

For a fairer program

The New Brunswick Coalition for pay equity's perspectives
on the development of a modern employment insurance program

January 2022

Introduction

The New Brunswick Coalition for pay equity is a group of 100 organizations and over 1000 individuals that advocates for pay equity and fair working conditions for women. Pay equity is achieved when female-dominated jobs are paid wages equal to that of male-dominated jobs of the same value at the same employer. It is about “equal pay for work of equal value”.

We appreciate the opportunity to present our perspective on major issues and policies related to eligibility for employment insurance benefits. We share in this document our thoughts and recommendations for each of the questions raised during consultations on the development of a modern employment insurance program held by Employment and Social Development Canada.

1. What are the main considerations in setting the right eligibility criteria for employment insurance, and why?

Since the goal of employment insurance is to protect workers when they find themselves without a job, we believe eligibility should not be too restricted. Unfortunately, we have noted that the last reforms limited eligibility to the program for particularly disadvantaged groups.

Indeed, the 1996 reforms changed the qualifying requirements: the number of weeks worked was replaced by a minimum number of hours. This change was meant to help people working long hours during a short season, and we support that, but it also puts people who work part-time at an unfair disadvantage, the majority of which are women.

In 2001, 4300 women and 8700 men in this province had a seasonal job.¹ Furthermore, 20.2% of women who worked had part-time jobs compared to 11% of men.²

Notably, women with little schooling, women with family responsibilities, the young, racialized people, the handicapped and newcomers are overrepresented in part-time, temporary, casual, on-call and intermittent jobs. They often work in poorly paid fields such as food services, accommodation, retail sales and long-term care.

¹ Statistics Canada. [Table 14-10-0072-01 Employment permanency \(permanent and temporary\) by industry, annual \(x 1 000\)](#)

² Statistics Canada. [Table 14-10-0327-03 Proportion of workers in full-time and part-time jobs, by sex, annual](#)

With part-time or atypical jobs, it is difficult to reach the minimum number of hours to qualify for employment insurance benefits when a person loses their job.

Our recommendations:

- Use a **gender-based analysis plus (GBA+)** to measure the impact the current program and the proposed changes have on different groups to ensure the program is fair for women and minority groups.
- Create a **hybrid program** to establish eligibility for benefits and their duration:
 - Allow benefits after 12 weeks of 14 hours or after a total of 420 hours worked.
 - Make all hours contributory to dissuade employers from offering weeks with fewer than 14 hours.

2. In your opinion, what is the appropriate number of insurable hours worked during the qualifying period for a worker to be eligible for employment insurance benefits? Should that number vary from one economic region to another?

Regardless of where they live, workers who lose their jobs are vulnerable and need time to find another one. That is why it would be fairer to set the same criteria for employment insurance for everyone, no matter where they live and work. On the other hand, since finding a job could take more time in regions where unemployment is high and therefore jobs are scarce, the length of time an unemployed worker in one of these regions receives benefits should be increased.

Our recommendations:

- Anyone who has worked either 12 weeks of 14 hours or 420 hours should qualify for employment insurance, regardless of the unemployment rate in their region.
- In regions where unemployment is higher, increase the number of weeks an unemployed worker can receive benefits.

3. What is the best approach to deal with reasons for termination of employment and why?

In our opinion, resigning or being dismissed for misconduct should not affect eligibility. Complete ineligibility gives employers too much power and implies employees are refusing to work, which generally is not the case and can lead to stigmatization.

There are several situations where handing in one's notice can be justified. For example, in cases of harassment or inequity at work, an employee may choose to resign to find a job in a healthier environment.

In other situations, working conditions may make work-family balance difficult. This is particularly important to single mothers. If they leave their jobs because of unpredictable schedules and do not qualify for employment insurance, they have to go on welfare, which brings its own set of challenges. It is difficult to return to work after that, which can have an adverse impact in the long term, especially on their children.

Lastly, workers who have poorly paid jobs could go back to school to improve their economic situation in the long term.

As a compromise, three weeks should be the maximum penalty for resigning, being dismissed for misconduct or refusing a job considered to be suitable.

Our recommendations:

- Eliminate complete ineligibility in cases where a worker resigns or is dismissed for misconduct.
- Limit the penalty to three weeks.

4. Are you in favour of making the employment insurance program's current streamlining measures permanent regarding: a) reasons for termination and b) severance pay?

