

Submission to the Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities

Review of the Employment Insurance Program

**Build Back Better: Securing an inclusive, equitable and
resilient employment insurance program for workers in
Canada.**



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About Unifor

Unifor is Canada's largest union in the private sector, representing 315,000 members across the country in every major sector of the economy. This includes transportation and logistics, aviation and aerospace, hospitality, healthcare, telecommunications, mining, forestry, rail, retail, manufacturing and more. The union advocates for all working people and their rights, in Canada and abroad, and fights for good jobs, fair wages, healthy and safe workplaces and strong public services, income security and social programs.

Build Back Better – Unifor's Road Map

In June of 2020, Unifor released an ambitious public policy document entitled *Unifor's Road Map for a Fair, Inclusive and Resilient Economic Recovery*, which served as the foundation of the union's related national Build Back Better campaign¹. As the federal government looked to recover and rebuild the economy from the ravages of the pandemic, Unifor wanted to ensure that governments took advantage of this opportunity to build an economy that raises the quality and standard of living for all people in Canada and that would better protect workers during any future economic crisis. The union developed a series of concrete policy recommendations, aiming to fulfill these objectives, in key areas such as critical infrastructure, domestic industrial capacity, corporate support packages, green jobs and income security.

A key component of building back better is rebuilding Canada's social safety net that has been eroded for far too long. A fully inclusive safety net requires a series of bold and comprehensive changes that will result in the creation of robust income security programs that will be there when people need it the most.

Unifor believes that effective national income security programs should work to protect all workers, and that they are built on key principles of universality, accessibility, equity, fairness, flexibility, compassion and simplicity – and as the COVID-19 experience has shown, they need to be resilient and reliable as well.

These very principles were put into practice when the federal government created the Canada Emergency Response Benefit (CERB), and subsequently when temporary EI changes were introduced – including lowering of qualifying hours, instituting a base benefit level and eliminating waiting periods; all to ensure a greater number of workers were protected. As anticipated, EI coverage surged, covering nearly 75% of unemployed workers (and 80% women workers) by November of 2020². Most recently, the federal passage of Bill C-24 in March 2021, saw the temporary increase in the number of benefit weeks for unemployed workers (to a maximum of 50 weeks) and improved access to EI special benefits for the self-employed³.

It is clear that EI needs to return to its roots to being an easily understood, accessible and inclusive social benefit program that is based upon the foundation of economic security – not on actuarial principles.

The federal government's recent EI changes has generated much optimism that Canada's EI program can be permanently reformed for the betterment of workers, very soon. As Canada's labour market becomes increasingly precarious and people's work futures uncertain, the need for a strengthened EI system has never been greater. In light of the immediate need for permanent EI reforms, Unifor submits the following interim recommendations to the Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities to be included in the report on the review of the EI program.

¹ https://buildbackbetter.unifor.org/the_road_map

² <https://www.unifor.org/en/blog/pandemic-rages-its-time-fix-ei-good>

³ <https://www.newswire.ca/news-releases/support-to-workers-and-families-increases-with-the-passage-of-ei-legislation-and-the-coming-into-effect-of-recovery-benefit-regulations-887132974.html>

RECOMMENDATIONS

- 1) **Improve EI accessibility by replacing the Variable Entrance Requirement (VER) with a Standardized Entrance Requirement of 360 hours across Canada and base the qualifying hours and duration for existing claims on the most favourable time period.**

EI regular benefit qualifying rules and the Variable Entrance Requirement (VER) requires between 420 and 700 hours of insurable employment. The VER is currently dependent on the unemployment rate in the region where applicants live. A fairer, more consistent approach is to standardize the entrance requirement for all unemployed workers across Canada to a universal 360 hours.

- 2) **Eliminate the allocation of separation payments, including the assignment of severance and termination monies to the front end of an EI claim, and remove social assistance claw backs.**

One of the most punitive measures in Canada's EI system is the assignment of severance and termination monies to the front end of an EI claim, failing to recognize their distinct purpose as compensation for adjustment costs when workers must seek new employment. Severance and termination monies as well as social assistance payments act as shock absorbers for workers on lay off. Workers should receive all of what is owed to them and face no penalty or claw back.

