



Labour Program: fair, safe and productive workplaces

Information on **LABOUR STANDARDS**

5B

Leave Related to Critical Illness

Part III of the *Canada Labour Code* (Labour Standards)

The *Canada Labour Code* provides for leave related to critical illness in Division VII of Part III.

The following questions and answers will be of interest to employers and employees subject to federal jurisdiction. Publication 1 of this series describes the types of businesses covered by the Code. It is available on the Canada website at <https://www.canada.ca/en/employment-social-development/services/labour-standards/reports.html>.

1 What is meant by leave related to critical illness?

There are two types of leaves related to critical illness:

- An employee, who is a family member of a critically ill child, is eligible to take up to 37 weeks of leave to provide care or support to the child. A “critically ill child” is a person under 18 years of age, on the day the leave begins, whose health has changed and whose life is at risk as a result of an illness or injury (as defined under the *Employment Insurance Regulations*); and
- An employee, who is a family member of a critically ill adult, is eligible to take up to 17 weeks of leave to provide care or support to the adult. A “critically ill adult” is a person of 18 years of age or more, on the day the leave begins, whose health has changed and whose life is at risk as a result of an illness or injury (as defined under the *Employment Insurance Regulations*).

2 Who is entitled to leave related to critical illness?

An employee who has completed six consecutive months of continuous employment with the same employer and is considered to be a “family member” of a critically ill child or a critically ill adult is entitled to the leave.

3 Who is considered to be a “family member”?

A “family member” is an individual related to an employee whose relationship is described under the Employment Insurance program. The relationship can include a spouse or common-law partner, a child, a parent or any other person who is prescribed under the *Employment Insurance Act*. For a full list please refer to [Compassionate care benefits](#).

4 What must an employee do to obtain leave related to critical illness?

An employee must give the employer written notice, as soon as possible. The notice must advise the employer of the reason(s) for the leave and the intended length of the leave. If the employee takes more than four weeks leave and the employee wants to change the length of leave, four weeks’ notice must be provided to the employer unless there is a valid reason why that cannot be done.

5 Is the employer required to continue wage payments while the employee is absent?

No. The Code provides job security only. There is no provision for paid leave of absence. Some employees, however, may be entitled to benefits under the *Employment Insurance Act*.

Information about Employment Insurance benefits visit servicecanada.gc.ca, call toll free number 1-800-206-7218 or visit a Service Canada Centre.

6 Does an employee need a doctor’s certificate in order to take leave related to critical illness?

Yes. In order to qualify for the leave an employee must provide the employer with a medical certificate issued from a medical doctor or a nurse practitioner, as defined under the [Employment Insurance Regulations](#), stating that the child or adult is critically ill or injured and requires the care or support of one or more of their family members.

7 When can an employee take leave and how much leave is provided under the Code?

The leave can start on the first day of the week the medical certificate is issued or the day from which the medical doctor or nurse practitioner certifies that the child or adult is critically ill.

For care and support of a critically ill child, leave ends at the end of 37 weeks in a 52-week period. For care and support of a critically ill adult, leave ends at the end of 17 weeks in a 52-week period. If the child or adult dies while the employee is on leave, the leave ends on the last day of that week.

8 Can the leave end earlier than the Code prescribed entitlements?

Yes. The employee can change the length of leave by notifying the employer in writing as soon as possible. If leave is longer than four weeks, the employee must provide the employer with at least four weeks written notice in advance, unless there is a valid reason why that cannot be done.

Also, the leave will end on the last day of the week in which the child or adult dies.

9 Can two or more family members take leave related to critical illness?

Yes. Two or more family members can take leave at the same time, or one after the other, as long as the combined duration of the leave does not exceed 37 weeks within a 52-week period for a child and 17 weeks within 52-week period for an adult.

10 Can leave related to critical illness be divided in shorter, non-consecutive periods?

Yes. If a family member takes leave related to a critically ill child or leave related to a critically ill adult, they will be entitled to a maximum of 37 weeks of leave within a 52-week period for a child and to a maximum of 17 weeks of leave within a 52-week period for an adult. Separate, non-consecutive shorter periods of leaves (not to exceed the 37 week maximum for a child and the 17 week maximum for an adult) can be taken within the 52-week period if the child or the adult has several episodes of critical illness, as long as a medical certificate is issued from a medical doctor or a nurse practitioner for each period of leave. A leave of absence for critical illness can be taken in one or more periods of a minimum of one week in duration.