We would like to raise two issues: 1) taking employers' payments into account when determining when to start benefits and 2) the one week waiting period.

Right now, employment benefits only start after all amounts received from the employer are used up, including amounts given in lieu of notice of termination, vacation pay owed, and severance pay for years of service.

During the pandemic, the government eliminated the one week waiting period for different benefits, which was useful because it provided income to people who lost their jobs. The elimination of the waiting period should be permanent.

Our recommendations:

- Take into account only the amounts given in lieu of notice of termination to determine the starting date for benefits.
- Eliminate the waiting period.

5. The government is looking into other ways to streamline and modernize the program. What are the key factors it should keep in mind? For example, should workers who go through successive life events be eligible for employment insurance over a longer period of time when they combine their benefits?

Life events

At present, 50 weeks of combined regular and special benefits is the limit. This limit affects women disproportionately because they are mostly the ones who ask for special benefits, such as EI maternity benefits. It is unfair because special benefits such as maternity and parental leaves are there to support people during life events, when they are not available to work or look for work. As for unemployment benefits, they are intended to support people during their search for employment.

In fact, Justice Manon Sauvé has just made a determination on this, following a challenge before an administrative tribunal concerning six women who had their claim for unemployment benefits rejected after they had received 50 weeks of parental and maternity benefits. Justice Sauvé held that: [...] “because they are women who have had pregnancies, they cannot access the benefits enjoyed by other insured persons [...] If a woman loses her job during her maternity and parental leave, she is no longer protected. So, she must rely on her savings or on her partner’s income. This keeps women in poverty and in relationships of dependency. It means women’s income is considered a supplementary income that does not deserve the same protection.”

To remedy this situation, claimants must be allowed to stack special and regular benefits.

Other considerations

We must emphasize that women’s hourly and annual wages, especially that of marginalized women, are on average lower than men’s anywhere in Canada. Moreover, women are overrepresented in part-time, atypical, and low-paid jobs. Because benefits are calculated on the basis of income, women’s benefits can be very low.

Today, the replacement rate is 55%. It used to be 60% up until 1990. This reduction has a significant impact on low-income workers who lose their jobs and receive inadequate benefits to support them during their search for new employment. A minimum rate for weekly benefits must be set in order to better support low-wage earners.

In addition, hours can vary from week to week in atypical jobs. Benefits should therefore be calculated on the basis of a worker’s best weeks.

Our recommendations:

- Eliminate the 50-week limit for combined special and regular benefits and if needed, allow claimants to stack different types of benefits.
- Use the 52 weeks previous to the special benefits period as the reference period to determine benefits.
- Calculate average weekly benefits for each claimant on the basis of the 12 best insurable weeks of earnings during the reference period.
- Increase the income replacement rate for all claimants to at least 60%, the rate which was in force until 1990.
- Set a higher replacement rate for low-income workers, as much as 100% for those who earn less than 20% of the weekly maximum insurable earnings.

6. What are the obstacles to employment insurance eligibility for workers whose income comes from both a job and self-employment? How can we overcome these obstacles?

More information would be needed to effectively address this question, but the term “self-employment” should be clearly defined because for all intents and purposes self-employed workers are often contract employees for one or two employers but are not eligible for employment insurance.

7. How can the employment insurance program better support seasonal workers in light of changes occurring in the labour market?

By the very nature of their work, seasonal workers do not control the hours they work, and it is sometimes difficult for them to reach the hours needed to qualify for employment insurance. Moreover, employers need this labour force at the appropriate time. It is particularly important to the province’s economy.

Our recommendation:

- Reduce the eligibility requirements for employment insurance to 420 hours worked.

Conclusion

In conclusion, a gender-based analysis is essential to ensure a fair employment insurance program.

As previously mentioned, women, particularly those with little schooling or those who have family responsibilities, the young, racialized people, the handicapped and newcomers are often excluded from the current employment insurance program because they are vulnerable on the labour market and qualifying requirements penalize them.

Furthermore, the 50-week limit for combined regular and special benefits puts women at a disadvantage since they are the ones who most often avail themselves of special benefits. The purpose of special benefits is than that of regular benefits. Special benefits are designed to support workers during life events that are not compatible with a search for employment.

We urge Employment and Social Development Canada to improve the program in order to truly and fairly protect all workers in our country.