

Analysis and Evaluation

Compassionate Care Benefit

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T A K I N G T H E P U L S E

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EXECUTIVE SUMMARY

Background

In January 2004 the federal government launched a new type of special employment insurance (EI) benefit, the Compassionate Care Benefit. The new benefit provides a maximum of eight weeks of Compassionate Care Benefits (a two-week unpaid waiting period and six weeks of paid benefits) to employees who have to be absent from work to provide care or support to a family member who has a serious medical condition with a significant risk of death within 26 weeks.

As part of the Compassionate Care Benefit Program, the *Canada Labour Code* was also amended to provide federal employees with eight weeks of job protection while on leave to care for a gravely ill or dying family member. Most, but not all, provinces and territories have amended their labour legislation to ensure that their citizens can take advantage of the federal benefit without losing their jobs.

The Compassionate Care Benefit Program – in conjunction with compassionate care leave protections in federal and provincial labour legislation – is viewed widely by all stakeholders and other interested parties as an important first step in providing much-needed income support and job protection to individuals who care for seriously ill or dying family members. The Compassionate Care Benefit has received recognition in the United Kingdom and Portugal as an end-of-life care initiative of international excellence.

While the Compassionate Care Benefit and compassionate care leave provisions are viewed as an important and necessary step, early figures from Human Resources and Skills Development Canada indicate that the number of Canadians who have accessed the benefit has been considerably lower than expected (less than four per cent of the \$190 million annual budget was expended on claims in 2004/05). The Health Council of Canada commissioned this report to shed light on the reasons for the low uptake of this benefit. The analysis and evaluation of the Compassionate Care Benefit and compassionate care leave provisions reveals a number of actual and potential issues that warrant consideration.

Key Issues

1. Nature of the program

The Compassionate Care Benefit is described as a labour market policy, as opposed to an end-of-life or hospice care program. Because it is an EI-based program, a significant number of individuals will not qualify for Compassionate Care Benefits on the basis that they are not EI-eligible (i.e. they do not meet the applicable EI eligibility criteria). This ineligible group includes the unemployed (approximately 37 per cent of Canadians), self-employed (approximately 15 per cent) and part-time, temporary, contract or seasonal employees with insufficient working hours to qualify for the benefit. A long-standing criticism of the program is that it fails to alleviate the economic stress of women who constitute a large

majority of caregivers, and who disproportionately fall within the above groups. This criticism is at least partially confirmed by the post implementation statistic indicating that the vast majority of Compassionate Care Benefit claimants are women (71 per cent).

2. Definition of family member

Family member is narrowly defined in the *Employment Insurance Act*, the *Canada Labour Code*, and in many of the provincial/territorial labour statutes (e.g. the definitions do not include a number of close family members, including siblings, aunts and uncles, grandchildren and grandparents). As a result, a number of employees are unable to take advantage of the Compassionate Care Benefit and job-protected leave to care for close family members who are seriously ill or dying. It was also noted that definitional changes should reflect and accommodate the diverse range of family structures that exist in today's society.

All stakeholders emphasize the need for a broader definition of family member in both the benefit and leave provisions that would include, at a minimum, siblings and grandparents. Many argue for a more expansive definition that would include step-children, step-parents, aunts, uncles, grandchildren and grandparents. This approach is consistent with the broader definition of family member in the compassionate care leave provisions in some of the provincial and territorial labour statutes. Some organizations, including the Senate Subcommittee on End-of-Life Care, went a step further, recommending that the definition not be restricted to family members at all, to enable patients to determine the best person to be their caregiver.

(On October 19, 2005, the federal government announced that it would broaden access to the Compassionate Care Benefits Program by easing restrictions on the types of family members eligible and by addressing the prohibition against non-family members. As of this writing, however, the changes have not been formalized.)

3. Length of benefit

Stakeholders and critics consistently observe that the six-week paid benefit period is too short, and that it does not sufficiently recognize the unpredictability of the dying process. A longer benefit period of 16 weeks (including a two-week waiting period) to be taken within a 26-week period, is widely viewed as a more reasonable time frame within which physicians may be able to predict the time of death of a family member, particularly in the case of minors.

4. 26-week window

Given the unpredictability of the dying process, stakeholders also emphasize the need for flexibility in the requirement to access the benefit within the last 26 weeks of life, particularly in the case of children. A longer window within which to access the benefit would provide employees with greater flexibility to provide care to family members at the most critical stages of illness.

5. Eight weeks per family

While more than one family member can claim the benefit, the benefit period is limited to a total of eight weeks, regardless of how many family members make a claim for the benefit. As a result, there is only six weeks of paid leave available to a family. If the program was changed to allow each eligible family member to obtain the full six weeks of paid leave, it may increase access to the benefit and help address some of the concerns regarding the length of benefit for those families with more than one eligible caregiver.

6. Public awareness

While the federal government has made efforts to publicize the Compassionate Care Benefits Program since the program was launched in January 2004, stakeholder information, publications and media coverage indicate that these efforts fall short of a clear social marketing strategy to target the public and health care community on a widespread basis. Direct communications to key health sector groups that may play an important role in advising potential claimants and patients of the benefit (e.g. physicians, nurses, and hospice and palliative care organizations) are also required. A public education program about the Compassionate Care Benefit by Health Canada, in cooperation with the provinces and territories and the hospice palliative care community, has also been widely recommended to improve public awareness.

7. Compassionate care leave provisions

British Columbia, Alberta, and the Northwest Territories are the only jurisdictions that have not amended their labour legislation to provide job-protected compassionate care leave. These jurisdictions should be encouraged to amend their respective labour statutes as soon as reasonably possible to reduce inequality of access to job-protected leave. In addition, in the event that the length of the Compassionate Care Benefit is extended, the length of the compassionate care leave provisions across Canada should also be amended to reflect these changes. This will ensure the availability of job-protected leave during the entire benefit period. Finally, allowing each employee in a family to access the full eight-week leave period to care for the same family member would acknowledge the difficulty of determining the length of the dying process and the potential need for more than one family member to be absent during this period to provide care and support.

Opportunity for Reform

Figures on the Compassionate Care Benefit indicate clearly that the number of Canadians who have accessed the benefit is substantially lower than expected. These low numbers have led to questions and concerns about various aspects of the program, including its structure, eligibility criteria, and program awareness. However, the figures also suggest that there may be a unique opportunity for program reform, as there is considerable capacity in the budget of the Compassionate Care Benefit program to absorb any additional costs associated with changes to the program (e.g. costs flowing from expanded definition of family member and increased length of benefit). Targeted program improvements and enhanced education and

awareness activities can also improve access to both the Compassionate Care Benefit and compassionate care leave across Canada. Such reforms provide a great opportunity to further improve on Canada's leadership in providing income support and job protection to individuals who care for seriously ill or dying family members.

PART I

INTRODUCTION

Background

In recent years there has been increasing recognition of the vital and increasingly important role played by informal caregivers (particularly family members) in hospice palliative and end-of-life care. Caregivers often provide care at great personal cost. In addition to the considerable emotional and physical demands, caring for a gravely ill or dying family member can impose a significant financial burden on caregivers and their families and can jeopardize their employment. These issues have led to calls for health, labour, social and economic policies to support informal caregivers providing end-of-life care.

In 1995 and 2000 the Canadian Senate released two landmark reports on end-of-life care:¹ (1) *Of Life and Death* (1995)² and (2) *Quality End-of-Life Care: The Right of Every Canadian* (2000).³ These reports focused national attention on the need for end-of-life care and increased public awareness of end-of-life issues. The Senate reports made a number of recommendations directed at ensuring that Canadians have access to appropriate, high-quality, end-of-life care.⁴ While the 1995 report did not include any recommendations on caregiver support, the 2000 report recommended that the federal government immediately implement income security and job protection for family members who care for the dying. Both the Romanow and Kirby LeBreton reports also included recommendations directed at supporting informal caregivers and end-of-life care, including specific recommendations relating to the need for economic support and security.

In an effort to respond to these issues, the 2003 First Ministers' Accord on Health Care Renewal included a commitment to implement a Compassionate Care Benefit for Canadians. Following on this commitment, the *Budget Implementation Act, 2003* (Bill C-28) amended the *Employment Insurance Act*⁵ to introduce a new type of special employment insurance (EI) benefit – the Compassionate Care Benefit – effective January 2004. The new benefit provides a maximum of six weeks of Compassionate Care Benefits to individuals who have to be absent from work to provide care or support to a family member who has a serious medical condition with a significant risk of death within 26 weeks. As part of the Compassionate Care Benefit Program, the *Canada Labour Code* was also amended to provide federal employees with job protection while on leave to care for a gravely ill or dying family member. Most, but not all, provinces and territories have amended their labour legislation to ensure that their citizens can take advantage of the federal benefit without losing their jobs.

Context and Purpose

The Compassionate Care Benefit Program – in conjunction with compassionate care leave protections found in federal and provincial labour legislation – provides much-needed income support and job protection to individuals who care for seriously ill or dying family

members. While the Compassionate Care Benefit and compassionate care leave provisions are viewed as an important and necessary step, early figures from Human Resources and Skills Development Canada indicate that the number of Canadians who have accessed the benefit has been considerably lower than expected. In 2004/2005, actual claims accounted for only \$7.25 million, less than four per cent of the \$190 million annual budget in 2004/05.⁶

In addition, a number of concerns have been raised about the nature, scope and structure of the Compassionate Care Benefit Program. These concerns include issues related to eligibility criteria, the length of the benefit, the benefit period, the requirement for a medical certificate, and lack of program awareness. As well, because some jurisdictions did not amend their labour standards legislation to provide job-protected leave, access to compassionate care leave across the country remains uneven. A third and very recent Senate report issued in June 2005 – *Still Not There: Quality End-of-Life Care: A Progress Report*⁷ – applauded the introduction of the benefit and leave provisions, but pointed to a number of these deficiencies.

In order to explore these and other key issues, this report provides an overview, analysis and evaluation of the Compassionate Care Benefit and compassionate care leave provisions in Canada. The report is divided into five parts:

- Part II provides an overview and description of the Compassionate Care Benefit Program;
- Part III describes the federal compassionate care leave provisions;
- Part IV summarizes provincial/territorial labour legislation providing Compassionate Care Leave, and identifies notable differences between federal and provincial/territorial compassionate care leave provisions;
- Part V provides an analysis and evaluation of the Compassionate Benefit Program, with a focus on the post-implementation status of the program and some of the key factors that may be contributing to its slow uptake; and
- Part VI contains some brief concluding remarks.

PART II

COMPASSIONATE CARE BENEFITS

Brief Overview

The *Budget Implementation Act* (Bill C-28) introduced changes to the *Employment Insurance Act* (EI Act) that came into force on January 4, 2004. The amendments introduced a new type of special EI benefit, called Compassionate Care Benefits. Compassionate Care Benefits were introduced as a permanent EI benefit program without any time limitation.⁸

The Compassionate Care Benefit provides eligible employees with up to eight weeks of benefits (a two-week unpaid waiting period and six weeks of paid benefits) to care for a seriously ill or dying family member. Briefly, in order to be eligible for the Compassionate Care Benefit, the employee must:

- come within the definition of family member;
- provide a signed certificate from a medical doctor (or in some cases, a medical practitioner) stating that the family member has a serious medical condition with a “significant risk of death within 26 weeks,” and that the family member requires the care or support of one or more family members; and
- meet certain EI eligibility criteria relating to qualifying hours.

The following paragraphs briefly summarize key requirements and features of the Compassionate Care Benefit Program.⁹

Program Requirements and Features

(a) Family member

An eligible employee can receive Compassionate Care Benefits if a family member requires care or support. Family member is defined to include the following:¹⁰

- child or the child of spouse or common law partner¹¹
- wife/husband or common law partner
- father or mother
- father’s wife/mother’s husband
- common law partner of father/mother
- a member of a prescribed class of persons.¹²

(b) Care or support

Care or support means:

- Directly providing or participating in the care;
- Providing psychological or emotional support; or
- Arranging for care by a third party.¹³

(c) Medical certificate

When applying for Compassionate Care Benefits, the applicant must submit a Medical Certificate for Employment Insurance Compassionate Care Benefits. The medical certificate must confirm that the ill family member has a serious medical condition with a significant risk of death within 26 weeks (six months), and that the ill family member requires the care or support of one or more family members.¹⁴

The medical certificate must be completed and signed by a medical doctor or a prescribed medical practitioner authorized to treat the ill family member. A medical practitioner may only sign the certificate when:

- the ill family member resides in a geographic location where treatment by a medical doctor is not readily or immediately available; and
- a medical doctor has designated the medical practitioner to provide the treatment to the ill family member (for example, a provincially certified nurse practitioner).¹⁵

Only one medical certificate is required per ill family member within the 26-week period; it is not necessary to obtain a second certificate if benefits are shared between family members. A copy of a medical certificate is attached as Appendix B.

(d) Qualifying period

Access to the Compassionate Care Benefit is based on the rules for existing EI special benefits (sickness, maternity, parental). To be eligible for Compassionate Care Benefits, an individual must have worked a minimum of 600 insured hours in the last 52 weeks or since the start of his or her last claim, whichever is shorter.¹⁶ The person must also demonstrate that regular weekly earnings will decrease by more than 40 per cent.

