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## BACKGROUND PAPER



# The Employment Insurance Program in Canada: How It Works

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*The Employment Insurance Program in Canada: How It Works*  
(Background Paper)

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# THE EMPLOYMENT INSURANCE PROGRAM IN CANADA: HOW IT WORKS

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## 1 INTRODUCTION

The Employment Insurance (EI) program, formerly the Unemployment Insurance program, provides benefits in the event of job loss, illness, the birth of a child, a family member's risk of death or a child's critical illness. It also offers employment programs, known as employment benefits and support measures. The program's financing mechanism has been amended over the years, and some changes have been in effect for only a short time. During the 41<sup>st</sup> Parliament, one government bill pertaining to the program has been adopted, with related budget measures, and one private member's bill (C-316) has received Royal Assent. The EI program, then, is complex and has undergone fairly frequent changes.

The program's parameters are set out in the *Employment Insurance Act* (EIA),<sup>1</sup> the *Employment Insurance Regulations* (EIR),<sup>2</sup> the *Employment Insurance (Fishing) Regulations* (EIR (Fishing)),<sup>3</sup> and the *Insurable Earnings and Collection of Premiums Regulations*.<sup>4</sup>

The Canada Employment Insurance Commission (CEIC) is responsible for the application of the EIA and associated regulations. The commission has four members: the deputy minister and associate deputy minister of Human Resources and Skills Development Canada (HRSDC) and two commissioners, one of whom represents the interests of workers and the other the interests of employers. HRSDC employees are authorized to act on behalf of the CEIC.<sup>5</sup>

The purpose of this paper is to provide an overview of the benefits that are available and the program's financing mechanism. Readers interested in additional information may consult the *Digest of Benefit Entitlement Principles*,<sup>6</sup> which provides a more detailed description of the program's various regulations. The *Index of Jurisprudence*<sup>7</sup> contains decisions on EI cases, specifically, 15 Supreme Court of Canada decisions, 35 Federal Court decisions, 1,200 Federal Court of Appeal decisions and 7,000 Umpire decisions.

The next section covers unemployment and employment benefits, and the last section addresses program financing. The appendix contains a table showing the maximum number of weeks of regular benefits based on hours of insurable employment and regional unemployment rates.

## 2 UNEMPLOYMENT AND EMPLOYMENT BENEFITS

Unemployment and employment benefits are defined in parts I and II of the EIA. Definitions of insurable employment, maximum yearly insurable earnings and benefit rate apply to all employment insurance benefits, meaning regular benefits (in the event of loss of employment) and special benefits (sickness, maternity, parental and compassionate care).

## 2.1 INSURABLE EMPLOYMENT, INSURABLE EARNINGS AND BENEFIT RATES

### 2.1.1 INSURABLE EMPLOYMENT

Benefits are paid, under certain conditions, to claimants whose employment is insurable.<sup>8</sup> Employment is insurable when it is performed for one or more employers, including the government and the Canadian Forces. Also, since 2010, special benefits have been available to self-employed workers who register in the program.

Some employment is not insurable; some, for example, are casual employment in agriculture, entertainment or rescue operations, employment as a member of a religious order where the person has taken a vow of poverty, and under certain conditions, employment outside Canada.<sup>9</sup>

### 2.1.2 MAXIMUM YEARLY INSURABLE EARNINGS

Benefits are paid based on yearly insurable earnings, up to a maximum annual amount. The 1996 EI reform reduced this maximum from \$42,380 in 1995 to \$39,000 in 1996, and froze it for five years.<sup>10</sup> In 2001, a new indexing formula was introduced.<sup>11</sup> However, this formula did not take effect until average yearly earnings in Canada surpassed \$39,000, which occurred in 2007. Table 1 shows this maximum in recent years.

**Table 1 – Maximum Yearly Insurable Earnings, 2005–2013**

Year	Maximum
2005	\$39,000
2006	\$39,000
2007	\$40,000
2008	\$41,100
2009	\$42,300
2010	\$43,200
2011	\$44,200
2012	\$45,900
2013	\$47,400

Source: Human Resources and Skills Development Canada, [2013 Maximum Insurable Earnings](#).

### 2.1.3 BENEFIT RATES

Employment insurance benefits are taxable. The weekly benefit rate is 55% of the claimant's average weekly insurable earnings. Weekly benefits are calculated by dividing yearly insurable earnings by 52 and multiplying by 55%. The maximum weekly benefit was \$501 in 2013.

Definitions of the following two periods are provided to help the reader understand how the claimant's average weekly insurable earnings are calculated:<sup>12</sup>

- The *benefit period* is the period during which benefits may be paid to claimants who qualify to receive them. As a general rule, this is a 52-week period. This does not mean that benefits will be paid in each of the 52 weeks, but rather that the benefits for which the claimant qualifies must be paid during this period.

- The *qualifying period* is, in most cases, the 52-week period preceding the start of the *benefit period*. During the *qualifying period*, the claimant must have worked a certain number of hours in insurable employment to qualify to receive benefits. If another *benefit period* started during the 52 previous weeks, the *qualifying period* is shorter and begins at the start of the last *benefit period*.

A new calculation method came into effect on 7 April 2013. Benefits are calculated based on the 14 to 22 weeks (depending on the regional unemployment rate), consecutive or not, during which employment earnings were highest within the *qualifying period*. The earnings from these 14 to 22 weeks are added together and divided by the relevant divisor (14 to 22). This divisor corresponds to the qualifying requirements expressed in hours, converted into weeks, based on a 35-hour work week, plus two weeks.

For example, if the regional rate of unemployment is below 6%, claimants need to have accumulated 700 hours of insurable employment to qualify for benefits. The divisor in this case, then, would be 22 (i.e.,  $700/35 + 2$ ). This means that the higher the regional unemployment rate, the fewer the weeks that enter into the calculation. When fewer lower-earning weeks are taken into account, benefits tend to increase. This offsets the fact that regions with higher unemployment rates often have lower average wage levels.

