

Brief presented to the
Standing Committee on Human Resources, Skills and Social Development and the
Status of Persons with Disabilities (HUMA)

Submitted by
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INTRODUCTION

The Mouvement autonome et solidaire des sans-emploi (MASSE) would like to share its recommendations with the *Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities* in the context of the current review of the unemployment insurance system.

The recommendations made in this brief are intended to address the various shortcomings of the existing unemployment insurance system, which struggles to provide universal protection that meets the needs of all unemployed workers. By failing to take into account the particular situation of women in the labour market, by overlooking the unique nature of seasonal employment and by limiting access to benefits for part-time workers, the current unemployment insurance system contributes to reproducing inequalities and leaves many workers in poverty and in precarious situations.

MASSE would like to point out that when the mission of the unemployment insurance system was redefined at the turn of the 1980s, it was not due to an unfavourable economic situation, but rather was the result of political decisions seeking to shift the burden of “unemployment risk” onto the unemployed. In fact, eligibility criteria for unemployment insurance have gotten more and more restrictive over the last few decades, thereby limiting access to benefits for the most precarious workers and driving wages and working conditions down. The unemployment insurance system went from being a program to compensate workers experiencing unemployment to being a tool to regulate the labour market and the workforce.

It has been proven that using the system this way is not beneficial. For several years now, various local and international organizations have been urging governments to abandon fiscal austerity measures and to address the eligibility gaps in various social protection programs, including unemployment insurance. Today, the temporary measures introduced to provide more—and better—protection for unemployed workers affected by the pandemic are further evidence that the system needs to be overhauled: only 39.3% of unemployed workers and 61.5% of those who have contributed to the system are covered.

Lastly, MASSE believes that an in-depth review of the system cannot be limited to addressing the eligibility of self-employed workers and gig-economy workers: a “modernization of the unemployment insurance system adapted to the reality of the 21st century” must also address universal accessibility and discrimination at a broader level. Therefore, MASSE calls for an **accessible, fair, universal and non-discriminatory unemployment insurance system** to be implemented without further delay. The recommendations cover the following three areas:

- A - Improving access to EI;**
- B - Enhancing EI; and**
- C - Other recommendations.**

A- Improving Access to EI

Recommendation 1:

Establish an entrance requirement of 350 hours or 13 weeks

As it stands, 67,100 unemployed workers who paid into the EI system do not have enough hours of work to qualify for benefits. These contributors are already in a precarious situation that will be made worse by not having any unemployment benefits. A universal entrance requirement of 350 hours or 13 weeks would expand access to unemployment protection regardless of employment status, region of residence and gender.

To eliminate the unjustified reference to the regional unemployment rate

MASSE considers it unjustified and arbitrary to determine the number of insurable hours required to qualify for unemployment insurance benefits on the basis of the regional unemployment rate. Individuals who lose their job, no matter where in Canada they live, will face the same problems and have the same need to support themselves while they look for a new job.

To adapt to the increased presence of non-standard work and facilitate access to benefits for part-time workers

Canada has undergone a major restructuring of its labour market, with more than 36.9% of the workforce currently in non-standard jobs (contract, part-time or seasonal employment). Some employment sectors are particularly affected by these new ways of working: the retail and restaurant sectors not only offer lower wages, but also rely on part-time workers for 33% to 41% of jobs in the sector.

MASSE believes that a hybrid measurement (using weeks and hours) to determine the entrance requirement would correct the inequities between full-time and part-time workers, as part-time workers are currently at a disadvantage. Determining access to benefits based on the number of hours worked was an improvement for those working long hours in a short period of time. However, people working part-time were penalized when the weeks-based entrance requirement was eliminated. The number of weeks worked should be taken into account in order to ensure that people have equal access to protection, regardless of their employment status.

To address the plan's inherent gender discrimination

In 2017, 94.5% of individuals with permanent full-time jobs qualified for unemployment insurance benefits when they lost their jobs, compared with 69.3% of individuals who had permanent part-time

jobs. Given that women are twice as likely as men to work part-time,¹ MASSE believes that the unemployment insurance system must acknowledge this reality and correct the discriminatory effects of the system on women who are unfairly denied unemployment protection.

**Recommendation 2:
Eliminate total exclusions**

In 1971, the penalties for voluntarily leaving, being dismissed for misconduct and refusing suitable employment resulted in a loss of no more than three weeks of benefits. Under the current provisions, not only do workers lose their entire entitlement to unemployment protection for voluntarily leaving a job or engaging in misconduct, but they also lose all accrued hours from any previous employment.