(e) Sharing benefits

An individual can share the eight weeks of Compassionate Care Benefits with other family members, as long as the person also meets the eligibility criteria. While more than one family member can claim the benefit, the benefit period is limited to a total of eight weeks, regardless of how many family members make a claim for the benefit.¹⁷ Family members can decide how they share the eight weeks, but the eight weeks cannot be exceeded (i.e. the family members can take weeks at the same time or they can take different weeks). As a result, there is only six weeks of paid leave available to a family.

(f) Benefit period

Compassionate Care Benefits are payable within the 26-week period that starts from the week the doctor (or medical practitioner) indicates that the patient has a serious medical condition with a significant risk of death. This week is the earlier of:

- The week the doctor signs the medical certificate;
- The week the doctor examines the gravely ill family member; or
- The week the family member became gravely ill, if the doctor can determine that date (e.g. the date of test results).

The benefits end when:

- Six weeks of Compassionate Care Benefits have been paid;
- The ill family member dies or no longer requires care or support within the 26-week period (in such a case benefits are paid to the end of the week);
- The 26-week period has expired; or
- The individual has exhausted the maximum benefits payable under a claim that combines Compassionate Care Benefits with other types of EI benefits.

In the event that more than one medical certificate is submitted, the first one determines the start and end of the 26-week period.

(g) Waiting period

In most cases, eligible individuals must serve a two-week unpaid waiting period before Compassionate Care Benefits are paid. This is generally the first two weeks of the eight-week benefit period.

If Compassionate Care Benefits are shared by family members, only the first family member claiming the benefits serves the waiting period. Where more than one family member claims Compassionate Care Benefits at the same time, the family members are required to choose which individual serves the waiting period.

(h) Benefit rate

The basic benefit rate is 55 per cent of a person's average weekly insurance earnings up to a maximum payment of \$413 per week. EI benefits are taxable (meaning that federal and provincial or territorial income taxes will be deducted).

A person may be eligible for a higher benefit rate if he or she:

- is a member of a low-income family (net income less than \$25,921);
- has at least one child; and
- receives the Canada Child Tax Benefit

In these circumstances, a person may be entitled to the Family Supplement which means a higher benefit rate; however, benefit payments will never exceed \$413 per week.

(i) Place of residence of ill family member

An eligible individual can receive Compassionate Care Benefits regardless of where the ill family member lives.

PART III

FEDERAL COMPASSIONATE CARE LEAVE LEGISLATION

Brief Overview

Bill C-28 also included complementary amendments to the *Canada Labour Code*¹⁸ (the Code) that provide job-protected compassionate care leave of up to eight weeks to provide care and support to a gravely ill or dying family member. The eight-week period includes the six-week benefit period provided under the *Employment Insurance Act*, plus the two-week waiting period. In order to qualify for the leave, a certificate is required from a qualified medical practitioner, stating that the family member has a serious medical condition with a significant risk of death within 26 weeks.¹⁹

The Code provides protection against dismissal, lay-off, suspension, demotion or discipline because of absence due to compassionate care leave.

Description²⁰

(a) Coverage

The compassionate care leave provisions contained in the Code and accompanying regulations apply to employees and employers in works, undertakings, or businesses under the legislative authority of the Parliament of Canada. Activities that fall within federal jurisdiction include:

- Inter-provincial and international services such as:
 - Railways
 - Highway transport
 - Telephone, telegraph, and cable systems
 - Pipelines
 - Canals
 - Ferries, tunnels and bridges
 - Shipping and shipping services
- Radio and television broadcasting
- Air transport, aircraft operations and aerodromes
- Banks
- Undertakings for the protection and preservation of fisheries as a natural resource
- First Nations communities and activities
- Undertakings declared by Parliament to be for the general advantage of Canada such as:
 - Most grain elevators
 - Flour and seed mills, feed warehouse and grain-seed cleaning plants
 - Uranium processing and atomic energy.

Most federal Crown corporations (e.g. Canada Post Corporation and Canada Housing Corporation) are covered, while federal public service employees are not.²¹ The Code does not distinguish between full-time, and part-time or casual employees; all are covered by the provisions if they meet the qualifying requirements.

(b) Nature of protection

The Code's compassionate care leave provisions provide job security only. Employers are not required to pay an employee while he or she is absent from work due to compassionate care leave. Some employees may be entitled to Compassionate Care Benefits under the *Employment Insurance Act*.

(c) Definition of family member

The definition of family member is the same as the definition in the EI Act that applies to Compassionate Care Benefits. It includes:²²

- child or the child of spouse or common law partner
- wife/husband or common law partner
- father or mother
- father's wife/mother's husband
- common law partner of father/mother
- a member of a class of persons prescribed for the purposes of this definition or the definition of family member in the EI Act for purposes of the Compassionate Care Benefit.

(d) Medical certificate

Employees are entitled to a leave of absence of up to eight weeks to provide care or support to a family member if a qualified medical practitioner issues a certificate stating that the family member has a serious medical condition with a significant risk of death within 26 weeks.²³

An employee is required to provide a copy of the medical certificate if an employer requests a medical certificate, in writing, within 15 days of the employee's return to work.²⁴

(e) Length of leave

The Code provides for eight weeks of compassionate care leave. While the leave may be shared by two or more employees under federal jurisdiction, the total amount of leave taken in relation to the same family member is eight weeks in the 26-week period. Leave must be taken in periods of at least one week.²⁵

If the family member is still gravely ill at the end of 26 weeks an employee is entitled to a further period of up to eight weeks of compassionate care leave. In such a circumstance a medical practitioner must issue another medical certificate stating that the family member has a serious medical condition with a significant risk of death within 26 weeks.

(f) Job protection

An employer may not dismiss, suspend, lay off, demote or discipline an employee because the employee has taken or intends to take compassionate care leave. The employer also cannot take this leave into account in any decision to promote or train an employee. When an employee returns to work after a compassionate care leave, he or she must be reinstated

in his or her former position, or be given a comparable position in the same location and with the same wages and benefits.²⁶

(g) Benefits

Benefits (e.g. pension, health and disability benefits) and seniority continue to accumulate during the leave period provided an employee pays any contributions that would normally have been paid. The employer is required to continue making contributions to the pension, health and disability benefits plan while the employee is on leave.²⁷

(h) Collective agreements

Employers are required to grant compassionate care leave even when a collective agreement does not specifically provide for compassionate care leave.

PART IV

PROVINCIAL/TERRITORIAL COMPASSIONATE LEAVE LEGISLATION

Provinces/Territories with Compassionate Care Leave Legislation

Almost all of the provinces and territories either had existing labour legislation that provided job protection for employees on compassionate care leave, or amended their labour legislation in response to amendments to the *Canada Labour Code* which provide job-protected leave for federal employees. Only British Columbia, Alberta and the Northwest Territories have not introduced compassionate care leave provisions.

While a number of provinces amended their legislation following the introduction of the federal compassionate care initiatives (which included both an EI-benefit under the *Employment Insurance Act* and a job-protected leave under the *Canada Labour Code*), no jurisdiction requires that an employee receive or qualify for Compassionate Care Benefits in order to be entitled to compassionate care leave under provincial/territorial employment standards legislation. Rather, the provincial/territorial compassionate care leave provisions provide job-protected leave where an employee requires time off work to care for a terminally ill family member, regardless of whether the employee qualifies for the Compassionate Care Benefit.

The following provinces and territories have compassionate care leave labour legislation that largely mirrors the federal labour legislation:²⁸

- Manitoba
- Saskatchewan
- Ontario
- Quebec
- New Brunswick
- Newfoundland and Labrador
- Nova Scotia
- Prince Edward Island
- Yukon
- Nunavut

Notable Differences from Federal Compassionate Care Leave Legislation²⁹

Although provincial and territorial compassionate care leave provisions largely mirror the provisions found in the *Canada Labour Code*, there are nonetheless some notable differences. Distinguishing elements include the definition of family member (i.e. persons for whose care an employee may take leave), eligibility requirements (i.e. required length of service and minimum notice periods) and the manner in which the leave may be taken (i.e. fractioning and/or sharing of leave).

(a) Eligibility requirements

Eligibility requirements for compassionate care leave vary across the jurisdictions.

(i) Definition of family member

Under the federal *Canada Labour Code* employees are eligible for compassionate care leave in order to care for an ill family member. The Code defines family member as a: child or child of a spouse/common law spouse, wife, husband or common law partner, father or mother, father's wife or mother's husband, or the common law partner of a father or mother.

Family member is defined more broadly in a number of the provincial/territorial labour statutes. For example, in addition to those family members included in the federal definition, a number of provinces and territories include:

- foster parents and foster children (Ontario);
- siblings (New Brunswick, Quebec, Prince Edward Island, Saskatchewan, Yukon);
- grandparents (New Brunswick, Quebec, Yukon);
- grandchildren (New Brunswick, Yukon);
- persons who, whether or not related by blood demonstrate an intention to extend to one another the mutual affection and support normally associated with a close family relationship (New Brunswick); and
- step-parents, various in-laws and any relative permanently residing in the same household as the employee (Yukon).

(ii) Length of service requirements

In a number of provinces, an employee must have completed a minimum length of service with his/her current employer to qualify for leave. For example, an employee must have worked with his or her current employer for 30 days in Manitoba and Newfoundland/Labrador, and for three months in Quebec and Nova Scotia. In Saskatchewan, a worker not receiving the federal benefit must have been employed by his or her current employer for at least 13 weeks; however this requirement does not apply to those receiving the Compassionate Care Benefit.

(iii) Medical certificate

An employee must provide his/her employer with a copy of a medical certificate attesting to the family member's state of health in Manitoba and Prince Edward Island; in other jurisdictions, a copy of the medical certificate must be given only if the employer requests it in writing.

(iv) Notice

An employee must provide advance notice of the leave to his/her employer "as soon as possible" in New Brunswick, Nova Scotia and Ontario, and at least one pay period before the start of the leave in Manitoba, although a shorter period may be given if circumstances so necessitate. In Manitoba, an employee who wishes to end his/her leave before it expires must in addition provide at least 48 hours' notice to the employer.

(b) Length of leave

All provinces and territories with compassionate care leave legislation provide at least eight weeks of leave, to be taken within a specified 26-week period. Should the family member die before the expiry of this period, leave typically ends on the last day of the week in which the death occurs. Saskatchewan extends the maximum length of leave from the eight weeks provided in the federal legislation to 12 weeks where the individual is not receiving the federal benefit, and 16 weeks where the individual is receiving the federal benefit. Quebec extends the maximum length of leave to 12 weeks, with the notable extension to 104 weeks in cases where the employee takes leave to care for a minor.

(c) Splitting compassionate leave

Compassionate care leave may be split or fractioned in most jurisdictions, but most provinces/territories set a minimum leave period of one week. In Manitoba, leave cannot be divided into more than two periods of leave, totaling no more than eight weeks within the 26-week period.

(d) Sharing compassionate leave

Legislation in New Brunswick, Nunavut, Prince Edward Island, Ontario and Yukon stipulates that where two or more employees wish to avail themselves of compassionate care leave to provide care or support to the same person, their combined periods of leave may not exceed a total of eight weeks (including the two-week qualifying period). In contrast, eligible employees in Manitoba and Nova Scotia are entitled to the full eight-week leave, even if other persons also take compassionate care leave in relation to the same family member.

(e) Other types of employment leave

Compassionate care leave is in addition to any other family-related leave to which an employee may be entitled under the applicable employment standards legislation. For example, under Ontario's *Employment Standards Act, 2000*, an eligible employee may take emergency leave as well as compassionate care leave with regard to the same family member.

Provinces/Territories without Compassionate Leave Legislation

As noted above, the provinces and territories that have not amended their labour legislation to include provisions that provide job-protected compassionate care leave are:

- British Columbia
- Alberta
- Northwest Territories.

Consultations with representatives from the provincial and territorial governments in British Columbia,³⁰ Alberta,³¹ and the Northwest Territories confirmed that there are no immediate plans to amend labour legislation in those jurisdictions to provide compassionate care leave job protection.

Summary of Compassionate Care Leave Protections

The following table summarizes the status and content of provincial and territorial labour legislation relating to compassionate care leave.