The family supplement is added as a benefit top-up for families who receive the Child Tax Benefit and have a net family income of \$25,921 or less. The amount of the supplement is based on net family income and the number of children under the age of 18 and under the age of seven.<sup>13</sup> For example, a family with three children under the age of seven and income under \$20,921 receives a weekly supplement of \$98.55. If both parents are receiving EI benefits, only one qualifies to receive the supplement. The supplement cannot exceed 25% of weekly insurable earnings, meaning that the maximum benefit rate can reach 80% of weekly insurable earnings but cannot exceed \$501, the maximum weekly benefit. Supplement amounts and qualifying income thresholds are not indexed to average salary variations or the price index. In 2011–2012, 5.4% of all regular, special and fishing benefits paid included a supplement, and the average weekly supplement paid was \$43.<sup>14</sup>

## 2.2 REGULAR BENEFITS

### 2.2.1 QUALIFYING CONDITIONS

An individual in insurable employment qualifies to receive regular benefits under certain conditions if a job loss or contract termination has resulted in an interruption in earnings for a minimum of seven consecutive days.

Claimants must have worked a certain number of hours in insurable employment during their *qualifying period* (in most cases, the 52-week period immediately before the start of a *benefit period*). The number of hours required is based on the claimant's status (see the next section).

The *qualifying period* may be extended by the number of weeks during this period in which the claimant was unable to work owing to illness or pregnancy, was in receipt of provincial employment or sickness benefits, or was unable to establish an interruption of earnings due to the receipt of separation pay from an employer. The maximum extension is 52 weeks, meaning that a *qualifying period* can last a maximum of 104 weeks.<sup>15</sup>

Claimants whose employment is terminated because of misconduct or who leave their employment voluntarily<sup>16</sup> do not qualify for benefits unless they can show they had just cause for leaving, for example, sexual harassment, employer practices that are contrary to law or dangerous working conditions.<sup>17</sup> Claimants who are unemployed because of a labour dispute are not entitled to receive benefits for the duration of the dispute.<sup>18</sup> Insured persons are not entitled to receive benefits if they are receiving unemployment benefits from the United States (and vice versa), under an agreement between the two countries.<sup>19</sup>

Finally, claimants must be capable of and available for work unless they are engaged in jury service or are sick or injured, in which case they could qualify for sickness benefits. Claimants are not entitled to receive benefits while incarcerated or out of Canada, with a few exceptions.<sup>20</sup> Full-time students are usually deemed not available, although some part-time students may qualify for benefits.<sup>21</sup> Most of these requirements are assessed on the reports that claimants must submit every two weeks.

Claimants must also make reasonable and customary efforts to obtain suitable employment. Since 6 January 2013, reasonable and customary efforts have been defined by regulation and include attending interviews, networking and preparing a resumé.<sup>22</sup>

The type of employment deemed suitable and the offered earnings must meet criteria that vary with claimants' past use of the EI program:<sup>23</sup>

- For claimants who have used EI more frequently – claimants who have had at least three *benefit periods* and have received regular EI benefits for at least 60 weeks over the five years preceding a new EI claim – suitable employment means:
  - for the first six weeks of the *benefit period*, any occupation similar to that previously worked and earnings of at least 80% of earnings in the previous occupation; and
  - after six weeks, any occupation in which the claimant is qualified to work, which includes one in which the claimant could become qualified to work through on-the-job training, and earnings of at least 70% of earnings in the previous occupation.



- Conversely, for claimants who have received regular EI benefits for less than 36 weeks over the past five years and paid at least 30% of the maximum annual employee's premium in seven of the past 10 years, suitable employment means:
  - for the first 18 weeks of the *benefit period*, the same occupation previously worked (and not simply a similar occupation) and earnings of at least 90% of earnings in the previous occupation; and
  - after 18 weeks, any occupation similar to that previously worked and earnings of at least 80% of earnings in the previous occupation.
- For claimants who do not fit into either of the first two categories, suitable employment means:
  - for the first six weeks of the *benefit period*, the same occupation previously worked and earnings of at least 90% of earnings in the previous occupation;
  - between seven and 18 weeks, any occupation similar to that previously worked and earnings of at least 80% of earnings in the previous occupation; and
  - after 18 weeks, any occupation in which the claimant is qualified to work, which includes one in which the claimant could become qualified to work through on-the-job training, and earnings of at least 70% of earnings in the previous occupation.

#### 2.2.1.1 PERSONS WHO ARE NEW ENTRANTS OR RE-ENTRANTS TO THE LABOUR FORCE

To qualify for benefits, persons who are new entrants or re-entrants to the labour force must have accumulated at least 910 hours of insurable employment during their *qualifying period*.<sup>24</sup>

Insured persons are considered new entrants or re-entrants to the labour force if, in the 52 weeks before their *qualifying period*, they accumulated fewer than 490 hours dedicated to any of the following three elements or to any combination of them:

- insurable employment;
- time when benefits were paid or payable to them (calculated on the basis of 35 hours for each week of benefits);
- time related to employment in the labour force.<sup>25</sup>

Persons who have received maternity or parental benefits in the two to five years preceding the start of the *qualifying period* are not considered new entrants or re-entrants to the labour force.<sup>26</sup>

#### 2.2.1.2 ALL OTHER PERSONS

Persons other than those who are new entrants or re-entrants to the labour force must have accumulated 420 to 700 hours of insurable employment during the *qualifying period*, based on the rate of unemployment in their economic region of residence. There are 58 economic regions in Canada, and in July 2013 their unemployment rates ranged from 3.7% to 25%.<sup>27</sup> At least once every five years, the

Commission is required to review the boundaries of the regions to determine whether changes to the boundaries are appropriate.<sup>28</sup> Claimants must accumulate 700 hours in regions where the rate is 6% or less and 665 hours where the unemployment rate is more than 6% but not more than 7%; the number of hours required is decreased by 35 hours per additional percentage point in the unemployment rate, to a minimum of 420 when the unemployment rate is over 13%.<sup>29</sup>

### 2.2.1.3 PENALTIES FOR VIOLATIONS

The number of insured hours required to receive benefits increases by 25%, 50%, 75% or 100% respectively if the insured person was guilty of a minor, serious, very serious or subsequent violation of the EIA during the five years preceding the claim for benefits. For persons who are new entrants or re-entrants to the labour force who commit a violation, the percentage increase in the number of required hours is almost the same.<sup>30</sup> The seriousness of the violation is based on its financial value: it is considered minor if the value is under \$1,000, serious if valued at \$1,000 to \$5,000 and very serious if valued at over \$5,000. The violation is subsequent if it was committed within five years of a previous violation. Finally, a violation does not affect the number of hours required for more than two claims if the person qualified for benefits in each of those two claims.