MASSE believes that these provisions are unreasonable and calls for eliminating total exclusions, limiting penalties to a maximum of six weeks of non-payment of benefits, and requiring the law to recognize that voluntarily leaving a job for seasonal employment is considered “with just cause.” This amendment to the *Employment Insurance Act* is necessary to **restore entitlement to benefits in cases of voluntary leaving or misconduct and to restore balance in labour relations.**

In MASSE’s view, the provision in the *Employment Insurance Act* that prevents unemployed workers from receiving benefits if they have lost their jobs because of voluntary leaving or misconduct is too repressive. Total exclusions disproportionately penalize claimants who try a job and decide to leave because it is not suitable. A desire to curb the potential for abuse does not justify undermining the fundamental freedom of workers to choose a job that matches their skills and needs.

**Recommendation 3:
Establish full unemployment coverage regardless of maternity, parental or paternity benefits received**

In order to put an end to how the system discriminates against women, MASSE is calling for maternity and parental responsibilities to be added to the reasons for extending the qualifying period and the benefit period in order to offer new mothers full protection in the event of unemployment. The *Employment Insurance Act* provides that a maximum of 50 weeks of benefits is payable when a person is receiving special benefits and regular benefits. However, when a child is born, mothers receive an average of 47 weeks of maternity/parental benefits out of a maximum of 50 weeks of benefits available. MASSE believes that the government has already taken too long to resolve this situation, which mostly penalizes women who involuntarily lose their jobs during the perinatal period.

¹ Women are over-represented in this type of employment, accounting for 69.3% of part-time workers in the 2018–19 fiscal year, according to the *2018–2019 Monitoring and Evaluation Report*.

B - Enhancing the EI System

Recommendation 4:

Establish a minimum threshold of 35 weeks of benefits

To allow claimants enough time to find suitable employment

Currently, the number of weeks of benefits available to an unemployed worker is based on the number of hours worked during the qualifying period and on the regional unemployment rate. A claimant will be entitled to between 14 and 45 weeks of regular benefits based on these two variables.

MASSE not only challenges the legitimacy of this calculation—the unemployment rate does not measure the job opportunities in a region—but also believes that a minimum of 35 weeks of benefits is a reasonable length of time to look for a new job in light of the difficulties and obstacles that claimants may encounter during their job search due to their ethnic identity, gender, social status, age, education, occupation, work experience, economic situation, etc.

To shrink the “black hole” experienced by seasonal workers

Seasonal industries are a key part of the Canadian economy. While seasonal employment is associated with specific industries (forestry, agriculture, tourism, etc.), it is estimated that in some specific regions more than 20% of available jobs are seasonal.

Unfortunately, the unemployment insurance system is still struggling to adapt to this reality. Year after year, thousands of workers end up in a “black hole.” This term refers to the period after workers have exhausted their weeks of benefits and before their company or industry resumes its activities, leaving them without income for a number of weeks. A minimum threshold of 35 weeks would go a long way to addressing this situation.

In order to act quickly to address regional decline and ensure seasonal workers are not unduly penalized, MASSE is asking that, until the 35-week minimum threshold is implemented, an **additional 15 weeks of protection** be granted to unemployed workers who held seasonal jobs. This protection would serve the same purpose as the pilot project that was in place before 2012, which was “to help those workers who are regularly experiencing an income gap between exhausting their EI claim and finding subsequent employment. The stated purpose implies that there are individuals who have difficulty finding adequate replacement work, and require additional benefits to sustain them during their job search period.”²

² Human Resources and Skills Development Canada – Strategic Policy and Research Branch, March 2010, *Evaluation of the Pilot Project to Extend Employment Insurance Benefits by Five Weeks: 2004–2009*, Final Report, p. 3.

Since the current definition of seasonal work prevents many workers in seasonal industries from qualifying for the supplemental benefit program, MASSE is calling for the government to adopt the following definition: “Seasonal work is characterized by its recurring, regular nature and its short-term duration, limited to certain specific periods of the year because of climatic, social or administrative constraints or because of the availability of the primary resource. Moreover, the concept of “seasonal worker” does not describe the person, but rather the type of job performed. [TRANSLATION]”

Recommendation 5:

Set the benefit rate at a minimum of 70% based on the best 12 weeks

Increasing the benefit rate to 70% of earnings for all categories of claimants would mitigate, at least in part, the sharp drop in income that individuals experience during the unemployment period, thereby limiting their debt load. Calculating the amount of benefits to be paid on the basis of the best 12 weeks in the reference year would also reduce the weight of the lower-paid weeks on the amount of benefits. The *Unemployment Insurance Act, 1971* provided benefits equal to two-thirds (66%) of gross earnings for single persons and three-quarters (75%) for those with dependents. Today, with a wage replacement rate of 55% of insurable earnings, Canada has one of the lowest rates in the OECD. With this benefit rate, many unemployed workers fall below the official poverty line in Canada.³

MASSE would also like to point out that the employment insurance fund has the means to pay more generous benefits. In October 2014, for example, the Parliamentary Budget Officer noted that, given the surplus in the EI fund, it would be possible to raise the benefit rate to 68%. If, in addition, the government stopped giving employers EI premium holidays and lowering the premium rates, it would be quite feasible and realistic to increase the EI wage replacement rate from 55% to 70%.