Jurisdiction	Provincial/Territorial Compassionate Care Leave Provisions
British Columbia	As of August 2005, no amendments have been made to the province's <i>Employment Standards Act</i> . ³² A government representative confirmed that amendments are not currently contemplated, and that the Ministry will monitor to determine if there is a need to change the legislation. While it does not provide job-protected compassionate care leave, the province provides eligible employees with unpaid family responsibility leave of up to 5 days.
Alberta	As of August 2005, no amendments have been made to the <i>Employment Standards Code</i> ³³ (ESC). The Alberta Human Resources and Employment Department is in the process of conducting a legislative review of potential amendments to the ESC which will be tendered for public consultation in ~Dec/05-Jan/06. Government representatives could not confirm that an amendment to provide compassionate care leave job protection would be part of the ESC legislative review. ³⁴
Saskatchewan	<i>Labour Standards Act</i> ³⁵ Amended in June 2004 to enhance existing compassionate care leave provisions. The Act already provided up to 12 weeks of job-protected leave per year. to recover from personal illness/ injury, or to care for a seriously ill/injured family member. The June 2004 amendments extend full job-protection to workers while they are receiving the federal benefit. The new provisions provide up to 16-weeks leave per year. if the individual is receiving the federal compassionate care benefit; and 12 weeks for those not receiving the benefit. Workers not receiving the benefit must have been employed by their employer for at least 13 weeks (this requirement does not apply to those receiving the benefit).
Manitoba	<i>Employment Standards Code</i> ³⁶ Amended in June 2003 to provide up to 8-weeks unpaid compassionate care leave. The provisions largely mirror those found in the federal labour legislation. However, an employee must have been employed by the same employer for at least 30 days in order to be entitled to the 8 weeks of leave.
Ontario	<i>Employment Standards Act, 2000</i> ³⁷ Amended in June 2004 to provide up to 8 weeks unpaid family medical leave. The provisions largely mirror those found in the federal labour legislation.

Jurisdiction	Provincial/Territorial Compassionate Care Leave Provisions
Quebec	<p><i>An Act Respecting Labour Standards</i>³⁸</p> <p>Prior to the federal employment insurance legislative amendment, Quebec's <i>An Act Respecting Labour Standards</i> already provided up to 12 weeks per year of unpaid compassionate care leave for employees with at least 3 months of uninterrupted service. This job protection extends to caring for the employee's child, spouse, father, mother, brother, sister, grandparent or the same relatives of the employee's spouse. There is additional protection for minors suffering from a potentially mortal illness, in which case the leave of absence from work is extended to a maximum of 104 weeks.</p>
New Brunswick	<p><i>Employment Standards Act</i>³⁹</p> <p>Amended in December 2003 to provide up to 8 weeks unpaid compassionate care leave. The provisions largely mirror those found in the federal labour legislation. However, the definition of family member is considerably broader than that found in the federal labour legislation since it includes siblings, grandparents, grandchildren and persons who, whether or not related by blood, demonstrate an intention to extend to one another the mutual affection and support normally associated with a close family relationship.</p>
Nova Scotia	<p><i>Labour Standards Code</i>⁴⁰</p> <p>Amended in May 2004 to provide up to 8 weeks of unpaid compassionate care leave.</p> <p>The provisions largely mirror those found in the federal labour legislation. However, to be eligible, the employee must have been employed by his or her employer for a period of at least 3 months.</p>
Prince Edward Island	<p><i>Employment Standards Act</i>⁴¹</p> <p>Amended in December 2003 to provide up to 8 weeks unpaid compassionate care leave. The provisions largely mirror those found in the federal labour legislation, however the definition of family member includes siblings.</p>

Jurisdiction	Provincial/Territorial Compassionate Care Leave Provisions
Newfoundland and Labrador	<p><i>Labour Standards Act</i>⁴² Amended in December 2004 to provide up to 8 weeks of unpaid compassionate care leave.</p> <p>The provisions largely mirror those found in the federal labour legislation. However, under the Newfoundland's compassionate care provisions, an employee must have been employed by the same employer for at least 30 days in order to be entitled to up to 8 weeks leave of absence. The Director of Labour Standards (or designate) may decide that, in exceptional circumstances, an employee must be provided with up to 3 additional days of unpaid leave immediately following the end of the week in which the death of the family member occurred, and in such a case the employer is required to provide that leave.</p>
Yukon	<p><i>Employment Standards Act</i>⁴³ Amended in November 2003 (in force as of January 4, 2004) to provide up to 8 weeks of unpaid compassionate care leave. The provisions largely mirror those found in the federal labour legislation. However, the definition of family members is considerably broader than the definition found in the Canada Labour Code as it includes siblings, grandparents, grandchildren, step-parents, various in-laws and any relative permanently residing in the same household as the employee.</p>
Northwest Territories	As of August 2005, no amendments have been made to the <i>Labour Standards Act</i> .
Nunavut	<p><i>Labour Standards Act</i>⁴⁴ Amended in November 2003 to provide up to 8 weeks unpaid compassionate care leave. The provisions largely mirror those found in the federal labour legislation.</p>

PART V

ANALYSIS AND EVALUATION

Introduction

Compassionate Care Benefits and compassionate care leave protections are important components of a comprehensive, quality end-of-life program. The introduction of a Compassionate Care Benefit Program in January 2004 was viewed widely by stakeholders as a positive first step in providing much-needed income support and job protection to those who care for seriously ill or dying family members. The Compassionate Care Benefit has even received international recognition from the United Kingdom and Portugal as a program of international excellence.⁴⁵ The British House of Commons recommends that the UK government legislate to provide for a period of paid leave for caregivers, taking into account the flexibilities provided by the Canadian model:

*We believe that such a step would empower many more people to achieve their wish to die at home. We also believe that at least some of the cost to public funds of such a measure would be offset by savings accruing from reduced hospital care.*⁴⁶

However, Canadian experience with the benefit and leave programs following implementation reveals a number of actual and potential issues that may require further consideration to ensure the effectiveness of the programs.

This section provides a review and analysis of key issues related to the federal Compassionate Care Benefit and federal/provincial/territorial compassionate care leave provisions, with a focus on areas that might account for the lower-than-expected uptake of the Compassionate Care Benefit Program. The analysis is based on data and program information provided by Human Resources and Skills Development Canada (HRSDC),⁴⁷ interviews with key stakeholders, results of searches of media and research databases, and Canadian reports and submissions on palliative and end-of-life care.

Post-implementation Status

Low uptake

Among the most significant issues related to the Compassionate Care Benefit is the low uptake of the benefit in the period following implementation. Early figures from HRSDC indicate that the number of Canadians who have accessed Compassionate Care Benefits since the introduction of the program in January 2004 is significantly lower than expected. While the annual budget allocated to the Compassionate Care Benefit Program in fiscal 2004-2005 and 2005-2006 was \$190 million, actual expenditures on claims totaled only \$7,150,000 in 2004-2005, the first full year since the program was implemented. This represents less than four per cent of the total amount budgeted for the program).⁴⁸

Basis for annual program budget

The \$190 million annual budget was based on an estimate of the number of individuals who would be eligible for the benefit. When the Compassionate Care Benefit was introduced, HRSDC estimated that 270,000 individuals would be eligible for the benefit on an annual basis.

According to HRSDC, this figure was based on the number of patients receiving palliative care in the United States (as no such similar figures were available for Canada), with adjustments made for a

number of other factors including the Canadian population, definition of family member, number of EI-eligible workers, etc. The estimate represents the maximum number of people believed to be eligible to claim the benefit. According to HRSDC, the decision was made to use the maximum number of eligible workers in the forecast to ensure sufficient funding was available to support the program.

Applications and claims

The following tables set out the number of applications made for the Compassionate Care Benefit by province and territory, and nationally in each of the last two fiscal years. The data indicate that the number of individuals who actually applied to the program and were found to be eligible falls far short of the 270,000 estimate, at only 3,686 in fiscal 2004/2005 (see table, Compassionate Care Claims Allowed, 2004/2005).

Total Benefits Paid (000's)		
	2003/04*	2004/05
NFLD	19	84
PEI	10	46
NS	56	243
NB	36	155
QUE	182	1,000
ONT	426	2,902
MAN	52	321
SASK	40	225
ALB	173	805
BC	225	1,336
NU	2	3
NWT	3	18
YT	1	12
CANADA	1,225	7,150

* Note: 2003/04 data is for one quarter only (Jan-Mar/04).

Compassionate Care Applications			Compassionate Care Claims Allowed		
	2003/2004*	2004/2005		2003/2004*	2004/2005
NFLD	17	75	NFLD	15	55
NS	36	180	NS	30	151
NB	43	126	NB	36	106
PEI	7	25	PEI	6	24
QUE	173	898	QUE	140	710
ONT	428	2206	ONT	288	1352
MAN	55	246	MAN	41	167
SASK	44	173	SASK	35	133
AL/NWT/NU	161	546	AL/NWT/NU	114	344
BC/YUK	204	859	BC/YUK	157	644
CANADA	1,168	5,334	CANADA	862	3,686

* Note: 2003/04 data is for one quarter only (Jan-Mar/04)

On average, claimants collected 4.7 weeks of benefits in calendar year 2004. The majority of claimants are younger adults: 44 per cent were between the ages of 25 and 44, and 35 per cent were in the 45-54 age group. Consistent with caregiver demographics, the large majority of claimants – 71 per cent – were women.

Program reviews

While the Compassionate Care Benefit Program is viewed as an important component of a comprehensive and high-quality end-of-life care strategy, the issue of low program uptake is widely acknowledged by HRSDC, stakeholders and other observers. A number of other issues have also been identified in the period following implementation of the Compassionate Care Benefit Program. In addition to the present review by the Health Council of Canada, there are at least three initiatives underway to review/study the Compassionate Care Benefit:

1. *Internal HRSDC evaluation:* HRSDC is monitoring the program on an on-going basis, and started a full evaluation of the Compassionate Care Benefit after the benefit was in place for a year. It is hoped that the evaluation will provide insight into the lower than expected uptake of the benefit. HRSDC expects the results of the internal evaluation to be completed by the end of the current fiscal year (March 31, 2006).
2. *Internal HRSDC policy review:* HRSDC is also conducting a less comprehensive internal policy review. Among other things, the review is examining reform options that might increase access to/use of the benefit. The review will utilize various sources of information including administrative data and stakeholder feedback. HRSDC representatives indicate that one of the areas being considered is the current definition of family member.

3. *Compassionate Care Benefit pilot evaluation:* A national group of researchers focused on the area of family caregiving in palliative and end-of-life care is currently undertaking a formative pilot evaluation of the Compassionate Care Benefit Program from a family caregiver perspective.⁴⁹ The research is funded through a Canadian Institute for Health Research (CIHR), New Emerging Team Grant. The pilot is testing for feasibility of a larger research project. As such, the pilot phase will not involve substantive analysis of the Compassionate Care Benefits Program.⁵⁰

Key Issues and Analysis

Nature of program

The Compassionate Care Benefit is an employment insurance benefit, and as such resides within the jurisdiction of Human Resources and Skills Development of Canada (HRSDC). The

The Compassionate Care Benefit is described as a labour market policy, as opposed to an end-of-life or hospice care program.

benefit is described as a labour market policy, rather than an end-of-life or hospice care program.⁵¹ This distinction is important as it highlights the main focus of the Compassionate Care Benefit: that is, alleviating the economic stress of EI-qualifying employees who take compassionate care leave. It is not directly

designed to increase the ability of Canadians at large to provide end-of-life/hospice care to their family members.

Because it is an EI-based program, a significant number of individuals will not qualify for Compassionate Care Benefits on the basis that they are not EI-eligible (i.e. they do not meet the applicable EI eligibility criteria). Individuals who are not EI-eligible must independently bear the economic burden of providing end-of-life care to their family members. A number of stakeholders have criticized this aspect of the program. Persons who will be excluded by virtue of the fact that it is an EI labour program include:

- Unemployed people, including homemakers (approximately 37 per cent of Canadians);
- Part-time, temporary, contract or seasonal workers (i.e. those who fail to qualify for the benefit given an insufficient number of insurable work hours)
- Self-employed workers (approximately 15 per cent of Canadians).

A long-standing criticism of the Compassionate Care Benefit Program is that it fails to alleviate the economic stress of women who both constitute the large majority of caregivers and disproportionately fall within the classes of people ineligible to receive the benefit. This criticism is at least partially confirmed in the Compassionate Care Benefit post-implementation figures that show the vast majority of claimants are women (71 per cent).⁵²

Definition of family member

In order to qualify for the Compassionate Care Benefit and/or compassionate care leave, an employee must come within the definition of family member set out in the *Employment Insurance Act* (in the case of Compassionate Care Benefits), or in the *Canada Labour Code* or applicable provincial/territorial labour legislation (in the case of compassionate leave).

Family member is narrowly defined under the *Employment Insurance Act* to include only the following:⁵³

- child or the child of spouse or common law partner
- wife/husband or common law partner

- father or mother
- father's wife/mother's husband
- common law partner of father/mother
- a member of a prescribed class of persons.⁵⁴

Individuals and organizations who have commented on the Compassionate Care Benefit Program⁵⁵ consistently identified the definition of family member as a major issue. There have also been a number of media reports on legal challenges to the eligibility rules for Compassionate Care Benefits (to both labour boards and courts). These reports indicate that a number of applicants have challenged the constitutionality of the definition of family member on the basis that it violates the equality rights guaranteed by the *Charter of Rights and Freedoms*. Most of these cases involve applicants who are siblings of the dying person and who have therefore determined to be ineligible under the current definition.⁵⁶

The narrowness of the current definition was frequently cited as one of the reasons for the low volume of compassionate care claims to date. Some stakeholders also observed that under the current definition, a number of people would not have anyone who could qualify as a family member in the event they needed care, and noted that this would be a particular issue for individuals who are single (e.g. an unmarried person with no parents or children).⁵⁷ It was also noted that definitional changes should reflect and accommodate the diverse range of family structures that exist in today's society.

All stakeholders argue for a broader definition that would include, at a minimum, siblings and grandparents. Many argue for a more expansive definition that would include step-children, step-parents, aunts, uncles, and other family members.