### 2.2.2 BENEFIT PERIOD

The employer must provide an insured person with a Record of Employment (ROE) or submit the ROE electronically to Service Canada within five days of the termination of employment.<sup>31</sup> The person has four weeks from the end of employment to submit a claim, and failure to do so could result in the *benefit period* being shortened. If a claimant submits the claim after the first day on which he or she meets the qualifying conditions, the claim may be considered as having been submitted on that first day if the claimant can show good cause for the delay.

The *benefit period* begins on the Sunday of the week in which the interruption of earnings occurs or on the Sunday of the week in which the claim for benefits is made, whichever is later. In most cases, the *benefit period* is a maximum of 52 weeks; it ends when the person is no longer unemployed, has been paid the maximum number of weeks of benefits or asks to have the *benefit period* terminated. It can be extended by 52 weeks, for a total of 104 weeks, on the same grounds as for an extension in the *qualifying period*, as well as military claimants who were unable to claim parental leave while serving outside Canada.<sup>32</sup>

The maximum number of weeks in which a claimant can receive benefits during the *benefit period* for each week of unemployment varies based on the regional unemployment rate and the number of hours of insurable employment, i.e., from 14 to 45 weeks. The lower the regional unemployment rate, the lower the maximum number of weeks of benefits. The appendix shows the maximum number of weeks of benefits in detail.

Finally, there is a two-week waiting period at the start of a *benefit period*, during which no benefits are paid. This does not affect the maximum number of weeks of benefits described above, but simply the date on which the first payment is made.

### 2.2.3 DEDUCTIONS

All earnings paid by the employer and received during the *benefit period* are deducted from benefit payments.<sup>33</sup> Payments for leave and separation pay may simply defer the start of benefit payments, rather than reduce them.

Most pension benefits are considered earnings, including income from the Canada Pension Plan or the Quebec Pension Plan (excluding disability or survivor benefits). There are some exceptions, such as income from a Registered Retirement Savings Plan (RRSP) or a Registered Retirement Savings Fund (RRSF). If individuals requalify for EI benefits after the date on which they begin to receive their pension, that pension does not constitute earnings.<sup>34</sup>

Deductions from EI benefits vary depending on whether the earnings were received during the waiting period or in subsequent weeks. All earnings received during the waiting period are deducted from EI benefits. Days for which the claimant is not entitled to benefits during this period (for example, if the claimant is not available for work) are also deducted at a rate of one-fifth of the weekly benefit rate per day of disqualification. Deductions for earnings or disqualification during the waiting period are taken during the first three weeks of benefits only, after which any remaining deductions are set aside.

As part of a pilot project in effect across Canada until 1 August 2015, claimants can select one of two methods of calculating earnings permitted after the waiting period. This choice is irrevocable during the *benefit period* in which it is made and does not apply to benefits for the self-employed.

The first method allows individuals receiving regular, parental, fishing or compassionate care benefits to earn the greater of \$75 or 40% of weekly benefits. Earnings above this limit are deducted in full. Under the second method, all earnings (from the first dollar) reduce benefits by 50% of the amount of these earnings. Earnings exceeding 90% of weekly insurable earnings are fully deducted from benefits.<sup>35</sup> The goal of allowing claimants to keep some employment earnings is to encourage them to work more while receiving benefits.<sup>36</sup>

Days on which the claimant is not available for work also lead to reductions in benefits. All deductions are made during the week in which the earnings are recorded or when the claimant is unavailable, and are not deferred to a subsequent week.

Finally, some regular EI benefits must be repaid. When a claimant's income for a given tax year exceeds 1.25 times the maximum yearly insurable earnings (i.e., \$59,250 in 2013),<sup>37</sup> the claimant must repay, before 30 April of the following year, the equivalent of 30% of a) the amount of regular or fishing benefits received during the year, or b) the amount of income above the yearly maximum, whichever is lower, and

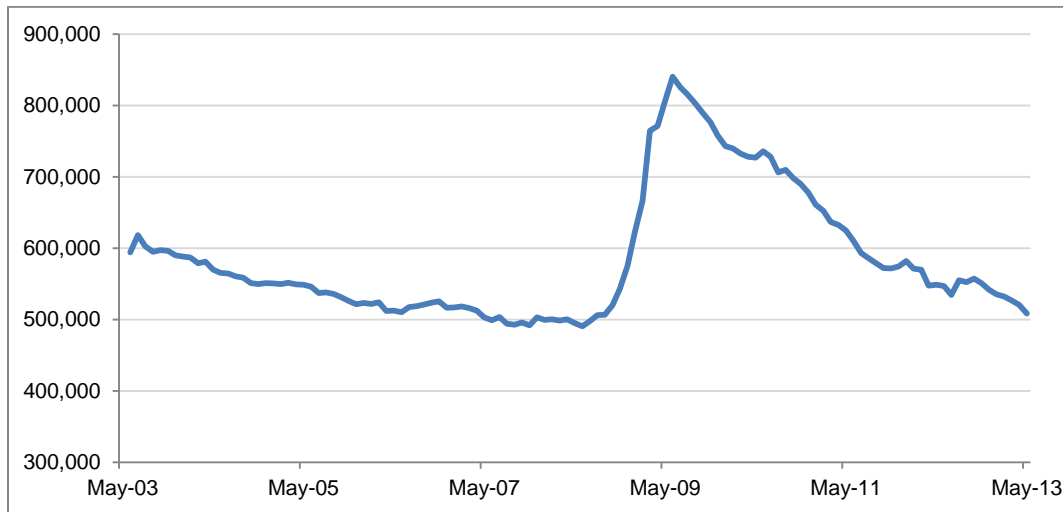
report this on his or her tax return. Claimants who have not received regular or fishing benefits in the preceding 10 years are not required to repay this amount. Special benefits do not have to be repaid.<sup>38</sup>