Annual indexation for Family Supplement income levels

In 2018, 59.5% of men received the maximum weekly benefit rate, compared to 33.9% of women. This is a good example of the systemic inequalities in the labour market where women earn significantly less than men.

In Canada, most low-income women work, but do not earn enough money to lift themselves out of poverty because they are stuck in low-paying, precarious jobs. These women benefit the most from the Family Supplement, which gives recipients up to 80% of their insurable earnings instead of 55%.

³ For more information, see: Government of Canada, *Building Understanding: The First Report of the National Advisory Council on Poverty*. (February 24, 2021) <https://www.canada.ca/en/employment-social-development/programs/poverty-reduction/national-advisory-council/reports/2020-annual.html>

To be eligible, a person must have declared a **net family income of less than \$25,921**, have one or more children and receive the child tax benefit. Given the criteria, it is not surprising that this measure mainly benefits single mothers. Therefore, women are also the most affected by the fact that the Family Supplement's income levels have not been adjusted since 1997, as they receive 79.2% of the Family Supplement benefits allocated, which average \$44 per week. MASSE believes that the family income levels should be increased, as they have not been changed since 1997, in order to improve coverage for low-income women who work.

C - Other Recommendations

Recommendation 6:

Protect the Employment Insurance fund

Reinstate government contributions to the Employment Insurance fund

Until 1990, the government—along with employers and workers—contributed to the Employment Insurance fund. This contribution respected the principle that the state has a responsibility for unemployment. Reinstating government contributions and a three-party funding system would ensure that workers have a social safety net that meets their needs.

End government misappropriation of Employment Insurance funds

Each year, nearly \$2 billion is diverted from the Employment Insurance fund to finance employability programs and so-called “active” employment measures. MASSE believes that these funds are being stolen from unemployed workers; contributions that are collected for the purpose of compensating people who are unemployed should be used solely for that purpose. In other words, premiums and surpluses in the EI fund should be used exclusively to pay benefits to workers who lose their jobs, not to pay for market-driven employability measures.

Recommendation 7:

Improve the process for challenging EI Commission decisions

MASSE calls for a challenge process to be reinstated for resolving disputes between claimants and the EI Commission that is **fast, efficient, fair, sensitive and respectful of the rights of people who are unemployed**. The right to challenge is fundamental and helps ensure the decisions issued by the EI Commission are sound.

The Social Security Tribunal was established in 2013 without any impact studies or consultations, and unemployed workers lost access to quality administrative justice as a result. In order to re-establish an appeals system that meets the particular needs of EI claimants in economically vulnerable situations, MASSE is calling for a three-party tribunal to be established with worker and employer representatives; for a selection process for tribunal members with criteria that ensure

neutrality; for the recognition of local circumstances and jurisdiction; for in-person hearings in the appellant's region; and for the mandatory administrative review to be eliminated.

MASSE would like to point out that a 2017 review by KPMG recommended that the government learn from the past and ensure that the various parties involved were invited to collaborate in redesigning the appeals system.

**Recommendation 8:
Special benefits**

In MASSE's view, it is clear that the government has a real responsibility toward people who are ill or who are caregivers, and that the benefits currently offered could be improved. Therefore, MASSE supports the call to extend the number of weeks of sickness benefits to 50 weeks in order to provide a balance between those who have access to private wage insurance and those who do not. Currently, special benefits are capped at 15 weeks of benefits, which is too short to provide protection in the event of a serious illness.

However, MASSE believes that protection for these social risks should not be the responsibility of an unemployment insurance fund. The primary purpose of an unemployment insurance system is to compensate workers for a temporary period of unemployment. If special benefits are provided within the unemployment insurance system, they must not compromise access to regular benefits and they must be publicly funded.

SUMMARY OF RECOMMENDATIONS

A - Improving access to EI

1. Establish an entrance requirement of 350 hours or 13 weeks;
2. Eliminate total exclusions;
3. Establish full unemployment coverage regardless of maternity, parental or paternity benefits received;

B - Enhancing EI

4. Establish a minimum threshold of 35 weeks of benefits;
5. Set the benefit rate at a minimum of 70% based on the best 12 weeks;

C - Other recommendations

6. Protect the EI fund so that premiums are used only to pay benefits; and
7. Improve the process for challenging EI Commission decisions.

*The Mouvement autonome et solidaire des sans-emploi (MASSE) is the largest group of organizations defending the rights of the unemployed in Quebec. It is made up of fifteen local groups throughout the province of Quebec. Its members work on a daily basis with people who are experiencing problems with their Employment Insurance benefits, and they advocate for the re-establishment of an **accessible, fair, universal and non-discriminatory** unemployment insurance system.*