- 3) **Work with relevant federal ministries and departments to ensure all migrant workers in Canada have full access to regular and special EI benefits, open work permits and access to permanent immigration status.**

Current regulations and administrative barriers restrict the ability of migrant workers⁴ to access EI benefits. Existing program pre-requirements, such as possessing a valid work permit, a Social Insurance Number, and remaining in Canada while being available and actively looking for work, negatively affect eligibility.

Further, discriminatory regulations put into place by the federal government since 2012, deny access to EI parental benefits to migrant workers. Ensuring full access to EI regular and special benefits for migrant workers requires cross-departmental collaboration to facilitate proper staff training, the provision of open work permits and access to permanent immigration status for all migrants in Canada.

- 4) **Expand access to EI during labour disputes, including during a lock-out.**

Current language in the *Employment Insurance Act* states that if a claimant loses employment, or is unable to resume employment, because of a work stoppage attributable to a labour dispute, the claimant is not entitled to receive benefits until the earlier of the end of the work stoppage and the day on which the claimant becomes regularly engaged elsewhere in insurable employment.⁵ Recently, Unifor members have faced several labour disputes – initiated by employer lock-out and, in certain cases, including those aggravated by employers hiring replacement workers. Locked-out workers suffer loss of earnings at no fault of their own, and generally faced prolonged disputes. This inequity has been highlighted in court decisions and should be addressed by allowing workers to qualify for EI benefits when they are engaged in a labour dispute due to an employer lock out. Access to EI special benefits during a labour dispute should also be reaffirmed. Furthermore, EI rules requires that at the

⁴ While we regard migrant workers as those arriving through federal programs, such as the Caregiver Program, Seasonal Agricultural Worker Program and the Temporary Foreign Worker Program, we also acknowledge additional categories of migrant workers -- namely international students, asylum seekers and undocumented workers -- who face their own challenges accessing EI that the federal government must address.

⁵ Government of Canada. 'Employment Insurance Act (S.C. 1196, c.23)': <https://laws-lois.justice.gc.ca/eng/acts/E-5.6/page-11.html#docCont>

conclusion of a work stoppage, production and employment must reach 85% of pre-dispute levels before workers can receive EI benefits. Workers should be able to qualify for EI at the immediate conclusion of a work stoppage if they remain without work.

5) **Permanently eliminate the one week waiting period during which no benefits are payable.**

As part of its pandemic response and the need for unemployed workers to access financial supports quickly, the government temporarily waived the one-week waiting period for all EI claimants on September 27, 2020. Eliminating the waiting period was an important step towards ensuring income security, especially for the most vulnerable at the onset of layoff. A permanent elimination of the waiting period is critical for a modernized EI system moving forward.

6) **Increase duration of benefits to 50 weeks in all regions across the country.**

To give workers the income certainty they need should their job be affected by COVID-19, the government increased the maximum number of weeks available to workers through EI regular benefits. Workers claiming EI regular benefits can now access up to a maximum of 50 weeks for claims established between September 27, 2020 to September 25, 2021.⁶ The extension of duration of benefits would improve income security of claimants who would otherwise exhaust benefits and turn to various provincial social assistance programs.

7) **Extend the duration of EI sickness benefits to 50 weeks, explore ways to create greater flexibility in benefit delivery and incentivize employer-sponsored workplace sick leave programs.**

As the Canadian Labour Congress' recommendation on EI sickness benefits states, a large portion of Canada's labour force has no access to private disability insurance coverage or employer paid sick-leave. Sickness and injury can result in financial hardship and labour market dislocation. Historically, Canadian legislation has only had a very narrow definition of disability and doesn't allow for Canadians with episodic disabilities to fit within it. Employment and Social Development Canada (ESDC) should undertake a thorough review of how episodic disabilities fit into the current EI sickness benefit framework and identify mechanisms to ease access. Finally, a Premium Reduction Program (PRP) program should be re-examined to provide greater incentive for employers to establish workplace sickness benefit plans and curb declining program uptake.⁷