2.2.4 STATISTICS ON REGULAR BENEFITS

Figure 1 shows the number of people receiving regular benefits from May 2003 to May 2013 (the latest available data). These are seasonally adjusted data. After reaching, in June 2008, 490,540 claimants – the lowest level since data collection began in 1997, the number of people receiving benefits peaked at 840,320 in June 2009 following the 2008–2009 recession. Since then, the number of claimants has gradually declined, falling to 508,510 in May 2013.

Table 2 shows statistics on regular EI benefits for 2009–2010, 2010–2011 and 2011–2012. Both the duration of regular benefits and the value of the benefits declined over this period, while average weekly benefits increased. According to estimates from the Canada Employment Insurance Financing Board, total regular benefits should equal approximately \$11.9 billion in 2013.<sup>39</sup>

**Figure 1 – Number of People Receiving Regular EI Benefits, May 2003 to May 2013**



Source: Figure prepared by the author using data from Statistics Canada, Table 276-0022, [“Employment Insurance program \(EI\), beneficiaries receiving regular income benefits by province, declared earnings, sex and age, seasonally adjusted,”](#) CANSIM (database).

**Table 2 – Statistics on Regular EI Benefits**

	2011–2012	2010–2011	2009–2010
Average duration (weeks)	N/a	21.5	23.8
Average weekly benefit	\$384	\$371	\$367
Total benefits paid (\$billions)	10.7	12.3	14.0

Source: Canada Employment Insurance Commission, Annex 2.2, [“Regular Benefits,”](#) 2012 EI Monitoring and Assessment Report.

## 2.3 SPECIAL BENEFITS

In addition to regular benefits, the EI program also pays special benefits (maternity, parental, sickness and compassionate care benefits). A benefit for parents of critically ill children (PCIC) was added in June 2013. These five types of benefits share certain characteristics.

An interruption of earnings occurs when there is a reduction of more than 40% in an insured person's normal weekly earnings when the person stops working for one of the five reasons associated with special benefits.<sup>40</sup> Unlike regular benefits, special benefits are available to persons dismissed for misconduct,<sup>41</sup> and for persons unable to work because of a labour dispute.<sup>42</sup> The insured person must also be a major attachment claimant, meaning a claimant who has accumulated at least 600 hours of insurable employment during the *qualifying period*.<sup>43</sup>

Claimants can receive maternity, parental, PCIC and compassionate care benefits when they are outside Canada. However, this is not the case with sickness benefits, which claimants cannot receive outside Canada unless they are undergoing treatment not available in Canada.

As of 2010, self-employed workers are able to access all types of special benefits if they voluntarily register for the EI program.<sup>44</sup> They must pay premiums for at least one year before they can claim benefits. To qualify to receive special EI benefits, self-employed workers must have earned a minimum of \$6,342 of income from self-employment in the previous calendar year (this amount is indexed annually). They can withdraw from the plan at the end of any tax year provided they have not ever received benefits. If they have received benefits, they must continue paying EI premiums for the duration of their self-employed career.

Finally, deductions from special benefits are different from deductions from regular benefits. During weeks in which the insured person receives maternity or sickness benefits all earnings – not just the portion that exceeds the maximum allowable earnings – are deducted. However, when parental, PCIC and compassionate care benefits are received, only earnings that exceed the maximum allowable are deducted.

### 2.3.1 MATERNITY BENEFITS

Maternity benefits are payable to major attachment claimants who have given birth (i.e., claimants who have accumulated at least 600 hours of insurable employment during their *qualifying period*). The *benefit period* can start up to 8 weeks before the claimant is expected to give birth or as of the week she gives birth if it is more than 8 weeks before the anticipated date, and ends 17 weeks after the actual or expected week of birth, whichever is later. This means that the *benefit period* can last 25 weeks or longer. It can be extended if the newborn is hospitalized during the *benefit period*, by the number of weeks the child is in hospital, but the *benefit period* cannot be longer than 52 weeks from the week of birth. Regardless of the length of the *benefit period*, maternity benefits can be paid up to a maximum of 15 weeks.

### 2.3.2 PARENTAL BENEFITS

Parental benefits are payable to a major attachment claimant who has given birth in order for that person to care for a biological newborn or for an adopted child. The *benefit period* starts the week of the child's birth or adoption, and ends 52 weeks later. For parental benefits, the *benefit period* may be extended if the child is hospitalized during the 52-week *benefit period* for the number of weeks of the hospitalization, to a maximum of 104 weeks. As of 2010, the *benefit period* may be extended to a maximum of 104 weeks for members of the Canadian Forces who are ordered to return to duty.

Regardless of the length of the *benefit period*, parental benefits are paid to a maximum of 35 weeks, consecutive or non-consecutive. Both partners caring for the same child can share weeks and take them simultaneously or separately. Finally, when parental benefits are shared between both parents, only one waiting period has to be served.

### 2.3.3 SICKNESS BENEFITS

Major attachment claimants who are unable to work because of sickness, injury or quarantine but would otherwise have been available for work are entitled to receive sickness benefits. A medical certificate is required.<sup>45</sup> Sickness benefits are paid up to a maximum of 15 weeks.<sup>46</sup>

### 2.3.4 COMPASSIONATE CARE BENEFITS

Compassionate care benefits are paid to major attachment claimants to provide care or support to a family member who is gravely ill with a significant risk of death within 26 weeks. A medical certificate and an authorization to release a medical certificate (signed by the ill person) are required.<sup>47</sup> The definition of family member is fairly broad, and in addition to spouse, parents and children, includes grandparents, uncles, aunts, nephews, nieces and grandchildren.<sup>48</sup> Compassionate care benefits are paid up to a maximum of six weeks, although the *benefit period* can be 26 weeks in length. The *benefit period* starts the day the doctor signs the medical certificate, or the day the family member became ill if the claim is submitted before the certificate is issued. The *benefit period* ends when the six weeks of benefits have been paid, the family member dies or the 26-week period has expired. Several individuals can share the benefit weeks, but only one claimant need serve the waiting period.