Some organizations go further, arguing that the definition should not be restricted

In one case, the EI Board of Referees upheld a decision denying a sister benefits, but wrote: "The Board finds that there is no compassion in a piece of legislation that would not specifically prescribe a sibling to be a family member and consequently, deny that sibling the basic human decency to receive benefits while comforting a dying sibling. This Board believes that the failure of the Commission and the Minister to act swiftly in these matters of Compassionate Care amendments has only served to exacerbate the suffering endured by families as they care for a dying family member."

RG Smith, Chairperson, Board of Referees

All stakeholders argued for a broader definition that would include, at a minimum, siblings and grandparents. Many argued for a more expansive definition that would include step-children, step-parents, aunts, uncles, and other family members. Some organizations went further, arguing that the definition should not be restricted to family members at all.

to family members at all. According to these groups, patients should be allowed to determine the best person to be their caregiver (e.g. whether that is a family member, a friend, or a neighbour). The 2005 Senate report included a recommendation to expand the definition of family member in this way.⁵⁸ As noted in the section on provincial/territorial legislation, family member is defined more broadly for the purposes of compassionate care leave in many jurisdictions.⁵⁹

From a legal standpoint, changes to the definition of family member (i.e. adding another class or classes of eligible individuals, such as siblings or grandparents) could be accomplished quite easily by regulation, since the *Employment Insurance Act*⁶⁰ provides the authority to prescribe a class of persons for purposes of the definition of family member. From a financial perspective, changes to the definition of family member that would expand the classes of individuals eligible for the benefit would increase program costs.

(On October 19, 2005, the federal government announced that it would broaden access to the Compassionate Care Benefits Program by easing restrictions on the types of family members eligible and by addressing the prohibition against non-family members. As of this writing, however, the changes have not been formalized.)

Length of benefit

The Compassionate Care Benefit provides for up to six weeks of paid benefits. Stakeholders and critics consistently observe that the six-week paid benefit period is too short. Length of benefit was also one of the key areas discussed in the section of the 2005 Senate report that addresses patient and caregiver end-of-life support issues. In that report, Senator Carstairs writes, “at eight weeks [six weeks paid] the length of the benefit is considered too short and does not allow flexibility for the unpredictability of the dying process.”⁶¹

The 2005 Senate report includes four recommendations relating to patient and caregiver support, one of which was that the federal government amend the Compassionate Care Benefit by extending the leave from eight weeks to 16 weeks (including a two-week waiting period). The report also recommends that the federal/provincial/territorial governments amend their respective labour code provisions to reflect this change.⁶²

Stakeholders and critics consistently observe that the six-week paid benefit period is too short, and support a longer benefit period.

Hospice and home care organizations – including the Canadian Homecare Association and the Canadian Hospice Palliative Care Association – echo the 2005 Senate report recommendations by advocating that the six-week paid benefit period is inadequate. The Canadian Hospice Palliative Care Association

supports a 16-week benefit period. This view is also widely endorsed by hospice and palliative care stakeholders.

It should be noted that compassionate care leave provisions in the labour legislation of some jurisdictions – such as Saskatchewan and Quebec – include a longer leave period. This reflects a recognition of the need for a longer period of time to care for a seriously ill or dying family member. However, the length of the time for which an employee may receive benefits is set out separately under the *Employment Insurance Act*; these longer periods of job-protected leave do not affect the period during which an individual may receive Compassionate Care Benefits. Ultimately, if the length of the benefit is extended, federal/provincial/ territorial labour legislation would also need to be amended to reflect these changes, in order to continue to provide job-protected leave during the entire benefit period. The financial impact of the introduction of a longer benefit period would also have to be assessed for any impact on program costs.

26-week window

The Compassionate Care Benefit provisions in the *Employment Insurance Act* require that the person claiming the benefits obtain a medical certificate confirming that the ill family member has a serious medical condition with a significant risk of death within 26 weeks (six months), and that the ill family member requires the care or support of one or more family members.⁶³ Some stakeholders argue that the requirement that death be imminent within 26 weeks is arbitrary and inappropriate. They point, in particular, to the unpredictability of the dying process. As one hospice executive notes, “we’re talking about the dying process, and who can predict how long that is?”⁶⁴ These stakeholders advocate for more flexibility in terms of the six-month window.

“We’re talking about the dying process, and who can predict how long that is?”

*Cheryl Macleod,
Executive Director of Hospice Durham*

Stakeholders also note that some individuals are unwilling to acknowledge or accept that their loved one is dying, and some physicians are reluctant to confirm this. This concern was cited as being particularly significant in the context of terminally ill children.⁶⁵ Some physicians also may delay filing forms to ensure that individuals can take advantage of the benefit within the 26-week window as close to death as possible. The 2005 Senate report recommended that the *Employment Insurance Act* be amended so that the benefit is not limited to the last six months of life, especially for children.⁶⁶

Eight weeks per family

While more than one family member can claim the benefit, the benefit period is limited to a total of eight weeks, regardless of how many family members make a claim for the benefit. Family members can decide how they share the eight weeks, but the eight weeks cannot be exceeded (i.e. the family members can take weeks at the same time or they can take different weeks). As a result, there is only six weeks of paid leave available to a family.

As noted earlier, stakeholders consistently observed that the six-week paid benefit period is frequently inadequate to meet the patient's care needs, and does not reflect the unpredictability of the dying process. If each eligible family member could obtain the full six weeks of paid leave, it may help address some of the concerns regarding the length of benefit for those families with more than one eligible caregiver. Since this type of reform may increase access to the benefit, the financial impact on program costs would have to be assessed.

Medical certificate

In all of the consultations with stakeholders, no one cited the form or content of the medical certificate as an obstacle to accessing the benefit. Physicians interviewed confirmed that the medical certificate was easy to understand and complete. They also confirmed that the terminology in the certificate with respect to attesting to a patient having a "serious medical condition and a significant risk of death within 26 weeks" is not inconsistent with any medical terminology or interpretations.

None of the stakeholders cited any privacy concerns with respect to personal health information as an obstacle to completing the medical certificate. Provincial legislation governing health professions requires health professionals to protect the privacy of personal health information in the medical certificate. The medical certificate also specifically provides that the personal information is protected under the federal *Privacy Act*.

"Do you really want to have a doctor sign a form that says your child has only six months to live?...Parents just don't want to deal with that."

*Senator Sharon Carstairs
March 28, 2005*

The only obstacle noted with respect to the medical certificate relates to a family member's reluctance to acknowledge and confirm the fact that a loved one may be dying, something that a physician is required to confirm in completing the medical certificate.

Issues around reluctance to complete the medical certificate may be particularly relevant in the case of gravely ill or dying

children, where parents may understandably find it difficult to request completion of a certificate for a child. As noted by Senator Carstairs, "Do you really want to have a doctor sign a form that says your child has only six months to live?...Parents just don't want to deal with that."⁶⁷

The completion of the medical certificate is an integral procedural requirement for the Compassionate Care Benefit, as it serves to confirm that some of the key legislative requirements have been met. While it does not appear to be a significant barrier to accessing the benefit, this issue may play a small role in the low uptake of the benefit program.

Minors

Unlike compassionate care leave provisions in the federal and Quebec labour legislation,⁶⁸ the Compassionate Care Benefit provisions contained in the *Employment Insurance Act* do not include any special provisions to address the unique circumstances surrounding gravely ill or dying children. A number of stakeholders – including hospice and home care organizations – pointed to the need for flexibility, sensitivity and greater support in circumstances involving gravely ill or dying children. Recommendations for reform in cases involving minors included both a longer benefit period, as well as greater flexibility in terms of the six-month period in which an individual can claim the Compassionate Care Benefit.

No benefit or leave beyond death

Physician and hospice stakeholders interviewed noted that it is unfortunate that the Compassionate Care Benefit (as well as job leave protection) ends on death, even if the six-week paid eligibility period has not been exhausted. Health professionals note that family members need the security of the economic support and job-protected leave in order to grieve. While many employers provide bereavement leave, and labour legislation in a number of provinces includes provisions for bereavement leave, such a leave is typically limited to a couple of days. Health professionals argue that in the event of a death of a family member, the benefit and protected leave should continue for at least a full week after death for employees who are already accessing the benefit and have not exhausted the six-week period. While this issue does not impact access to the benefit, extending benefits for some short period beyond death would lead to increased program costs, although these would likely be marginal.

Amount of benefit

The amount of the benefit, which is capped at a maximum of \$413 per week, is not cited widely as an issue. However, in a 2005 media report, Senator Sharon Carstairs identifies the amount of the benefit as a weakness of the program. She states: “[A]t only \$413 per week maximum, many working people are unable to make ends meet...”⁶⁹ Increasing the maximum amount of the weekly benefit payment would increase program costs. It may also be problematic given that it would create a higher rate for the Compassionate Care Benefit than other special benefits such as parental and maternity leave (also capped at \$413/per week).

Public awareness

While there are no data available on the extent of public awareness regarding the availability of the Compassionate Care Benefit, stakeholder information and media coverage provide insight into the efforts that have been made to publicize the availability of the benefit.

Federal advertisements and education

Information from HRSDC⁷⁰ indicates that since January 2004, the federal government has made the following efforts to publicize the Compassionate Care Benefit:

- In January 2004, the launch of the benefit was marked by press releases and special events in Montreal and Toronto, attended by then-Minister for HRSDC JoeVolpe, as well as Minister of Social Development Liza Frulla.
- In January 2004, advertising of the benefit was placed in national newspapers (The Globe & Mail, The National Post), as well as other dailies and community papers. From January to March 31, 2004, advertising was placed on targeted television channels. A 15-second spot was also broadcast on Patient Direct TV (closed circuit TV run in doctors' offices).
- A booklet about the benefit was created and is available in all Human Resources Centres. Information is also featured prominently on the Canada.gc.ca and HRDSC websites.
- An article was published in the newsletters of provincial colleges of physicians and surgeons and other medical organizations.

“It is also possible that people just don’t know about the program...The benefit has never been adequately advertised, in large part because of a moratorium on government advertising in the wake of the Quebec sponsorship scandal...”

*Senator Sharon Carstairs,
March 28, 2005*

These public awareness initiatives are laudable. However, stakeholders argue that they fall short of a clear social marketing strategy to target the public on a widespread basis through joint federal and provincial/territorial public awareness initiatives. Also lacking, they argue, are direct communications to key health sector groups such as nursing associations, hospice and palliative care organizations, and major unions and employment associations. There is also an absence of

ongoing federal communications about the benefit after the launch of the program in January 2004.

In a recent interview with Senator Carstairs prior to the release of the 2005 Senate report, she cites inadequate federal advertising of the benefit as a possible reason for the low uptake of the benefit: “It is also possible that people just don’t know about the program...The benefit has never been adequately advertised, in large part because of a moratorium on government advertising in the wake of the Quebec sponsorship scandal...”⁷¹

The need for additional public and stakeholder communications on the Compassionate Care Benefit is also substantiated by the following summary of stakeholder consultations and research on the extent of media and stakeholder publications on the benefit.

Limited stakeholder publications

A review of publications and media reports on the Compassionate Care Benefit also suggests a lack of publicly available communications about the benefit to key stakeholders such as

physicians, nurses, hospice and palliative care providers, unions and employment associations and organizations. A list of publications and media reports on the Compassionate Care Benefit is attached as Appendix A to this report. It is noteworthy that most of the publications are media reports on the launch of the benefit, criticisms regarding the design of the benefit, or reports on advocacy measures by aggrieved family members who have been denied access to the benefit because they do not fall within the definition of family member.

A review of the publications listed in Appendix A indicates a glaring absence of publications on the benefit by stakeholders; there are no more than 10 publicly available reports from human resource advisory newsletters or reporters, and only one report from the *Canadian Family Physician*, the journal of the College of Family Physicians of Canada.

Need for physician and hospice/palliative care communications

Awareness and clear communication linkages between hospice service providers and physicians regarding the Compassionate Care Benefit is key to establishing public awareness and access. Physician, hospice and palliative care organizations indicated that the health sector requires widespread communications about the benefit to ensure that health care providers can advise their patients and family members of the availability of the benefit.

Hospice and palliative care organizations cited the importance of physician awareness of the benefit as in the vast majority of cases, the family physician is the patient's and family member's principal point of contact in situations involving serious illness.⁷² Family and palliative care physicians indicated that they became aware of the benefit largely through their local community care providers.

However, physicians also indicated that they may not be effective conduits for the communication of the benefit to their patients. Reasons include lack of time to address benefit issues given the complex care needs of their patients, and absence of any formal links with palliative care physicians or services. As well, many family physicians do not necessarily have active palliative care practices, and as such may not be aware of the Compassionate Care Benefit. These observations highlight the importance of the partnership between physicians and hospice/palliative care providers in communicating the availability of the benefit, and supporting family members in their efforts to access the benefit.

Upcoming federal awareness initiatives

There is no question that increased public awareness is required to support increased access to the Compassionate Care Benefit. In this regard, HRSDC has indicated that the following two additional public awareness efforts are presently underway:⁷³

- Publication of a brochure for hospices, palliative care groups and the general public outlining the content of the benefit and the application process (planned for fall 2005); and
- A potential public education program coordinated by federal departments, targeting hospices and palliative care groups.

