and other people
- Wear a mask if you leave your house or are within 2 meters of other people;
- Practice good hand hygiene;
- Limit the number and duration of visitors to your home;
- Cover your coughs and sneezes;

For more information about how to isolate at home when you have COVID-19, see: https://www.canada.ca/en/public-health/services/publications/diseases-conditions/covid-19-how-to-isolate-at-home.html

Employer policies about social distancing

Employer policies about COVID-19 are likely to require or encourage employees to follow public health guidelines about hygiene and social distancing, including self-monitoring and self-isolation.

Employer policies may set out additional circumstances in which employees are asked to self-isolate. The reasonableness of these policies will likely depend on whether they are consistent with health agency guidelines. In all but exceptional cases, employees should follow the principle of "work now, grieve later," which requires employees to comply with an employer policy now, and then seek redress through a grievance.

What steps should an employee take who decides to self-isolate?

Employees have a general obligation to notify employers when they are unable to attend work. This principle applies where an employee is in self-isolation because of COVID-19. Employees should report absences as soon as they become aware that they will need to be absent from work. Employees should advise their employers of the general reason for their absence from work and the date when they expect to return to work. This kind of notification will trigger an entitlement to a COVID-19 Leave of Absence in federally-regulated workplaces. Some other provinces have enacted new job protections for employees who need to self-isolate according to directions or advice of health authorities.

Collective agreements and/or employer policies often set out the circumstances in which an employee is required to provide documentation, such as a medical note, to support an absence from work. Wherever possible, employees who are in self-isolation should seek clarification from their employers about whether a medical note will be required for an absence related to COVID-19. Public health agencies advise that individuals should not attend at a doctor's office or hospital with mere suspicions of COVID-19. This may mean that employees absent due to COVID-19 may not have any medical substantiation. A pandemic illness strains the health care system such that employer demands for medical notes in every case ought to be relaxed. Unifor and other trade unions oppose employer requirements to provide doctor's notes for all absences, for exactly this reason.

The Government of Canada has decided to waive medical documentation requirements for Employment Insurance in COVID-19 exposure cases. Some provincial governments have publicly discouraged employers from seeking medical notes and some have passed new legislation to allow employees to take COVID-19 related leaves of absence from employment without providing medical notes.

Will employees who self-isolate be paid during their absence from work?

Whether an employee who is in self-isolation is entitled to be paid by their employer is uncertain and will depend on the circumstances. Employees who are self-isolating because they are experiencing symptoms will likely have access to any applicable sick leave benefits. In cases where an employee is not experiencing symptoms but is self-isolating, some collective agreements may provide benefits to employees in quarantine and/or setting out employment leaves (with or without pay) that the employee may access. Many collective agreements may not have specific provisions dealing with this situation, but employees may have access to other accrued benefits, such as banked vacation or overtime. In addition, certain jurisdictions may provide statutory leaves of employment (with or without pay) that an employee in self-isolation may be entitled to access.

When this issue arises, the following circumstances may be relevant to determining whether an employee is entitled to be paid during their self-isolation:

- The reasons why the employee is in self-isolation (for example, self-isolation following voluntary international travel may be treated differently than self-isolation after local contact with a probable or confirmed case of COVID-19);
- Whether the employee was directed to self-isolate by public health authorities, by the employer, or whether the employee voluntarily decided to self-isolate;
- The nature of the employee's work;
- The nature of the employer's workplace; and
- The content of relevant public health advisories at the time the employee is in self-isolation.

Federal and Provincial governments have announced new income-replacement programs and/or changes to existing programs (such as Employment Insurance). In particular, the Canada Emergency Response Benefit (CERB) will provide $500 per week for workers who cease working because of COVID-19, including because they must self-isolate. For information on current EI and CERB benefits, see the answer to "Employment Insurance Issues" below. Unifor members should continue to monitor government announcements about income replacement programs.

What substantiation can employers require from employees after a COVID-19 absence?

Depending on the circumstances, it may be reasonable for an employer to require medical documentation at the end of an absence, to satisfy the employer's obligation to ensure that the employee can safely return to work. The current pandemic is an exceptional factor that may change those usual rules. When employees seek a return to work after a COVID-19-related absence, employers will be concerned about the safety of others. However, these exceptional circumstances may also make it unreasonable to require employees to provide medical substantiation in every case. The employee may not have seen a doctor, in accordance with public health guidelines. These situations will have to be dealt with on a case-by case basis.

Current guidance from health authorities is that if no symptoms are evident after 14 days of an exposure risk, employees may return to work. We can expect employers to require medical substantiation where an employee has had a diagnosed COVID-19 illness or a confirmed exposure risk and is seeking to return to work. Employees who have had a confirmed COVID-19 illness will have been monitored throughout the illness by a public health agency. They will likely be isolated until such time as the public health agency confirms that the individual is no longer infectious. Currently, public health agencies make that determination by relying on two consecutive negative tests, at least 24 hours apart.

Can employees work from home when they are in self-isolation?

Many employers and employees are arranging ways for employees to work at home where that is possible, regardless of any possible exposure. This is an example of the "social distancing" recommended by public health agencies.