### 2.3.5 PARENTS OF CRITICALLY ILL CHILDREN BENEFITS

As of 9 June 2013, benefits are provided to parents who must care for or support a critically ill child. They must be major attachment claimants or be self-employed persons who have registered with the EI program. Proof of the child's illness and the period during which care is required must be provided through a medical certificate completed by a specialist medical doctor. The maximum duration of these benefits is 35 weeks, which may be shared by the parents and taken within a 52-week window.<sup>49</sup>

### 2.3.6 STATISTICS ON SPECIAL BENEFITS

Table 3 shows statistics on special benefits. The table does not include information on the PCIC benefit, because it was only recently introduced. Economic conditions have much less impact on the number of special benefit recipients than on the number of regular benefit recipients. For all of 2011–2012, the total value of special benefits was \$4.3 billion, substantially less than the \$10.7 billion in regular benefits. While sickness, maternity, and parental (including adoption) benefits amounted to \$1 or \$2 billion each, compassionate care benefits totalled only \$11 million.<sup>50</sup> Benefits to adoptive parents are not a separate category and are included under parental benefits. The statistics on parental benefits presented here are for biological parents. Maternity benefits are not available to adoptive parents.

**Table 3 – Statistics on Special EI Benefits, 2011–2012**

Benefit Type	New Claims	Average Number of Weeks	Average Weekly Benefits (\$)	Total Benefits Paid (\$millions)
Sickness	331,220	9.4	353	1,117.3
Maternity	167,540	14.6	380	933.6
Parental	187,090	29.6	388	2,203.3
Adoption	1,840	25.1	437	18.7
Compassionate care	5,975	4.7	376	11.0

Source: Canada Employment Insurance Commission, Annex 2, "[Income Benefits Data Tables](#)," 2012 EI Monitoring and Assessment Report.

### 2.4 FISHING BENEFITS

Fishers are the only self-employed workers eligible to receive benefits similar to regular benefits. However, qualifying conditions, benefit rates and *benefit periods* are different than those for regular benefits.<sup>51</sup>

The *qualifying period* starts during the week of 1 March or during the week of 1 September, depending on the fishing season. The maximum length of the *qualifying period* is 31 weeks counting back from the week prior to the beginning of the claim. During this period, new fishers or individuals who have returned to fishing after an absence of a year or more preceding the *qualifying period* must have earned a minimum of \$5,500 in fishing during the *qualifying period*. Minimum earnings range from \$2,500 to \$4,200 for other fishers, based on the regional rate of unemployment as shown in the table appended to the EIR (Fishing). To qualify to receive special benefits, fishers must have earned a minimum of \$3,760 during the *qualifying period*.<sup>52</sup> Eligibility is determined on the basis of earnings rather than hours of employment because fishers are paid based on the value of their catch. The variable-hours system used to determine fisher eligibility corresponds to the hours-of-work system used for salaried workers, with an hourly conversion rate of approximately \$6. The various earning ranges are not increased based on the average increase in wages or price indexes. The amount of fishing earnings required to claim fishing benefits is increased for violations in the preceding five years.

For fishing benefits, earnings in the *qualifying period* are divided by a divisor ranging from 14 to 22, depending on the regional rate of unemployment. Benefits are paid up to a maximum of 26 weeks; this period is not tied to the regional rate of unemployment. Fishers are subject to the same deductions as other workers.

As with regular benefits (see section 2.2.3), fishing benefits are subject to partial repayment if the claimant's income surpasses a certain level (\$59,250 in 2013).

## 2.5 WORK-SHARING

The Commission may make regulations providing for the payment of work-sharing benefits under an agreement between Service Canada, an employer and employees to reduce the hours of all permanent employees of the company.<sup>53</sup> Eligible employees can receive regular EI benefits for the days they are not working, and do not have to serve a waiting period.

To qualify for the work-sharing program, employers must have been in business in Canada for at least two years; show that the work shortage is unavoidable, temporary and unexpected (and not related to a seasonal downturn); prepare a recovery plan showing how the business will be maintained for the duration of the agreement; not be undergoing a labour dispute; and have the agreement of the employees. The reduction in work hours can vary from week to week, but must be between 20% and 60% on average, meaning from one to three days a week, for the duration of the agreement, which can last from 6 to 38 weeks in straight time.<sup>54</sup>

Table 4 presents statistics on fishing and work-sharing benefits. The value of fishing benefits reached \$259.2 million in 2011–2012, an increase of 7.2% over the previous year. Work-sharing benefits totalled \$31.7 million in 2011–2012, a decrease of 67.7% over the year before. The average weekly benefit is much lower than for regular or fishing benefits because work-sharing benefits cover only a portion of the week (days not worked).

**Table 4 – Statistics on Employment Insurance Fishing and Work-Sharing Benefits, 2011–2012**

Benefit Type	New Claims	Average Number of Weeks	Average Weekly Benefits (\$)	Total Benefits Paid (\$millions)
Fishing benefits	29,506	20.3	439	259.2
Work-sharing benefits	23,755	13.3	97	31.7

Source: Canada Employment Insurance Commission, Annex 2, "[Income Benefits and Data Tables](#)," 2012 EI Monitoring and Assessment Report.