The need for a public education program about the Compassionate Care Benefit by Health Canada, in cooperation with the provinces and territories and the hospice palliative care community, is also a recommendation in the 2005 Senate report.⁷⁴

Compassionate care leave provisions

The federal/provincial/territorial leave provisions are important to the successful implementation of the Compassionate Care Benefit in that the leave provisions effectively enable access to the benefit. As well, such provisions may provide job-protected leave to some workers who may not be eligible for the federal Compassionate Care Benefit. The following four issues are noted as areas for potential improvement in the federal/provincial/territorial leave provisions to support improved access to the benefit, and enhanced and more equitable compassionate care leave across the country.

Uniform provincial/territorial leave provisions

Three jurisdictions – British Columbia, Alberta and the Northwest Territories – have not amended their labour legislation to provide employees with compassionate care leave. The introduction of compassionate care leave provisions in these jurisdictions would provide employees in those regions with the ability to take job-protected leave to care for a gravely ill or dying family member. It may also facilitate access to the benefit by providing complementary job-protected leave. None of the jurisdictions without compassionate leave provisions has voiced any obstacle or concern with enacting such provisions and, as such, they should be further encouraged to do so as soon as reasonably possible.

Length of leave

As already noted, the federal government and most of the provinces and territories provide eight weeks of job protected leave for an employee to care for a seriously ill family member within a 26-week period. Notably, Saskatchewan extends the maximum length of leave from the eight weeks to 12 weeks where the individual is not receiving the federal benefit, and 16 weeks where the individual is receiving the federal benefit. Quebec extends the maximum length of leave to 12 weeks, and both the federal and Quebec labour legislation extend the leave to 104 weeks in cases where the employee takes leave to care for a minor.

As noted earlier, most family members try to access the benefit as close to death as possible. This can create difficulties for physicians who must attempt to accurately estimate the timing of death within an eight-week period. As a result, there is a policy argument that both the length of the benefit and job-protected leave should be increased beyond eight weeks across Canada. The precedents in Saskatchewan and Quebec which provide a minimum of 12 weeks job-protected leave recognize that employees may need additional time to adequately care for a family member who is dying. Arguably, an extension of the benefit and leave period is even more appropriate in the case of minors, where family members may require longer job-protected absences from work to care for seriously ill or dying children (i.e. like the 104 weeks provided in the federal and Quebec labour legislation).

It is also important to note the link between the Compassionate Care Benefit and the compassionate care leave provisions. If amendments were made to the *Employment Insurance Act* to increase the length of the benefit, federal/provincial/territorial labour legislation would also need to be amended to reflect these changes, in order to continue to provide job-protected leave during the entire benefit period. The 2005 Senate report recommends that federal/provincial/territorial governments amend their respective labour legislation to reflect such a change to the Compassionate Care Benefit.⁷⁵

Even if the Compassionate Care Benefit is not amended to extend the length of the benefit, increasing the length of leave in the federal/provincial/territorial labour legislation would provide employees with a longer period of time to care for a dying family member, while that the employee's job is protected during the leave period. An extension of the leave period would provide employees with more security and support to care for family members, as well as recognize the difficulty of clinically predicting death within an eight-week period. It should be noted that amendments to increase the leave period may increase costs to employers with longer employee absences from work. It is difficult to assess the impact on claims/costs for the Compassionate Care Benefit.

Definition of family member

The same concerns with respect to the definition of family member regarding eligibility for the Compassionate Care Benefit equally apply to the eligibility criteria for accessing job protected leave. Broadening the definition of family member in labour legislation to include siblings and grandparents, at a minimum, would increase access to job protected leave.

Sharing leave among family members

At present, most jurisdictions tie the eight-week job protected leave provision to the seriously ill family member; that is, there is only one eight-week leave period per dying family member: employees in the same family must share the eight weeks to care for the same person. As already noted, this is the case in New Brunswick, Nunavut, Prince Edward Island, Ontario and Yukon where two or more employees who wish to avail themselves of compassionate care leave to provide care or support to the same person must share the leave period to ensure it does not exceed a total of eight weeks (including the two-week qualifying period). In contrast, eligible employees in Manitoba and Nova Scotia are entitled to the full eight-week leave, even if other persons also take compassionate care leave in relation to the same family member.

Enabling each employee to access the full eight-week leave period to care for the same family member would acknowledge the difficulty of determining the length and course of the dying process, and the potential need for more than one family member to be absent during this period to provide the requisite care and support. Such changes may result in increased costs to employers who might have to absorb the costs of compassionate care absences for multiple employees within the same dying member's family. It would not increase access or costs to the Compassionate Care Benefit Program unless the program was also amended to allow more than one employee per family to access the eight-week benefit for the same dying family member within the 26-week period.

PART VI

CONCLUDING REMARKS

The Compassionate Care Benefit and compassionate care leave protections are important components of a comprehensive, quality end-of-life program. The Compassionate Care Benefit Program is viewed widely by stakeholders as a positive first step in providing much-needed income support and job protection to those who care for a seriously ill or dying family member. Canada's Compassionate Care Program has even received recognition in the United Kingdom and Portugal as an end-of-life care initiative of international excellence.

However, while there is widespread support for the program, stakeholders and critics identify a number of issues and deficiencies, and point to the need for improvements to the program. While a wide variety of possible changes to the program have been proposed, three areas of reform consistently emerge: (1) expanding the definition of family member; (2) increasing the length of benefit; and (3) engaging in a targeted education and public awareness campaign to increase awareness of the Compassionate Care Benefit. The introduction of compassionate care leave provisions in British Columbia, Alberta and the Northwest Territories is also viewed as a relatively simple and non-contentious measure that would improve compassionate care job protection for citizens of those jurisdictions.

Other issues for consideration relate to the need for: greater flexibility with respect to the 26-week window criterion; greater flexibility and sensitivity in situations involving sick children; longer leave periods; and ongoing alignment of benefit and leave provisions.

Governments face considerable challenges when assessing whether program reforms should be introduced and the potential options for those reforms. Financial impact is always an important consideration in any evaluation of options for policy or program reforms. In terms of the Compassionate Care Benefit, however, government is in a somewhat unusual position, in that program costs have been substantially below budget (with claims accounting for less than four per cent of the annual budget allocated to the Compassionate Care Benefit Program). Arguably, this should provide government decision-makers with a unique opportunity to consider and implement meaningful reforms that will enhance the Compassionate Care Benefit Program, and improve access to both the Compassionate Care Benefit and compassionate care leave across Canada. It also provides the opportunity to further improve on Canada's leadership in providing income support and job protection to those who care for seriously ill or dying family members.

NOTES AND REFERENCES

- ¹ A third Senate report, issued in June 2005, is discussed more fully later in this report.
- ² Report of the Special Senate Committee on Euthanasia and Assisted Suicide (The Honourable Sharon Carstairs, Chair), *Of Life and Death – Final Report*, June, 1995.
- ³ Report of the Senate Subcommittee to update *Of Life and Death*, a Subcommittee of the Standing Senate Committee on Social Affairs, Science and Technology (The Honourable Sharon Carstairs, Chair), *Quality End-of-Life Care: The Right of Every Canadian*, June 2000.
- ⁴ Quality End-of-Life Care Coalition, *Dying for Care* (Status Report, June 2004), p. 1.
- ⁵ *Employment Insurance Act*, 1996, c.23.
- ⁶ Data provided by HRSDC on August 29, 2005.
- ⁷ Report of the Senate Subcommittee on End-of-Life Care (The Honourable Sharon Carstairs, Chair), *Still Not There, Quality End-of-Life Care: A Progress Report*, June 2005.
- ⁸ Confirmed by Human Resources and Skills Development Canada on August 29, 2005.
- ⁹ In addition to the *Employment Insurance Act*, information in this section is drawn primarily from the following sources: (1) Government of Canada, Human Resources and Skills Development Canada, Employment Insurance, *Compassionate Care Benefits* (available at: www.hrsdc.gc.ca/ei); (2) Government of Canada, Human Resources and Skills Development Canada, Employment Insurance, *Compassionate Care Benefits: Frequently Asked Questions* (available at: www.hrsdc.gc.ca/ei); and (3) Government of Canada, Human Resources and Skills Development Canada, Employment Insurance, *Employment Insurance (EI) Compassionate Care Benefits* (available at: www.hrsdc.gc.ca/ei).
- ¹⁰ *Employment Insurance Act*, s. 23.1(1).
- ¹¹ Under section 2(1) of the *Employment Insurance Act*, common law partner means a person who has been living in a conjugal relationship with a person for at least a year.
- ¹² There are currently no regulations prescribing a class of persons for purposes of the definition of family member.
- ¹³ Employment Insurance Regulation, SOR/96-332, s. 41.1.
- ¹⁴ See *Employment Insurance Act*, s. 23.2.
- ¹⁵ Employment Insurance Regulations, SOR/96-332, s. 41.2.
- ¹⁶ Note that there are different requirements for self-employed fishers, and for individuals who have previously received EI benefits and have received a written notice for making a false statement.
- ¹⁷ See *Employment Insurance Act*, s. 23.1.
- ¹⁸ *Canada Labour Code*, R.S. 1985, c. L-2.
- ¹⁹ *Ibid.* s. 206.3(2).
- ²⁰ In addition to the *Canada Labour Code*, information in this section is drawn primarily from the following sources: (1) Government of Canada, Human Resources and Skills Development Canada, Pamphlet 1 – Summary of Part III of the Canada Labour Code (available on the HRSDC website at: www.hrsdc.gc.ca); and (2) Government of Canada, Human Resources and Skills Development Canada, Pamphlet 5A – *Compassionate Care Leave* (available on the HRSDC website at: www.hrsdc.gc.ca).

²¹ See Government of Canada, Human Resources and Skills Development Canada, Pamphlet 1 – Summary of Part III of the Canada Labour Code (available on the HRSDC website at: www.hrsdc.gc.ca).

²² *Ibid.* s. 206.3.

²³ *Ibid.* s. 206.3(2).

²⁴ *Ibid.* s. 206.3(8).

²⁵ *Ibid.* s. 206.3(6).

²⁶ *Ibid.* s. 209.1.

²⁷ *Ibid.* s. 209.2.

²⁸ The legislation provides up to eight weeks of leave without pay to provide care or support to a family member who has a serious medical condition with a significant risk of death within a 26-weeks period, as attested by a medical certificate.

²⁹ Much of the information in the following sections is reproduced or adapted from the HRSDC website: www.hrsdc.gc.ca/asp/gateway.asp?hr=/en/lp/spila/cli/dllc/15_2003_2004.shtml&hs=lzl#i_d.

³⁰ Interview with Michael Tanner, Assistant Director, Policy and Legislation, Policy and Skills Branch, British Columbia Ministry of Labour and Citizens' Services, August 10, 2005.

³¹ Confidential interview with an Employment Standards Advisor of the Alberta Human Resources and Employment Department, July 26, 2005.

³² R.S.B.C. 1996, c. 113.

³³ R.S.A. 2000, c.E-9. See s.44.2(1.1), in particular.

³⁴ Confidential interview with an employment standards advisor of the Alberta Human Resources and Employment Department, July 26, 2005.

³⁵ R.S.S. 1978, c.L-1.

³⁶ C.C.S.M. c. E110. See s.59.2 in particular.

³⁷ S.O. 2000, c.41. See s. 49.1 in particular.

³⁸ R.S.Q. c. N-1.1. See in particular ss.79.7 and 79.8.

³⁹ S.N.B. 1982, c. E-7.2. See s.44.024 in particular.

⁴⁰ R.S.N.S. 1989, c. 246. See s.60E in particular.

⁴¹ R.S.P.E.I., 1988, c. E-6.2. See s.22.3 in particular.

⁴² R.S.N.L. 1990, c. L-2. See Part VII.3, ss.43.13-43.16 in particular.

⁴³ R.S.Y. 2002, c.72, as amended by, *An Act to Amend the Employment Standards Act*, S.Y. 2003, c.22, Section 60.1.

⁴⁴ S. Nu. 2003, c.18, as amended by, *An Act to Amend the Labour Standards Act*, S. Nu. 2003, c.18, Section 39.1.

⁴⁵ 2005 Senate report, *supra*, note 7, p.11.

⁴⁶ British House of Commons, Health Committee, *Palliative Care*, Fourth Report of Session 2003-04, Volume 1, July 22, 2004, p. 13.

⁴⁷ It should be noted that the program information provided by HRSDC with respect to applications, claims and benefits paid is based on administrative as opposed to evaluative data. As a result, there are

certain limitations in terms of data availability and quality. Further adjustments and refinements to the data are made for purposes of the EI Monitoring and Assessment Report, however the most recent of these reports includes only 2003-04 figures (meaning only three months of data on the Compassionate Care Benefit Program since it was introduced in January 2004).

⁴⁸ While certain reports indicate that the Compassionate Care Benefit budget has been cut, HRSDC confirmed on August 29, 2005 that the budget remains unchanged. While media reported that the budget was reduced to \$11million, an HRSDC representative states that this figure only relates to program cost estimates used by the Chief Actuary to establish the EI premium rate.