Employees who are in self-isolation but who are not currently experiencing symptoms may be required by their employer to work from home where possible. In those cases the employer would be required to maintain the employee's pay and benefits. The Employer should not require an employee who is in self-isolation due to an identified risk to work from home in such a way that would require them to break their self-isolation or expose others to COVID-19.

Employees who are absent from work because they are unwell, including because of a probable or confirmed case of COVID-19, will be considered absent from work because of illness and in general should not be required to work while they are unwell. The employee's entitlement to pay and benefits would then depend on the available sick leave or wage replacement benefits.

EMPLOYER POLICIES ON PERSONAL TRAVEL DURING PANDEMIC

What can employers require of employees who have travelled?

Personal travel warnings or business travel restrictions should be based on current public health information and government travel health notices. The list of countries with active travel health notices is established by the Government of Canada and posted online (https://www.canada.ca/en/public-health/services/diseases/2019-novel-coronavirus-infection/latest-travel-health-advice.html).

In most cases, an employer cannot prohibit an employee from personal travel to a country or region that is subject to a travel health notice. However, there may be exceptional cases in which an employer's business interests would be sufficiently affected by an employee's possible absence that the employer can require the employee to not travel. An employee may play a critical role so that an extended absence would harm the employer's operations.

However, it will be appropriate for employers to warn employees against personal travel to any country or region that is subject to a Level 3 or Level 4 government travel health notice. Level 3 warns Canadians to avoid non-essential travel to those countries or regions. Level 4 warns Canadians to avoid all travel to those countries or regions. Currently, the government of Canada has established a global travel advisory, which means that everyone is advised to avoid all non-essential travel outside of Canada until further notice. Essentially, all countries outside of Canada (including the US) are at level 3 status.

It is likely reasonable in the circumstances of the COVID-19 pandemic for employers to require employees to provide their employer with advance notice if they intend to travel to any country or region that is subject to a travel health notice so that the employer may assess any possible business-related issues.

Be aware that to the extent your employer offers private extended health insurance, any travel insurance included in that benefit package may have been changed because of COVID-19.

What medical substantiation might be required upon return from travel to a Level 3 or 4 country or region?

It is also reasonable for employers to ask employees to undergo appropriate health screening after travel during a pandemic. This may include self-monitoring for symptoms in accordance with public health agency guidelines. It could include requirements to remain away from work for a period of time recommended by health professionals for individuals who have been exposed (at least 14 days). This would be the case even if the employee is not experiencing symptoms of illness upon their return.

All individuals should understand the risk of travel outside of Canada in the current circumstances.

Can an employer restrict other personal travel?

It will not be reasonable for an employer to expect employees to provide advance notice of personal travel to a country or region that is not subject to a travel health notice. However, the government's travel advisory website does advise individuals to self-monitor for 14 days (for fever, cough or difficulty breathing) following any trip outside of Canada and in some jurisdictions like Quebec, self-isolation after an out-of-country trip is required. In those cases, an employee who chooses to travel knowing that as a result they will have to self-isolate after their return, and therefore miss work, may expose themselves to discipline.

At the same time, employees may have pressing family obligations that compel them to travel even against the advice of public health agencies.

Under current conditions caused by COVID-19, everyone should monitor the active travel health notices on the website of the Public Health Agency of Canada and advise their employer before their return to work after any travel outside of Canada.

INCOME REPLACEMENT DURING COVID-19

Can I apply for Employment Insurance sickness benefit if I have to self-isolate or quarantine?

Yes, you can apply for benefits if you have to self-isolate or quarantine due to COVID-19. The Employment Insurance (EI) sickness benefit provides up to 55% of a worker's pre-illness income for up to 15 weeks to a maximum of $573 per week, for workers who have worked at least 600 insured hours in the past 52 weeks.

There is usually a one-week waiting period for EI sick benefits, but the Government has waived this waiting period for those who are in quarantine or self-isolation due to COVID-19. This means that a worker who qualifies for EI sickness benefits is eligible for EI sickness benefits for both weeks of a two-week quarantine.

In order to be eligible for EI sickness benefits for the virus, you must have had a quarantine imposed upon you by law or by a public health official or be under self-isolation. The Employment Insurance COVID-19 information line is currently advising that if you have been asked by your employer, a doctor or a nurse to quarantine or self-isolate, or if you live in the same household as an individual who has been asked to self-isolate or quarantine by their employer, doctor, nurse, or under legislation, you are also eligible for EI sickness benefits immediately.

The Government has announced that workers can instead apply for the recently announced Canada Emergency Response Benefit (CERB). This is a $2,000 monthly benefit for workers who have ceased working for many reasons related to COVID-19. See below for more information about the CERB.

Do I need a medical note to access EI sickness benefits for self-isolation?

Ordinarily, a medical certificate is required in order to collect EI sick benefits. This requirement has been waived until September 30, 2020 in all cases. The Government has amended the EI Act so that employees taking medical leaves, compassionate leaves, or critical illness leaves will not be required to provide a medical note.