For example, a child with leukemia may have an acute and life threatening leukemic episode that requires a family member care and support for 10 weeks. The family member may take 10 weeks of leave and then return to work. If another episode occurs 5 weeks later, the family member may then resume the leave for the remaining 27 weeks if a medical certificate is issued for that period.

11 Can an employee take leave related to critical illness at the same time as compassionate care leave?

No, an employee may not take leave due to critical illness for a child or an adult while one or more employees are taking compassionate care leave for the same person and vice versa. However, these leaves may be taken consecutively.

12 What happens if two or more children of the employee are critically ill?

If two or more children of an employee are critically ill, the employee is eligible for separate leaves of 37 weeks with respect to each affected child.

13 Can leave related to critical illness be interrupted?

Yes. It is possible for an employee to interrupt leave related to critical illness to take sick leave or work-related illness and injury leave. In such a case, leave related to critical illness resumes immediately after the other leave ends.

14 What must an employee do if leave related to critical illness is interrupted to take another leave?

An employee, who intends to interrupt leave related to critical illness, must give the employer a written notice of the interruption before or as soon as possible after it begins. The employee must also give the employer a written notice of the day on which leave related to critical illness will resume, before or as soon as possible after that day.

15 What happens to the employee's job upon return from leave related to critical illness?

The employee 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.

16 Can an employer postpone an employee's return to work?

Yes. If an employee takes a leave of more than four weeks but requests to end the leave earlier without giving at least four weeks' written notice, the employer may postpone the employee's return to work. The employee's return to work can be postponed for a period of up to four weeks after the day on which the employer was informed of the new end date. In that case, the employer must inform the employee of this decision and the period of postponement is considered to be part of the leave.

17 Could an employee ever receive lower pay upon returning to work?

Yes. If, during a leave period, the wages and benefits of a group of employees are reduced as part of a reorganization plan, an employee who is reinstated in that group will receive no more than the wages and benefits the employee would have received if she or he had been at work during the reorganization. Likewise, if wages and benefits for the employee's group are increased during leave, the employee would be entitled to the increase upon their return to work.

18 Do pension, health and disability benefits and the seniority of the employee accumulate during leave?

Yes. These benefits continue during the leave period provided the employee pays any contributions that would normally have been paid. Likewise, the accumulation of seniority continues during the absence.

19 What if an employee chooses not to pay normal contributions related to pension, health and disability benefits for the leave period?

Non-payment of contributions for the leave period has no impact on the employee's employment status. These benefits may lapse during the leave period, but employment upon reinstatement is considered to be continuous with employment before the leave, for purposes of calculating future benefits.

20 Is the employer required to continue its contributions to the pension, health and disability benefits plan while the employee is on leave?

Yes. The employer must pay at least the same share of contributions as if the employee were not on leave, unless the employee does not pay their contributions.

21 Is an employee on leave entitled to receive information about opportunities for training and promotion?

Yes. On the written request of the employee, the employer must inform the employee who is on leave of every employment, training or promotion opportunities that arise during the period of leave.

22 Can an employer dismiss or lay off an employee because the employee has taken or intends to take leave related to critical illness?

No. An employer may not dismiss, suspend, lay off, demote or discipline an employee because the employee has taken or intends to take leave related to critical illness. The employer also cannot take the employee's intention to take the leave into account in any decision to promote or train the employee.

23 When a collective agreement does not provide for leave related to critical illness, is the employer still obliged to grant it?

Yes, provided the employee meets the requirements of the Code.

This publication is provided for information purposes only. For interpretation and application purposes, please refer to Part III of the *Canada Labour Code* (Labour Standards), the *Canada Labour Standards Regulations*, and relevant amendments.

Information about these provisions may be obtained from the Labour Program by calling toll free at 1-800-641-4049, by visiting the website at <https://www.canada.ca/en/employment-social-development/programs/employment-standards/federal-standards.html> or by submitting your questions or comments through the Labour Program [Contact Us](#) form.

Information on Labour Standards 5B – Leave Related to Critical Illness

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It is also available upon request in multiple formats (large print, Braille, audio CD, e-text CD, or DAISY), by contacting 1 800 O-Canada (1-800-622-6232). By teletypewriter (TTY), call 1-800-926-9105.

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