⁴⁹ Information on this pilot research project can be obtained from the website of the University of Victoria's Centre on Aging at: www.coag.uvic.ca/eolcare.

⁵⁰ Interview with Kelli Stadjuhar, Co-investigator, University of Victoria, Centre on Aging, August 25, 2005.

⁵¹ Interview with Dan Charrette, Acting Director, Employment Insurance Program Employment Program, Policy and Design, HRSDC, August 29, 2005.

⁵² HRSDC, 2003/04 EI Monitoring and Assessment Data. Provided by Dan Charrette, Acting Director, Employment Insurance Program, Employment Program, Policy and Design, August 29, 2005.

⁵³ *Employment Insurance Act*, s. 23.1(1).

⁵⁴ There are currently no regulations prescribing a class of persons for purposes of the definition of family member.

⁵⁵ This includes comments and recommendations contained in formal submissions and reports, as well as comments from interviews with stakeholders conducted for purposes of preparing the present report.

⁵⁶ See, for example, CanWest News, *Man who cared for dying brother challenges Compassionate Care Program*, June 19, 2005, p.1; or News Release, Mark Warawa, MP Conservative, Langley, British Columbia, *Sister of Langley woman loses compassionate care appeal; EI Board of Referees slams Minister for inaction*, April 19, 2005.

⁵⁷ This point was made by representatives of the Canadian Hospice Palliative Care Association and the Canadian Homecare Association, among others.

⁵⁸ See 2005 Senate report, *supra*, note 7, p. 29.

⁵⁹ For example, a number of jurisdictions include siblings, grandparents and grandchildren. New Brunswick goes furthest, including also persons who, whether or not related by blood, demonstrate an intention to extend to one another the mutual affection and support normally associated with a close family relationship (see Part III of this report).

⁶⁰ Section 54(f.2) of the *Employment Insurance Act* grants the Commission, with the approval of the Governor in Council, to make regulations prescribing classes of persons for the purposes of the section of the Act that defines family member (s. 23.1(1)(d)).

⁶¹ 2005 Senate report, *supra*, note 7, p. 22.

⁶² *Ibid.* p. 22.

⁶³ See *Employment Insurance Act*, s. 23.2.

⁶⁴ Bovie, Lesley, *Six weeks leave not enough, say hospice workers*. Metroland Papers, January 16, 2004.

⁶⁵ This point was noted by representatives of the Canadian Hospice Palliative Care Association and the Canadian Homecare Association. It was also specifically addressed in the 2005 Senate report, p. 24.

⁶⁶ 2005 Senate report, *supra*, note 7, p. 29.

⁶⁷ Lett, Dan. *Ottawa reviewing benefit to help care for dying*, Winnipeg Free Press, March 28, 2005.

⁶⁸ Compassionate care leave provisions in the *Canada Labour Code* and the Quebec Labour legislation allow for 104 weeks of unpaid leave in the case of minors.

⁶⁹ Lett, Dan. *Ottawa reviewing benefit to help care for dying*, Winnipeg Free Press, March 28, 2005.

⁷⁰ Interview with Dan Charrette, Acting Director, Employment Insurance Program Employment Program, Policy and Design, HRSDC, August 29, 2005.

⁷¹ Lett, Dan. *Ottawa reviewing benefit to help care for dying*, Winnipeg Free Press, March 28, 2005.

⁷² In a recent Ipsos Reid poll, 90 per cent of Canadian respondents indicated they would go to their family physician for information on palliative care services. Canadian Hospice Palliative Care Association, *Quality End-of-Life Care: The Right of Every Canadian*, March 1, 2005, Appendix A , p. 12.

⁷³ Interview with Dan Charrette, Acting Director, Employment Insurance Program Employment Program, Policy and Design, HRSDC, August 29, 2005.

⁷⁴ 2005 Senate report, *supra*, note 7, p. 3-4.

⁷⁵ 2005 Senate report, *supra*, note 7, p. 29.

BIBLIOGRAPHY

Legislation

Federal

Canada Labour Code, R.S. 1985, c. L-2

Employment Insurance Act, 1996, c.23

Employment Insurance Regulation, SOR/96-332

Provincial/Territorial

An Act Respecting Labour Standards, R.S.Q. c. N-1.1

An Act to Amend the Employment Standards Act, S.Y. 2003, c.22

An Act to Amend the Labour Standards Act, S. Nu. 2003, c.18

Employment Standards Act, R.S.B.C. 1996, c. 113

Employment Standards Act, R.S.P.E.I., 1988

Employment Standards Act, R.S.Y. 2002, c. 72

Employment Standards Act, S.N.B. 1982, c. E-7.2

Employment Standards Act, 2000, S.O. 2000, c.41

Employment Standards Code, C.C.S.M. c. E110

Employment Standards Code, R.S.A. 2000, c.E-9

Labour Standards Act, R.S.N.L. 1990, c. L-2

Labour Standards Act, R.S.N.W.T. 1988, c. L-1

Labour Standards Act, R.S.S.1978, c.L-1

Labour Standards Act, S. Nu. 2003, c.18

Labour Standards Code, R.S.N.S. 1989, c. 246

Reports and Submissions

British House of Commons, Health Committee, *Palliative Care*, Fourth Report of Session 2003-04, Volume 1, July 22, 2004.

Canadian Hospice Palliative Care Association, *Submission to the 5 Year Report of the Senate Subcommittee, Final Report – Quality End-of-Life Care: The Right of Every Canadian*, March 1, 2005.

Government of Canada, Human Resources and Skills Development Canada website: www.hrsdc.gc.ca.

Quality End-of-Life Care Coalition of Canada, *Submission to the 5 Year Report of the Senate Subcommittee, Final Report – Quality End-of-Life Care: The Right of Every Canadian*, March 7, 2005.

Report of the Special Senate Committee on Euthanasia and Assisted Suicide (The Honourable Sharon Carstairs, Chair), *Of Life and Death – Final Report*, June 1995.

Report of the Senate Subcommittee to update *Of Life and Death*, a Subcommittee of the Standing Senate Committee on Social Affairs, Science and Technology (The Honourable Sharon Carstairs, Chair), *Quality End-of-Life Care: The Right of Every Canadian*, June 2000.

Report of the Senate Subcommittee on End-of-Life Care (The Honourable Sharon Carstairs, Chair), *Still Not There, Quality End-of-Life Care: A Progress Report*, June 2005.

Government Reference Documents

Canada Gazette, Regulatory Impact Analysis Statement for Regulations Amending the Employment Insurance Regulations SOR/2003-393, December 3, 2003.

Government of Canada, Human Resources and Skills Development Canada, Employment Insurance, *Compassionate Care Benefits* (available at: www.hrsdc.gc.ca/ei).

Government of Canada, Human Resources and Skills Development Canada, Employment Insurance, *Compassionate Care Benefits: Frequently Asked Questions* (available at: www.hrsdc.gc.ca/ei).

Government of Canada, Human Resources and Skills Development Canada, Employment Insurance, *Employment Insurance (EI) Compassionate Care Benefits* (available at: www.hrsdc.gc.ca/ei).

Government of Canada, Human Resources and Skills Development Canada, Pamphlet 1 – Summary of Part III of the Canada Labour Code (available on the HRSDC website at: www.hrsdc.gc.ca).

Government of Canada, Human Resources and Skills Development Canada, *Pamphlet 5A – Compassionate Care Leave* (available on the HRSDC website at: www.hrsdc.gc.ca).

Interviews

Dr. Edward Osborne, family physician, August 4, 2005.

Dr. Howard Burke, family physician, Immediate Past Chair of the Ontario Medical Association Palliative Care Section, August 4, 2005.

Dr. Peter Spadafora, family physician, Current Vice-Chair of the Ontario Medical Association Palliative Care Section, August 8, 2005.

Kelli Stadjuhar, Assistant Professor, University of Victoria Centre on Aging, August 25, 2005.

Margaret McAlister, Consultant, Canadian Homecare Association, August 26, 2005.

Ryan McCarthy, Project Coordinator, Canadian Hospice Palliative Care Association, July 18, 2005.

Sharon Baxter, Executive Director, Canadian Hospice Palliative Care Association, August 24, 2005.

APPENDIX A

PUBLICATIONS/MEDIA COVERAGE

- Advancenews (Langley), *MP seeks clarification on siblings' benefits: Langley MP Mark Warawa is supporting the cause of a woman whose siblings want Compassionate Care Benefits*. Feb 22, 2005, Page: 10.
- Alaska Highway News, *Compassion could cost \$15 million*, Jan 7, 2004, Page: 2.
- Alberni Valley Times, *Compassionate-care program could cost \$1.5 billion, minister says*, Jan 7, 2004, Page: 5.
- Armstrong, Pat and O'Grady, Kathleen. *Compassionate-care benefits not compassionate enough*, The Record (Kitchener, Cambridge and Waterloo), Feb 7, 2004, Page: A15.
- Battler, Jennifer. *Government recognizes the importance of saying goodbye*, The Record (Kitchener, Cambridge and Waterloo), Jan 19, 2004, Page: A9.
- Beaumier, Colleen. *Moving forward on health care*, Metroland Papers, Jan 21, 2004, Page: 1.
- Bovie, Lesley. *Six weeks leave not enough, say hospice workers; Bereavement staff say extending compassionate leave a good idea*, Metroland Papers, Jan 16, 2004, Page: 2.
- Brockville Recorder and Times, *Compassionate care funds not accessed very easily*, Mar 18, 2005, Page: A5.
- Brown, Bonnie. *Compassionate care benefits we all need*, Metroland Papers, Feb 21, 2004, Page: 7.
- Brown, David. *Employers confused by compassionate care benefits*, Canadian HR Reporter (Toronto), Feb 9, 2004;17(3):1,9.
- Bruton, Bob. *County officials laud new benefits program: Feds fund leave to care for family members*, The Packet & Times (Orillia), Jan 10, 2004, Page: A3.
- Bruton, Bob. *New care benefit welcomed: Local officials say it will make a difference*, The Barrie Examiner, Jan 7, 2004, Page: A3.
- Burstall, Dr. Chris. *End-of-life care requires team effort*, Grande Prairie Daily Herald-Tribune, May 14, 2004, Page: 28.
- Byles, Iliaren. *Caregivers get some EI relief*, St. Albert Gazette, Jan 10, 2004, Page: 11.
- Canada AM - CTV Television, *Federal compassionate-care benefit faces judicial challenge* (Toronto), Mar 28, 2005.
- Calgary Herald, *Compassionate leave to cost \$1.5B*, Jan 7, 2004, Page: A1.
- Canada NewsWire, *A New Employment Insurance Benefit - Compassionate Care Benefit* (news release, Government of Canada, Ottawa), Jan 6, 2004.
- Canada NewsWire, *For Integrity's Sake, Appeal!* (news release, Canadian Labour Congress, Ottawa), Feb 12, 2004.
- Canada NewsWire, *Minister Joe Volpe, Minister Liza Frulla and Parliamentary Secretary Eleni Bakopanos will be in Montreal tomorrow to announce the new Compassionate Care benefit* (news release, Government of Canada, Ottawa), Jan 5, 2004.
- Canada NewsWire, *Minister Joe Volpe will be in Toronto today to make an announcement on the new Compassionate Care benefit* (news release, Government of Canada, Ottawa), Jan 6, 2004.

- Canada NewsWire, *Minister Joe Volpe will be in Toronto tomorrow to make an announcement on the new Compassionate Care benefit* (news release, Government of Canada, Ottawa), Jan 5, 2004.
- Canada NewsWire, *Minister Volpe opens Ontario region Compassionate Care Benefits processing centre* (news release, Government of Canada, Ottawa), Apr 14, 2004.
- Canada NewsWire, *Minister Volpe will be in Toronto tomorrow to inaugurate the Ontario region Compassionate Care Benefits processing centre* (news release, Government of Canada, Ottawa), Apr 13, 2004.
- Canada NewsWire, *Minister Volpe will be in Toronto today to inaugurate the Ontario region Compassionate Care Benefits processing centre* (news release, Government of Canada, Ottawa), Apr 14, 2004.
- Canada NewsWire, *Still not there - with the number of deaths expected to increase, Canadian health care crisis looms* (news release, Canadian Hospice Palliative Care Association and the Quality End-of-Life Care Coalition, Ottawa), Jun 2, 2005.
- Canadian Family Physician, *Employment insurance compassionate care benefit: important information for doctors and health administrators*, Mar 2004;50:420-421.
- Canadian Press, *Few Canadians are getting compassionate care benefits*, The Whitehorse Daily Star, Mar 18, 2005, Page: 28.
- Canadian Press, *Man denied compassionate leave to care for brother*, Oct 8, 2004.
- Canadian Press, *Dying woman's family wants compassionate care benefits rules changed* (Toronto), Feb 26, 2005.
- Canadian Press, *Few people getting compassionate care benefits, yet Ottawa won't relax eligibility rules* (Toronto), Mar 17, 2005.
- Canadian Press, *N.S. woman caring for ailing mother-in-law doesn't qualify for EI benefits* (Toronto), Jul 28, 2004.
- Cape Breton Post, *EI program will help care for sick, dying: Minister says \$1.5-billion plan will be money well spent*, Jan 7, 2004, Page: A1.
- Cariboo Press, *EI benefits can fill disability void*, Oct 10, 2004, Page: 22.
- Casey, Donna. *Cancer patient's mom takes fight to hill*, The Ottawa Sun, Feb 18, 2004, Page: 7.
- Casey, Donna. *Fed plan little help for sick girl's kin*, The Ottawa Sun, Jan 13, 2004, Page: 5.
- Casey, Donna. *Love and money; Donna Casey looks at the toll of caring for young and old*, The Ottawa Sun, Oct 26, 2004, Page: 10.
- Casey, Donna. *Struggle for survival; poor, sick, abandoned by the system, women are fighting each day to keep body and soul together*, The Ottawa Sun, Oct 24, 2004, Page: 13.
- CAUT Bulletin, *Government introduces new compassionate care benefits [Employment Insurance Act]* (Toronto), Jan 2004;51(1):A6.
- CAUT Legal Review, *New EI benefits for compassionate care* (Ottawa), Oct 2004;5(2): 21.
- Christianson, John. *EI definition of family comes under fire as regulations deny daughter-in-law compassionate care benefits*, The Daily News (Truro), Jul 29, 2004, Page: A1.
- Christianson, John. *McNutt compensation case appeal denied*, The Daily News (Truro), Nov 20, 2004, Page: A3.