## 2.6 MORE DETAILS ON UNEMPLOYMENT BENEFITS

### 2.6.1 COMBINED BENEFITS

Different types of benefits can be combined. For example, a person who becomes unemployed may also become ill, and a person on parental leave may become unemployed. They can receive two types of benefits (successively, not



simultaneously). When regular and special benefits are combined, claimants may receive up to 50 weeks of combined benefits. When only special benefits are involved, claimants may receive up to 106 weeks of benefits if combinations of the five types of special benefits are paid one after the other.<sup>55</sup>

### 2.6.2 PROVISIONS FOR TEACHERS

Special provisions apply to teachers who, in most cases, work from September to June. Teachers are not entitled to receive regular benefits in July and August, except in certain circumstances – for example, if they were under a term contract and there is no verbal or written agreement stating that they will be teaching again in September.<sup>56</sup>

### 2.6.3 PILOT PROJECTS

The Commission may implement pilot projects, generally for a three-year period, to assess the impact of changes to the program. These projects are often restricted to a few specific regions and generally involve unemployment benefits.

The only pilot project in effect in August 2013 is Pilot Project No. 18, which allows claimants to choose the method used to calculate deductions when they are earning employment income while receiving EI benefits. This pilot project runs until 1 August 2015.

### 2.6.4 APPEALING EMPLOYMENT INSURANCE DECISIONS

The new Social Security Tribunal, which began operating on 1 April 2013, will now handle all complaints regarding EI program decisions, as well as those concerning the Canada Pension Plan (CPP) and the Old Age Security (OAS) program.

The tribunal has two divisions: the General Division and the Appeal Division. The General Division has two sections: the Employment Insurance Section and the Income Security Section (which deals with the CPP and OAS).

Previously, disputed CEIC decisions were first reviewed by the Board of Referees. Its decisions could then be appealed to an Umpire. The new tribunal likewise has two levels of review for CEIC decisions.

## 2.7 EMPLOYMENT BENEFITS

Employment benefits and support measures (EBSM) are intended to help participants become more employable. Most EBSMs are offered by provinces and territories under Labour Market Development Agreements (LMDA). LMDA funds are transferred to the provinces and territories for the programs. All provinces and territories now have transfer agreements in place.

Employment benefits can include financial assistance or wage subsidies and are provided through five programs: Skills Development, Targeted Wage Subsidies, Self-Employment, Job Creation Partnerships and Targeted Earnings Supplements.

Support measures comprise Employment Assistant Services, Labour Market Partnerships, and Research and Innovation. In co-operation with the provinces and territories, HRSDC maintains the National Employment Service (job bank and labour market information) and delivers pan-Canadian activities, including the Aboriginal Skills and Employment Strategy, the Sector Council Program, the Youth Awareness Program, the National Essential Skills Initiative, the Labour Market Mobility Initiative and the Labour Market Transition Initiative.<sup>57</sup>

All EBSMs are available to claimants with active EI claims and those who have established a *benefit period* in the last three years (or the last five years for maternity or parental benefit claimants), while others can access employment services only.

Furthermore, Labour Market Agreements (LMAs) are in place with all of the provinces and territories to provide assistance for individuals who do not qualify for programs under Part II of the EIA. All of these agreements will expire on 31 March 2014. In Budget 2013, the government announced that it would negotiate with the provinces and territories to create the Canada Job Grant under the LMAs. A total of \$300 million (of the \$500 million devoted to these agreements) will go to this new grant, which will be worth up to \$5,000 per person, plus matching amounts from the provincial or territorial government and the employer.<sup>58</sup>

In 2011–2012, expenditures under Part II of the EIA totalled \$2.08 billion, a decrease of 21.9% over the previous year.<sup>59</sup> Some employment benefit programs commit expenditures under both Part I (unemployment benefits paid to users of these programs) and under Part II (other expenditures related to this program). Benefits paid to EBSM participants under Part I totalled \$413.7 million in 2011–2012.<sup>60</sup> For example, apprentices can receive unemployment benefits under Part I and take advantage of EBSMs under Part II.<sup>61</sup> Additionally, apprentices have to serve only one waiting period if they alternate several periods of training and employment.

### **3 EMPLOYMENT INSURANCE PROGRAM FINANCING**

#### **3.1 PREMIUMS**

Parts III and IV of the EIA set out rules for the program's financing and for the collection of premiums. Unemployment and employment benefits, support measures and program administration costs are financed by employee and employer contributions.

Employees must pay premiums equal to the premium rate multiplied by their insurable earnings, up to the maximum insurable earnings. Employees in Quebec pay a reduced rate because they do not have access to maternity and parental benefits, which are provided by a provincial plan.

Employers also pay premiums on their employees' insurable earnings, at a rate 1.4 times the employee rate. This means that employers pay for 7/12 of the program's costs, and employees pay 5/12 of the costs. In 2013, the employee rate is 1.88% (1.52% in Quebec), and the employer rate is 2.63% (2.13% in Quebec).

Self-employed workers outside Quebec who register for the program to access special benefits also pay the 1.88% rate (but cannot access regular benefits). Self-employed workers in Quebec pay the same rate as Quebec employees (1.52%) for access to sickness, PCIC and compassionate care benefits.<sup>62</sup>

Employees who pay more than the maximum annual contribution (for example, if they change employers during the year) are entitled to a refund of the overpayment.<sup>63</sup> If an employee's insurable earnings do not exceed \$2,000 during a given year, any EI premiums they pay are refunded.<sup>64</sup>

Employer premiums may be reduced if employees are covered under a wage insurance plan that could reduce the special benefits payable by the Commission, and if the amount of benefits to be paid to the insured employees is equal to not less than 5/12 of the reduction in the employer premium.<sup>65</sup>

### 3.2 SETTING THE PREMIUM RATE

Until recently, the premium rate was set by the Canada Employment Insurance Financing Board (CEIFB). The rate was to be announced by 14 November of each year. It had to generate enough revenue to cover expected benefits for the following year and absorb the deficit accumulated in the Employment Insurance Operating Account (the Account) since it was created on 1 January 2009.

The Account is a consolidated specified purpose account, which means that EI program revenues and expenditures pass through it and that its transactions are part of the *Public Accounts of Canada*. On 31 March 2012, the net debt of the Account was \$7.9 billion.<sup>66</sup>

The annual change in the premium rate for employees was limited to \$0.15 per \$100 of insurable earnings, without which the CEIFB could have recommended a significantly higher increase because of the Account's deficits from 2009 to 2011. The Governor in Council could also, on the joint recommendation of the Minister of Finance and the Minister of Human Resources and Skills Development, establish a different premium rate from that set by the CEIFB.