8) **Eliminate the 50-week limit on combined special benefits and unemployment benefits and extend the reference and benefit period to at least 104 weeks.**

Current EI rules do not allow for the combination of special benefits (maternity, parental, sickness or caring for others) and unemployment benefits to a maximum of 50 weeks even though these leaves are in connection with protected grounds under human rights legislation. The 50-week maximum on combined benefits should be eliminated. EI rules should also extend the benefit period and the reference period to at least 104 weeks. This would allow workers to qualify for unemployment benefits based on the same hours of work used to qualify for special benefits.

9) **Guarantee a minimum EI benefit floor of \$500 as an individual entitlement while adjusting for family size.**

⁶ Government of Canada. 'Support to workers and families increases with the passage of EI legislation and the coming into effect of benefit recovery regulations': <https://www.canada.ca/en/employment-social-development/news/2021/03/c-24-royal-assent.html>

⁷ Earncliffe Strategy Group. 'Employment Insurance Sickness Benefit Policy, Report of the 2019 Multi-Stakeholder Policy Roundtable, 2020': <https://www.cancer.ca/~media/cancer.ca/News/Employment%20Insurance%20Sickness%20Benefit%20Policy.pdf?la=en>

Canada's income security system must ensure that no individual or family lives with an income under the benchmark set by CERB, while adjusting for family size and ensuring a minimum individual entitlement benefit of \$500. This new precedent is critically important for both claimant access and broader economic stabilization goals.

10) Increase the income replacement rate to 75% of previous earnings from current 55%.

EI's current 55% benefit replacement rate is a historic low and does not provide a livable income for many, forcing some into several part time survival jobs. Expanding the targeted EI replacement wage to 75% will serve as an added income stabilizer for workers in need of support, and assist with transitioning back to work.

11) Improve the Canada Training Benefit to strengthen lifelong learning.

In order to successfully transition into emerging sectors, workers will need access enhanced training benefits, targeted supports and have the mobility to bring their skills and certification to wherever they are in demand. Unifor recommends improving the Canada Training Benefit by ensuring universal accessibility (remove age and income limits), provide payments in advance (instead of as a tax credit), increase the income replacement to 85%, extend the benefit to a maximum of 16 weeks, and make the benefit available immediately.

12) Encourage adoption of workplace supplemental unemployment benefit (SUB) plans.

Service Canada registered supplemental unemployment benefit plans are an important, but underused, tool to provide additional income security and earnings replacement (up to a maximum of 95%) for workers faced with temporary work stoppages and those undergoing training. Unifor recommends that ESDC encourage implementation of registered SUB plans by providing reprieve on EI premiums for parties to such plans, commensurate with the size of benefit top-ups provided to laid-off workers.

13) Reinstate federal contributions.

Currently the EI system in Canada is financed, exclusively, by employer and employee contributions. This is unlike funding arrangements established prior to the 1990s. Unifor recommends a comprehensive financial review of the EI program and the reinstating of federal government contributions to EI.

14) Immediately undertake a comprehensive, multi-stakeholder consultation on the expansion of EI coverage, and financing of EI benefits, to include those that are self-employed, freelancers, independent contractors, and "gig" workers.

The pandemic has highlighted the need for a strategic modernization of the EI system, and the need for this system to expand to better reflect the lived realities of self-employed, freelancer, independent contractor, and "gig" workers – those who, historically, have been denied access. Experts believe that the Canada Emergency Response Benefit (CERB) that supported 9 millions of Canadians during the pandemic was so successful because it was intentionally designed to be inclusive of all types of workers.⁸

⁸ Jolson Lim. 'The CERB is over, but experts say it could shape future policy'. <https://ipolitics.ca/2020/09/29/the-cerb-is-over-but-experts-say-it-could-shape-future-policy/>