Collier Macdonald, Tanya. *Palliative director welcomes plan to help families with dying loved ones*, Cape Breton Post, Jan 8, 2004, Page: A5.

Cornacchia Cheryl. *Paid leave to lighten caregiving burden: Ottawa offers six weeks off work*, Montreal Gazette, Jan 7, 2004, Page: A1.

Daily Herald (Prince Albert), *An underutilized federal program is under fire once again for its strict definition of the term family*, Oct 14, 2004, Page: 4.

Daily Herald (Prince Albert), *Federal program shows right compassion*, Jan 12, 2004, Page: 4.

Daily Miner & News, *Compassionate care case in court*, Oct 8, 2004, Page: A8.

Daily Miner & News, *Compassionate care program would cost \$1.5 billion*, Jan 7, 2004, Page: A7.

Daily Miner & News, *Few qualify for compassionate care*, Mar 18, 2005, Page: A5.

De Almeida, Jacquie. *Little talk of compassion; few know of fed benefits for ill families*, The Toronto Sun, Jan 17, 2004, Page: 33.

Decter, Michael. *Death is not what it used to be in Canada*, The Expositor (Brantford), Aug 4, 2004, Page: A8.

Decter, Michael. *Dying in Canada isn't what it used to be*, The Standard (St. Catharines), Aug 5, 2004, Page: A6.

Decter, Michael. *Improving end-of-life care*, The Chatham Daily News, Aug 3, 2004, Page: 4.

Decter, Michael. *Improving end of life new challenge in health*, Tribune (Welland), Aug 7, 2004, Page: A6.

Elayoubi, Nelly. *Compassionate fight hits the hill; mom's petition to change benefit requirements in the Commons today*, The Ottawa Sun, May 10, 2004, Page: 2.

Federico, Meg. *Care program will be tweaked*, The Daily News (Halifax) Sep 19, 2004.

Fort McMurray Today, *Compassionate care program bill could reach \$1.5 billion*, Jan 7, 2004, Page: 12.

Germain, Anthony (host). [no headline] The House, CBC Radio, Apr 9, 2005.

Grande Prairie Daily Herald, *Compassionate care worth it; benefits program could cost \$1.5B*, Jan 16, 2004 Page: 27.

Grande Prairie Daily Herald, *Feds have room to move on compassionate-care benefits*, Mar 18, 2005, Page: 9.

Greenaway, Norma. *Mom campaigns for EI benefits for caregivers*, CanWest News (Don Mills, ON), Apr 18, 2004, Page: 1.

Greenaway, Norma. *Sibling fights for compassionate care benefits*, The Ottawa Citizen, Jun 19, 2005, Page: A5.

Greeno, Cherri. *Benefits aid those caring for dying*, The Record (Kitchener, Cambridge and Waterloo), Apr 19, 2004, Page: B1.

Harde, Erin. *Compassionate care benefit will alleviate financial stress: official*, Daily Herald (Prince Albert), Jan 9, 2004, Page: 3.

Higginson, Bill. *Caregivers vital to health care*, The Daily Observer (Pembroke), Jan 20, 2005, Page: 4.

Human Resources Advisor Newsletter (Atlantic Ed.). *Compassionate care leave and EI benefits* (North York, ON), Jan/Feb 2004, Page: 1-3.

- Human Resources Advisor Newsletter (Ontario Ed.), *Family medical leave introduced* (North York, ON), May/June 2004. Page: 1-2.
- Human Resources Advisor Newsletter (Ontario Ed.), *Family medical leave now law* (North York, ON), Sep/Oct 2004, Page: 3-4.
- Human Resources Advisor Newsletter (Western Ed.). *Compassionate care leave policy* (North York, ON), Mar/Apr 2004, Page: 3
- Human Resources Advisor Newsletter (Western Ed.). *Provincial and federal 2004 budgets* (North York, ON), May/June 2004, Page: 3.
- Human Resources Advisor Newsletter (Western Ed.), *SK compassionate care leave introduced* (North York, ON), Jul/Aug 2004, Page: 2.
- Hunter, Stuart. *Dying woman's family begs PM for help*, The Province, Feb 27, 2005, Page: A19.
- Immen, Wallace. *Caught in the 'sandwich'; Dealing simultaneously with the needs of young kids and aging parents forces some workers to make important career choices*, The Globe and Mail, Mar 17, 2004.
- Jacobs, Mindelle. *Aging hits 'sandwich' bunch; compassionate care EI acknowledges reality*, The Calgary Sun, Jan 6, 2004, Page: 15.
- Jacobs, Mindelle. *Once again, Alberta brings up the rear*, The Edmonton Sun, Jan 6, 2004, Page: 11.
- Jacobs, Mindelle. *Who can care for gravely ill relatives?* The London Free Press, Jan 7, 2004, Page: A7.
- Jantzi, Leanna. *MP advocates changes: Mark Warawa is fighting to change the rules governing Compassionate Care Benefits*, Advancenews (Langley), Apr 26, 2005, Page: 14.
- Jantzi, Leanna. *Siblings caring for dying woman denied assistance: The sister of a dying Langley woman wants to know why she'd have to be somebody else to get compassionate care benefits*, Advancenews (Langley), Feb 8, 2005, Page: 5.
- King, Mike. *It's not perfect, but it's a start: Quebec reluctant to amend labour code, saying package intrudes on jurisdiction*, Montreal Gazette, Jan 7, 2004, Page: A3.
- King, Mike. *Ottawa officially unveils compassionate-care program*, CanWest News (Don Mills, ON), Jan 6, 2004, Page: 1.
- Kranc, Joel. *Compassionate care: will the provinces deliver?* Benefits Canada (Toronto), Feb 2004; 28(2): 11.
- Lett, Dan. *Millions unspent in family care fund*, Winnipeg Free Press, Mar 18, 2005, Page: A1.
- Lett, Dan. *Ottawa reviewing benefit to help care for dying*, Winnipeg Free Press, Mar 28, 2005, Page: B4.
- McCarten, James. *Caregiver leave plan worth cost: minister*, The Expositor (Brantford), Jan 7, 2004, Page: A1.
- McCarten, James. *Compassionate care plan unveiled*, The London Free Press, Jan 7, 2004, Page: A2.
- McCarten, James. *Compassionate-care program could cost \$1.5 billion, but MP says it'll be worth it*, Brockville Recorder and Times, Jan 7, 2004, Page: A5.
- McCarten, James. *Compassionate-care program could cost \$1.5 billion*, The Packet & Times (Orillia), Jan 7, 2004, Page: A7.
- McCarten, James. *Compassionate-care program could cost \$1.5 billion, Minister says*, Canadian Press (Toronto), Jan 6, 2004.

- McCarten, James. *Compassionate-care program could cost \$1.5 billion: Minister says*, Portage La Prairie, Jan 7, 2004, Page: 6.
- McCarten, James. *Compassionate-care program could cost \$1.5-B, Minister says*, The Western Star (Corner Brook), Jan 7, 2004, Page: 7.
- McCarten, James. *Compassionate-care program could cost \$1.5B, Minister says*, Trail Daily Times, Jan 7, 2004, Page: 8.
- McCarten, James. *Grits laud compassionate care plan; Ottawa's EI program for people who leave work to tend to a sick or dying loved one could cost \$1.5 billion over several years*, The Hamilton Spectator, Jan 7, 2004, Page: A10.
- McCarten, James. *New EI benefit could cost \$1.5B: Compassionate care program a sound investment, Minister says*, Edmonton Journal, Jan 7, 2004, Page: A1.
- McCarten, James. *Ottawa unveils new EI program: Workers will get paid leave to tend to sick, dying relatives*, The Kingston Whig-Standard, Jan 7, 2004, Page: 9.
- McCarten, James. *Paid care leave to cost \$1.5B; Absence from work to care for loved one*, Windsor Star, Jan 7, 2004, Page: A1.
- McCarten, James. *Workers paid to tend to loved ones*, Winnipeg Free Press, Jan 7, 2004, Page: A8.
- McCreadie, Blair. *Compassionate care EI benefits and their impact on your workplace*, Journal of Commerce (Vancouver), May 3, 2004; 93(35): 5.
- Metrovalley Newspaper Group, *MP fights care cuts*, Apr 10, 2005, Page: 13.
- Metrovalley Newspaper Group, *No benefits for siblings: Caregivers to dying sisters or brothers left out of legislation*, Feb 16, 2005, Page: 22.
- Mintz, Jack. *A 'not Goodale' budget: the Finance Minister would serve Canadians best by directing federal resources to core responsibilities and cutting taxes*, National Post, Feb 22, 2005. Page: FP23.
- Montreal Gazette, *Dying woman's family wants compassionate-care rules changed: Women who outlive their partners and need care may not qualify for benefits*, Feb 28, 2005, Page: A9.
- Moore, Diane. *Juggling a job hunt with home care; Caregivers looking for work face special challenges*, The Toronto Star, Jul 31, 2004, Page: D10.
- National Post, *Family leave program to cost \$1.5B annually: Compassionate care*, Jan 7, 2004 Page: A8.
- National Post, *Thumbs up for compassionate care*, Jan 10, 2004, Page: A17.
- Neuner, Andrew. *Group considers needs of the dying*, Cariboo Press, May 25, 2005, Page: 10.
- Nicoll, Cathy. *Health Care; Caregivers in family get work leave*, The Daily News (Halifax), Jan 3, 2004, Page: 5.
- Oehmen, Russell. *Compassionate care benefit: a friend in need*, The Evening News (New Glasgow), Apr 28, 2004, Page: A2.
- Penticton Herald, *Compassionate care benefit now in place*, Jan 12, 2004, Page: A4.
- Penticton Herald, *Compassionate-care program unveiled: Employment insurance program may cost \$1.5 billion*, Jan 7, 2004, Page: A5.
- Penticton Herald, *Compassionate leave now available*, Jan 13, 2004, Page: A3.
- Penticton Herald, *Dying woman's family wants care rules changed*, Feb 28, 2005, Page: A2.

Prince George Citizen, *New EI program could cost \$1.5 billion*, Jan 7, 2004, Page: 6.

Pritchett, Jennifer. *The financial burden of illness*, The Kingston Whig-Standard, Sep 4, 2004.

Robb, Leneen. *New program allows family members to get EI while caring for a dying relative*, Coquitlam Now, Jan 14, 2004, Page: 12.

Rubin, Ken. *Government's not so Compassionate Care program: Feds should go back to drawing board, plan needs redesign, greater public accountability*, The Hill Times, Apr 4-10, 2005;781:14.

Sanders, Carol. *Bereaved sibling fights EI refusal*, Winnipeg Free Press, Oct 8, 2004, Page: A5.

Sanders, Sari. *Legislatures busy changing employment laws*, Canadian HR Reporter (Toronto), May 23, 2005;18(10): 4.

Seraphim, Theresa. *New EI benefit is long-awaited: Parrott*, Yorkton This Week & Enterprise, Jan 21, 2004, Page: A3.

Shuttleworth, Joanne. *Sister isn't family: Ottawa*, The Record (Kitchener, Cambridge and Waterloo), Jul 28, 2004, Page: B1.

Shuttleworth, Joanne. *Waiting game continues in battle for care benefits*, The Guelph Mercury, Apr 15, 2005, Page: A4.

Shuttleworth, Joanne. *Woman in 'nerve-racking' fight; Guelph resident left work to care for ill sister but was denied federal benefits*, The Guelph Mercury, Apr 12, 2005, Page: A2.

Shuttleworth, Joanne. *Woman loses benefits battle but she's not ready to give up*, The Guelph Mercury, Jun 7, 2005, Page: A3.

Stratford Beacon-Herald, *Winnipeg man denied leave to care for dying brother*, Oct 9, 2004, Page: 19.

St. Thomas Times-Journal, *Compassionate care program unveiled; for people who leave jobs to tend to a sick or dying loved one*, Jan 7, 2004, Page: 14.