Finally, a reserve was to be established by transferring \$2 billion from the Consolidated Revenue Fund into the Account.

In 2012, Bill C-45 (the Jobs and Growth Act, 2012) made changes to this funding system.<sup>67</sup> The CEIFB was temporarily suspended until the Account's cumulative deficit is eliminated. In the meantime, the CEIC will calculate the premium rate the same way the CEIFB did, but rate changes will be limited to \$0.05 per \$100 of insurable earnings. The premium rate for the following year will be announced by 14 September of each year.<sup>68</sup>

The CEIFB will subsequently be reconstituted and each year will choose a rate that, based on its forecasts, should ensure that the program's total expenditures over the following seven years equal its total revenues over the same period. The EIA provision providing for the transfer of a \$2 billion reserve to the Account was repealed. This reserve is likely no longer considered necessary given the longer period used to calculate the premium rate.

## NOTES

1. [Employment Insurance Act](#), S.C. 1996, c. 23 [EIA].
2. [Employment Insurance Regulations](#), SOR/96-332 [EIR].
3. [Employment Insurance \(Fishing\) Regulations](#), SOR/96-445 [EIR (Fishing)].
4. [Insurable Earnings and Collection of Premiums Regulations](#), SOR/97-33.
5. Service Canada, [Information Handbook for Employment Insurance Boards of Referees](#). At the time of this update, it appears that HRSDC will in future be called Employment and Social Development Canada. As this name change has not been made official by a bill amending the *Department of Human Resources and Skills Development Act*, this document uses the former name throughout.
6. Service Canada, [Employment Insurance – Digest of Benefit Entitlement Principles](#).
7. Service Canada, [The Index of Jurisprudence: A Supplement to the Digest of Benefit Entitlement Principles](#).
8. Insurable employment is defined in section 4 of the EIA and section 5 of the EIR.
9. See subsection 5(2) of the EIA and sections 7, 8 and 9 of the EIR for other jobs that are excluded.
10. Human Resources and Skills Development Canada, [“Employment Insurance Premium Rate Set At \\$2.25 For 2001 And Level Of Maximum Earnings Remains At \\$39,000,”](#) News release, Ottawa, 1 December 2001.
11. The new maximum is calculated by increasing or decreasing the previous year’s maximum (before rounding down) based on the rate of change in average weekly earnings (including overtime) in Canada for the 12-month period ending 30 April compared with the previous 12-month period, and rounded down to the nearest hundred.
12. The two terms are shown in italics throughout the document for purposes of clarity.
13. The amount of the family supplement is shown in the table in subsection 34(5) of the EIR.
14. Canada Employment Insurance Commission, Annex 2.15, [“Family Supplement,”](#) *2012 EI Monitoring and Assessment Report*.
15. The conditions for extending a *qualifying period* are defined in section 8 of the EIA.
16. EIA, s. 33.
17. The various circumstances are set out in paragraph 29(c) of the EIA.
18. EIA, s. 36.
19. EIA, subsection 7(6).
20. EIA, s. 37. The exceptions for claimants travelling outside Canada are set out in subsection 55(1) of the EIR, and include undergoing medical treatment not available in Canada or attending the funeral of an immediate family member.
21. Availability for work is a complex concept and is assessed on a case-by-case basis. For more details, see Service Canada, [“Availability,”](#) Chapter 10 in [Digest of Benefit Entitlement Principles](#).
22. The complete definition of reasonable and customary efforts to find employment is contained in section 9.001 of the EIR.
23. The definition of suitable employment is set out in sections 9.002 to 9.004 of the EIR.
24. The method for calculating the number of hours is explained in sections 9 to 11 of the EIR.

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25. Prescribed hours related to employment in the labour force may include, for example, time spent attending an approved training or job creation project.
26. EIA, s. 7; EIR, s. 12.
27. Human Resources and Skills Development Canada, [Unemployment Rates for the Economic Regions](#).
28. EIR, subsection 18(2).
29. The unemployment rate used is the seasonally adjusted unemployment rate for the economic region averaged over the last three months, published by Statistics Canada.
30. The number of hours is increased by 25% for a minor violation, 50% for a serious violation and 54% for a very serious violation, increasing the number of hours required to 1,400.
31. EIR, subsection 19(3).
32. EIA, subsection 10(12.1).
33. Earnings from paid leave are allocated differently, depending on the timing of the payment, the reason for the payment and whether the payment is accumulated in a trust account. For more details, see Service Canada, [Employment Insurance \(EI\) and the various types of earnings](#).
34. Earnings are defined in detail in section 35 of the EIR.
35. Weekly insurable earnings are those used to calculate the basic benefit (before deductions). For example, if earnings are \$800, the benefit will be \$440 (55% x \$800, or the basic rate for the benefits calculation multiplied by the insurable earnings).
36. EIR, subsection 77.96(1).
37. This is total income, from which the Universal Child Care Benefit (except any overpayment), and income from a Registered Disability Savings Plan, etc., are deducted (lines 207 to 232 of the income tax return).
38. Benefit repayment is defined in Part VII of the EIA.
39. Canada Employment Insurance Financing Board, [2013 Actuarial Report on the Employment Insurance Premium Rate](#), presented to the CEIFB Board of Directors, 31 August 2012.
40. EIR, subsection 14(2).
41. EIR, s. 34.
42. An exception may be made for a person who had anticipated an absence from employment prior to the start of the labour dispute (EIA, s. 36).
43. EIA, subsection 6(1).
44. Since 2006, self-employed workers in Quebec have had access to the Quebec Parental Insurance Plan for maternity and parental benefits, and since 2010, they have had access to EI sickness and compassionate care benefits. Since June 2013, they have also had access to PCIC benefits.
45. EIR, s. 40.
46. EIA, subsection 12(3).
47. EIA, subsection 23.1(2).
48. The complete list is included in subsection 41.11(1) of the EIR.
49. Service Canada, [Benefits for Parents of Critically Ill Children \(PCIC\)](#), Chapter 22 in *Digest of Benefit Entitlement Principles*.