What should I do if I need to access EI sickness benefits for COVID-19 illness?

You can apply for the EI Emergency Response Benefit online here: https://www.canada.ca/en/services/benefits/ei/ei-sickness/apply.html.

Are there other income-support programs offered by the Government?

The Government has announced enhancements to its Employment Insurance Work-Sharing program. The program is designed to prevent temporary layoffs, by providing income support to workers where there has been a temporary reduction in labour needs beyond the control of the employer. More enhancements may be announced, but the Government has said it will waive the waiting period for employers to apply for Work-Sharing. It will also loosen rules so that new businesses may apply after only one year of operation. The maximum eligible timeframe employers and workers can access the program will be increased from 38 weeks to 76.

The Government has also announced the Canada Emergency Response Benefit (CERB) for any worker that is employed or self-employed and has lost 14 consecutive days of income as a result of COVID-19. Note that the Government announced on April 15 that anyone who did not earn more than $1,000 for a period of at least 14 consecutive days within the initial four week period of their claim or $1,000 in total for each subsequent claim, will also be eligible for the CERB.

Canada Emergency Response Benefit

On March 25, 2020, the Government of Canada announced the Canada Emergency Response Benefit ("CERB"), an income support benefit for workers who have ceased working for reasons related to COVID-19.

The CERB will pay a worker $2,000 per four-week period, for up to 16 weeks. It is a flat rate benefit, and is available to workers whether or not they are eligible for Employment Insurance.

CERB Eligibility

The CERB will pay for a benefit to workers who are at least 15 years of age, Canadian residents, and earned at least $5,000 in income from employment, self-employment or pregnancy/parental leave EI benefits in the 12 months before their application, or in 2019.

In order to apply, the worker must have stopped working completely for reasons related to COVID-19 for at least 14 consecutive days within a 4-week period. This can be because the employee has:

- lost their job
- been laid off
- been sick, quarantined, or caring for someone with COVID-19
- been required to care for children due to school and daycare closures.

During the 14-day period, the worker must not have earned other employment income, received Employment insurance benefits, or received any parental or pregnancy EI benefits.

The Government announced modified eligibility criteria on April 15, 2020. They announced that you may also access the CERB if you did not earn more than $1,000 for a period of at least 14 consecutive days within the initial four week period of your claim or $1,000 in total for each subsequent claim. This suggests the Government will allow workers who earn up to $1,000 a month (or up to $1,000 in the 14 day-period, for first application) to access the CERB, contrary to previous announcements.

A worker who quits their employment voluntarily will not be eligible for benefits.

It is currently unclear how the CERB will apply to individuals who are receiving benefits under a Supplementary Unemployment Benefits (SUB) Plan.

Additionally, the Government announced on April 15 that you can also apply for the CERB if:

- You are eligible for EI regular or sickness benefits; or
- You are a former EI claimant who used up your entitlement to your EI regular benefits between December 29, 2019 and October 3, 2020.

Applying for the CERB

Workers who have filed for Employment Insurance on or after March 15, and currently have an unprocessed claim, will automatically migrate to the CERB. Receiving CERB payments does not constitute an EI claim.

You can apply for the CERB here:
https://www.canada.ca/en/revenue-agency/services/benefits/apply-for-cerb-with-cra.html.

The Government expects applications will take 10 days to process. Applications will be accepted for the period between March 15 and October 3, 2020, and must be submitted before December 2, 2020.

Workers who have filed for Employment Insurance on or after March 15, and currently have an unprocessed EI claim do not need to do anything else at this point.

CAN I APPLY FOR WORKER'S COMPENSATION IF I CONTRACTED COVID-19 AT WORK?

Some employees will contract COVID-19 in the course of their work.

In order to be eligible for workers compensation insurance benefits for COVID-19, a worker will have to prove that the COVID-19 was contracted in the course of the employee's work, rather than through other exposure.

In the past, Worker's Compensation Boards in Ontario and Quebec have provided benefits to individuals who have contracted either SARS or H1N1 at work. In one case, a worker suffered permanent side effects and received replacement wages well beyond their recovery from SARS. The employee was unable to return to their pre-illness job due to serious, permanent side effects from the illness.

Rules in each province are different. Entitlement may be more obvious if the employee's work inherently exposes them to a risk of infection significantly greater than the general public. Entitlement may be more obvious as well if the communicable disease is present in the employee's workplace.

Each province's Worker's Compensation Board will identify specific criteria for making a claim for work-related COVID-19 illness. Each Board will provide guidance about how a COVID-19 diagnosis is required to be proved.

Worker's Compensation benefits will not be available for employees who are not ill but have been laid off or required to self-isolate or quarantine because of the COVID-19 pandemic.

How do I apply for compensation for COVID-19?

If you have contracted COVID-19 in your workplace, you should report it immediately to your employer, and to the Worker's Compensation Board in your province. Under normal circumstances you would also be required to report the injury to your doctor. However, individuals are being strongly advised to call public health authorities rather than go to a doctor's office or hospital with COVID-19. The employer is generally required to report a workplace illness, including COVID-19.