Standard-Freeholder (Cornwall), *New compassionate leave program could cost \$1.5 billion a year: minister*, Jan 7, 2004, Page: 7.

Stewart, Jim. *Aid comes with death sentence: income support to care for dying*, Montreal Gazette, Jan 19, 2004, Page: D2.

Stewart, Jim. *Caregivers could use a little compassion: new, makeshift EI program is restrictive - and leaves too many people out*, Montreal Gazette, Jan 12, 2004, Page: D2.

Stratford Beacon-Herald, *Compassionate-care program unveiled; new employment insurance initiative could cost \$1.5 billion*, Jan 7, 2004, Page: 5.

Suhanic, Gigi. *Provinces play catch-up on compassionate leave: Ontario, B.C., Alberta haven't followed Ottawa*, National Post, Feb, 2004, Page FP11.

Surrey Now, *Compassionate leave is new to EI: new government program coming for families of the dying*, Jan 14, 2004, Page: 13.

Swartz, Mark. *2004 A year of gains and losses for workers*, The Toronto Star, Jan 8, 2005, Page: D14.

Talaga, Tanya. *Bearing the burden; parents of suddenly disabled children ineligible for compassionate care benefits*, The Toronto Star, Feb 4, 2005, Page: D1.

The Calgary Sun, *Compassion costs*, Jan 7, 2004, Page: 24.

The Daily Courier (Kelowna), *Dying woman's family wants care rules changed*, Feb 28, 2005, Page: A2.

The Daily Courier (Kelowna), *Program provides for caregivers: Compassionate-care program unveiled by feds may cost \$1.5 billion*, Jan 7, 2004, Page: A6.

The Daily News (Halifax), *Compassionate-care benefit*, Jan 13, 2004, Page: 12.

The Daily News (Halifax), *Giving leave to give care*, Jan 8, 2004, Page: 16.

The Daily News (Nanaimo), *Compassionate-care program could cost \$1.5B, Minister says*, Jan 7, 2004, Page: A7.

The Daily News (Prince Rupert), *New compassionate leave program could cost \$1.5 billion a year*, Jan 6, 2004, Page: 2.

The Daily News (Truro), *Compassionate care program could cost \$1.5B: Minister confident expense will prove to be sound investment*, Jan 7, 2004, Page: A7.

The Daily News (Truro), *Compassionate care regulations need to be redefined*, Oct 9, 2004, Page: A6.

The Daily Observer (Pembroke), *Compassionate-care program could cost \$1.5 billion*, Jan 7, 2004, Page: 5.

The Daily Press (Timmins), *Compassionate-care could cost \$1.5B*, Jan 7, 2004, Page: 4.

The Delta Optimist, *Federal gov't adds compassionate care benefits*, Jan 7, 2004, Page: 4.

The Evening News (New Glasgow), *Compassionate-care program could cost \$1.5 billion: Minister informs*, Jan 7, 2004, Page: A7.

The Evening News (New Glasgow), *Labour changes allow caregivers of terminally ill to take leave*, Jan 3, 2004, Page: A1.

The Globe and Mail, *CIBC extends worker benefits under leave plan; will compensate for federal waiting period*, Jan 23, 2004.

The Globe and Mail, *Ontario bill proposes compassionate leave*, Apr 16, 2004.

The Globe and Mail, *Ontario to introduce compassionate-leave bill*, Mar 3, 2004.

The Globe and Mail, *Program needs compassion, caregivers say; criteria to qualify far too narrow for people who care for loved ones, critics allege*, Mar 22, 2005.

The Globe and Mail, *Shaky start for care program*, Mar 17, 2004.

The Guardian (Charlottetown), *Compassionate leave will cost but be valuable asset: minister*, Jan 7, 2004, Page: A5.

The Guardian (Charlottetown), *Family wants rules changed so woman can care for dying sister*, Feb 28, 2005, Page: A5.

The Guelph Mercury, *Compassionate-care program could cost \$1.5 billion: Minister*, Jan 7, 2004, Page: A6.

The Leader-Post (Regina), *Compassionate care costly*, Jan 7, 2004, Page: A3.

The North Bay Nugget, *Compassionate care could cost \$1.5B*, Jan 7, 2004, Page: A6.

The Ottawa Citizen, *Oxford Station: Woman presses for more compassionate leave*, Feb 4, 2004, Page: B8.

The Ottawa Sun, *Province shows compassion*, Mar 3, 2004, Page: 19.

The Peterborough Examiner, *Compassionate-care program could cost \$1.5 billion: Volpe*, Jan 7, 2004, Page: A3.

The Province, *EI program to cost \$1.5b a year*, Jan 7, 2004, Page: A22.

The Province, *New EI benefit available to those caring for ill relative*, Jan 7, 2004, Page: A5.

The Record (Kitchener, Cambridge and Waterloo), *Compassion, Canadian-style*, Jan 9, 2004, Page: A6.

The Record (Kitchener, Cambridge and Waterloo), *Compassionate care plan could cost \$1.5 billion*, Jan 7, 2004, Page: A3.

The Record (Kitchener, Cambridge and Waterloo), *Details on Canada's new compassionate care benefits program will be explained*, Apr 8, 2004, Page: C2.

The Review (Niagara Falls), *Compassionate leave benefit could cost \$1.5 billion annually*, Jan 7, 2004, Page: A1.

The Sault Star, *Compassionate-care program may cost taxpayers \$1.5B: expense will be well worthwhile, Human Resources Minister says*, Jan 7, 2004, Page: A3.

The StarPhoenix (Saskatoon), *Ottawa unveils compassionate leave program*, Jan 7, 2004, Page: B6.

The Sudbury Star, *Compassionate-care program could cost \$1.5B: minister*, Jan 7, 2004, Page: A4.

The Times-Herald (Moose Jaw), *Compassionate care insurance program unveiled*, Jan 7, 2004.

The Toronto Star, *How governments can help families cope with stress*, Jun 25, 2004, Page: A21.

The Toronto Star, *Ontario lagging on unpaid leave*, Mar 8, 2004, Page: A19.

The Toronto Sun, *Dying woman's family wants rules changed*, Mar 2, 2005, Page: C4.

The Toronto Sun, *Family seeks compassion*, Feb 28, 2005, Page: 26.

The Toronto Sun, *Time for caring kin; EI benefits and job security*, Mar 3, 2004, Page: 22 .

Thompson, Kerry. *Feds offer break for families caring for gravely ill*, The Guelph Mercury, Jan 6, 2004, Page: A3.

Torsney, Paddy. *Throne speech delivered federal government's vision for Canada*, Metroland Papers, Oct 27, 2004, Page: A4.

Tuff, Stephanie. *Employment insurance: the basic facts about "special benefits" [Maternity, parental, sickness and compassionate care]*, Bulletin - Newfoundland and Labrador Teachers Association (St. John's), Mar 2004; 47(5): 10-11.

Viveiros, Ashleigh. *Woman says dying natives short changed*, Winnipeg Free Press, Feb 16, 2004, Page: B5.

Westside Weekly, *Workers can now collect EI to care for dying family member*, Jan 21, 2004, Page: 7.

Wilson, Karin. *New law could have big impact on small business*, Penticton Herald, Jan 21, 2004, Page: B4.

Wilson, Valerie. *Dying for Care: Hospice advocates push governments for long-term strategy*, The Daily News, Jul 7, 2005, Page: A4.

Workplace News, *Compassionate care benefit a winner*, Feb 2004;11(2):4.

APPENDIX B



Medical Certificate for Employment Insurance Compassionate Care Benefits

- The information provided on this Certificate is collected by Human Resources and Skills Development Canada (HRSDC) under the authority of the Employment Insurance Act (EI), and is used to determine the eligibility for compassionate care benefits of one or more family members of a seriously ill individual.
- Failure to complete this form will result in family members not being entitled to receive compassionate care benefits.
- The information may also be used for policy analysis, research and/or evaluation purposes, in which case, various sources of information under the custody and control of HRSDC may be linked. In some instances, information may be disclosed without consent according to the EI Act.
- The personal information collected herein is administered in accordance with the EI Act and Privacy Act which states that individuals have the right to the protection of, and access to their personal information and have the right to request changes to incorrect information. It will be retained for six years after the last administrative action, as described in Personal Information Bank, Insurance Claim File - Local Office, HRSDC PPU 150. Instructions for obtaining this information are outlined in the government publication entitled Info Source, a copy of which is located at all Human Resources Centres. Info Source is also located at the following web site address: <http://infosource.gc.ca>.
- If you require clarification about this Statement, please contact our Privacy Coordinator at Privacy Co-ordinator by e-mail to nc-fas-sfa-atip-airp@hrdc-drc.gc.ca or by calling (819) 994-0416 or writing to 140 Promenade du Portage, Phase IV, 1st Floor, Gatineau Quebec K1A 0J9.

Note:

- A Medical Doctor or other Medical Practitioner (Health Practitioner) may request a fee to fill out this certificate and Human Resources and Skills Development Canada (HRSDC) does not reimburse such fees.
- A claimant may avoid unnecessary costs by not submitting this certificate if one has already been submitted by any family member for the same patient in the last 26 weeks (6 months).

Section 1- PATIENT INFORMATION		
If the patient is incapable of consenting to the release of medical information, Sections 1 and 2 must be completed by the patient's Legally Authorized or Appointed Representative, and the Medical Doctor or Practitioner must complete Section 3C.		
Family name	All given names of the ill family member	Date of birth (d-m-y)

Residential address

Apt. no.	Number and Street, Concession, Other	City or Town
Province/Territory		Postal Code (if in Canada)

I hereby authorize the release of the medical information shown in Section 3 to all family members claiming Employment Insurance (EI) Compassionate Care Benefits, as well as to HRSDC.

Signature
Date (d-m-y)

Section 2- PATIENT REPRESENTATIVE

To be completed by patient's legally authorized or appointed representative if, due to illness, Section 1 is not signed by patient.

Note: This section is NOT an authorization provided for or given pursuant to the EI Act to disclose patient information. HRSDC does not take any responsibility for, nor makes any undertaking in respect of, the lawfulness of anything stated in this section.

If the patient is unable to consent to the release of medical information, a person legally appointed or authorized by law to act on behalf of the patient and duly authorized by law to disclose patient information must read and sign the following:

Patient's Representative (Print Name)	Relationship to Patient in Kinship or Law	Tel. No. with Area Code
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I am legally appointed or authorized to consent to the disclosure of this patient's medical information shown in Section 3.

The patient mentioned in Section 1 is at present unable to consent to the release of medical information.

I authorize the release of this medical information for no other purpose than to facilitate the completion of the medical certificate for Employment Insurance Compassionate Care Benefits. I have signed both sections 1 and 2 to authorize the release of information on this form.

Signature	Date (d-m-y)
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Patient's Name	Date of birth (d-m-y)
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Section 3- TO BE COMPLETED BY DOCTOR or MEDICAL PRACTITIONER

Employment Insurance Compassionate Care benefits are available to eligible workers to provide care or support to a family member who is gravely ill with a significant risk of death within 26 weeks.

For more information about the Compassionate Care Benefit, go to: www.hrsdc.gc.ca/en/ei/types/compassionate_care.shtml

Note:

For Employment Insurance benefit purposes, care or support is defined as:

- directly providing or participating in the care of the patient, or
- providing psychological or emotional support for the patient, or
- arranging for the care of the patient by a third party care provider.

Important:

A Medical Practitioner (Health Practitioner other than a Medical Doctor) may complete Section 3 when:

- the patient is in a geographical location where treatment by a Medical Doctor is not readily available AND
- the Medical Practitioner is designated by a Medical Doctor to provide treatment to the patient.

A. I last examined the patient mentioned in Section 1, on _____ and certify that the following conditions exist:
(d-m-y)

1. The patient has a serious medical condition and a significant risk of death within the next 26 weeks (6 months).

Yes No

2. The patient requires the care or support of one or more family members within this 26 week period.

Yes No

B. Compassionate care benefits are payable to eligible family members from the date in A above or the week this medical is completed. In some situations, these benefits are being requested by family members for an earlier period of time.

Benefits may be payable for the earlier weeks requested if you certify that the 2 conditions in A above applied to your patient for an earlier period of time.

Did these conditions apply to your patient for an the earlier period **within the past 6 months?**

Yes No If yes, please provide the earlier date _____
(d-m-y)

C. (If applicable)

In my professional opinion and to the best of my knowledge, the patient identified in Section 1 is unable to give consent of release of the medical information because of a physical or mental condition. Yes

Signature (Medical Doctor or Practitioner designated by the Doctor) ▶

Date (d-m-y) ▶

Contact Information

Name of Medical Doctor, or Medical Practitioner (Health Practitioner) identified above, designated by the Doctor			
Name	Specialty	License No.	
Apt no or suite no	Number and Street, Concession, Other	City or Town	
Province/Territory	Country	Tel. No. with Area Code	Postal Code (if in Canada)

Non-Canadian Doctors or Non-Canadian Medical Practitioners

Please provide the following information:

- the name of the university, the country and the year you obtained your certification
- your hospital or clinic affiliation
- your license number

University	Country	Year
Hospital/Clinic Affiliation	License No.	