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50. Canada Employment Insurance Commission, Annex 2, "[Income Benefits Data Tables](#)," *2012 EI Monitoring and Assessment Report*.
51. Part VIII of the EIA authorizes the Commission to make regulations respecting the establishment of an EI scheme for self-employed persons engaged in fishing.
52. EIR (Fishing), s. 12.
53. EIA, s. 24.
54. The usual maximum duration is 26 weeks but this can be extended up to 38 weeks for exceptional circumstances. Also, the maximum length of agreements was increased to 52 weeks for agreements commencing prior to 4 April 2010. (See Service Canada, [Work-Sharing Program: Applicant Guide](#), April 2013.)
55. EIA, subsections 10(15) and 12(5).
56. Terms and conditions for teachers are set out in section 33 of the EIR.
57. For more details, see Canada Employment Insurance Commission (2012), Chapter 3.
58. Government of Canada, "[Canada Job Grant](#)," *Canada's Economic Action Plan*.
59. Canada Employment Insurance Commission (2012), Annex 3, "[EBSMs Data Tables](#)"; and Canada Employment Insurance Commission, Annex 4, "[Employment Benefits and Support Measures Data Tables](#)," *2011 EI Monitoring and Assessment Report*.
60. Canada Employment Insurance Commission (2012), Annex 3, "[EBSMs Data Tables](#)."
61. Pursuant to section 25 of the EIA, apprentices can receive employment benefits while taking training.
62. In its [Fourteenth Report](#) of the 2<sup>nd</sup> Session of the 40<sup>th</sup> Parliament concerning Bill C-56, the Standing Senate Committee on National Finance noted as follows:

The committee has heard from an expert witness that the premium rate proposed (1.36/\$100 as compared to 1.73/\$10 for the rest of Canada) in Bill C-56 for Quebec self-employed workers might be too high relative to the expected cost of the benefits to which they are entitled.

The committee therefore believes that the government should consider setting up, at the earliest possible time, an independent working group that would further examine the issue of the premium rate for Quebec self-employed workers to determine whether it is set at a fair level.
63. EIA, subsection 96(1).
64. EIA, subsections 96(4) and 96(5). If the insurable earnings exceed \$2,000 only by an amount equal to or less than the premiums paid, the person is refunded in part, i.e., total premiums paid minus the portion paid on insurable earnings over \$2,000.
65. EIA, s. 69 and EIR, ss. 68 to 76. The portion of 5/12 is equal to the employee portion of premiums paid by employers and employees.
66. Receiver General for Canada, *Public Accounts of Canada 2012*, Vol. I, *Summary Report and Consolidated Financial Statements*, p. 4.18.
67. This bill received Royal Assent on 14 December 2012.
68. The deadlines for the information exchange between the Department of Finance and HRSDC and the period used to calculate the increase in maximum insurable earnings were also moved up by two months to enable the release of the premium rate in September.

## APPENDIX – MAXIMUM NUMBER OF WEEKS OF BENEFITS BASED ON HOURS OF INSURABLE EMPLOYMENT AND REGIONAL RATE OF UNEMPLOYMENT

Table A.1 – Regional Rate of Unemployment												
Number of hours of insurable employment	6% and under	More than 6% but not more than 7%	More than 7% but not more than 8%	More than 8% but not more than 9%	More than 9% but not more than 10%	More than 10% but not more than 11%	More than 11% but not more than 12%	More than 12% but not more than 13%	More than 13% but not more than 14%	More than 14% but not more than 15%	More than 15% but not more than 16%	More than 16%
		7%	8%	9%	10%	11%	12%	13%	14%	15%	16%	
420-454								26	28	30	32	
455-489							24	26	28	30	32	
490-524							23	25	27	29	31	33
525-559						21	23	25	27	29	31	33
560-594					20	22	24	26	28	30	32	34
595-629				18	20	22	24	26	28	30	32	34
630-664			17	19	21	23	25	27	29	31	33	35
665-699		15	17	19	21	23	25	27	29	31	33	35
700-769	14	16	18	20	22	24	26	28	30	32	34	36
770-839	15	17	19	21	23	25	27	29	31	33	35	37
840-909	16	18	20	22	24	26	28	30	32	34	36	38
910-979	17	19	21	23	25	27	29	31	33	35	37	39
980-1 049	18	20	22	24	26	28	30	32	34	36	38	40
1050-1119	19	21	23	25	27	29	31	33	35	37	39	41
1120-1189	20	22	24	26	28	30	32	34	36	38	40	42
1190-1259	21	23	25	27	29	31	33	35	37	39	41	43
1260-1329	22	24	26	28	30	32	34	36	38	40	42	44
1330-1399	23	25	27	29	31	33	35	37	39	41	43	45
1400-1434	24	26	28	30	32	34	36	38	40	42	44	45
1435-1469	25	27	29	31	33	35	37	39	41	43	45	45
1470-1504	26	28	30	32	34	36	38	40	42	44	45	45
1505-1539	27	29	31	33	35	37	39	41	43	45	45	45
1540-1574	28	30	32	34	36	38	40	42	44	45	45	45
1575-1609	29	31	33	35	37	39	41	43	45	45	45	45
1610-1644	30	32	34	36	38	40	42	44	45	45	45	45
1645-1679	31	33	35	37	39	41	43	45	45	45	45	45
1680-1714	32	34	36	38	40	42	44	45	45	45	45	45
1715-1749	33	35	37	39	41	43	45	45	45	45	45	45
1750-1784	34	36	38	40	42	44	45	45	45	45	45	45
1785-1819	35	37	39	41	43	45	45	45	45	45	45	45
1820 +	36	38	40	42	44	45	45	45	45	45	45	45

Source: [Employment Insurance Act](#), S.C. 1996, c. 23, Schedule I.