Understanding Employment Insurance Special Benefits Legislation

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NOVA SCOTIA

WHAT WE'LL DISCUSS

- I Intro to Employment Insurance
- II Parental and Maternity Benefits
- III Family Caregiver and Compassionate Care Benefits
- IV Sickness Benefits
- V Combining Benefits
- VI Leaves from Work

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I

INTRO TO EMPLOYMENT INSURANCE (EI)

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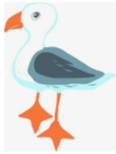
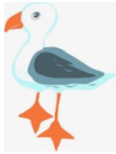


Employment Insurance (EI)

The EI program offers temporary financial income support to unemployed workers. It also provides **special benefits** to workers who take time off work due to specific life events.

- Maternal and Parental Benefits
- Family Caregiver and Compassionate Care Benefits
- Sickness Benefits



Key Players

- **Canadian Employment Insurance Commission (CEIC)**: Oversees the EI program and sets the annual premium rate.
- **Service Canada**: Provides EI benefit payments and services; supports EI clients through the service delivery process.
- **Social Security Tribunal**: Where appeals are heard.

Premium rate:
Determines amount of EI that is deducted from employees' wages

2019 rate:
1.62%

Maximum insurable earnings:
$53,100
or a maximum annual premium of
$860.22

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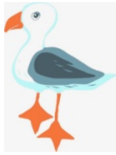
Eligibility

You are eligible to receive EI special benefits if:

- You have **paid EI premiums**
- Your normal weekly earnings are **reduced by more than 40%**
- You have accumulated at least **600 hours of insurable employment** during the qualifying period



How much will I get?

The basic rate for calculating special benefits:

55%

of average weekly insurable earnings

Maximum weekly amount:

$562/week

EXCEPTION:
Parental benefits can be extended at a lower benefit rate. More on this later!

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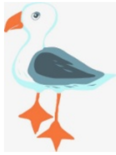
How much will I get?

Low-Income Families

- EI Family Supplement criteria:
  - Your net family income is $25,921 or less per year
  - You have at least one child under 18
  - You or your spouse receives the Canada Child Benefit
- Amount of Family Supplement **depends on family income** and **number of children** in your family, and their **ages**.
- May increase your benefit rate to **as high as 80%** of average insurable earnings



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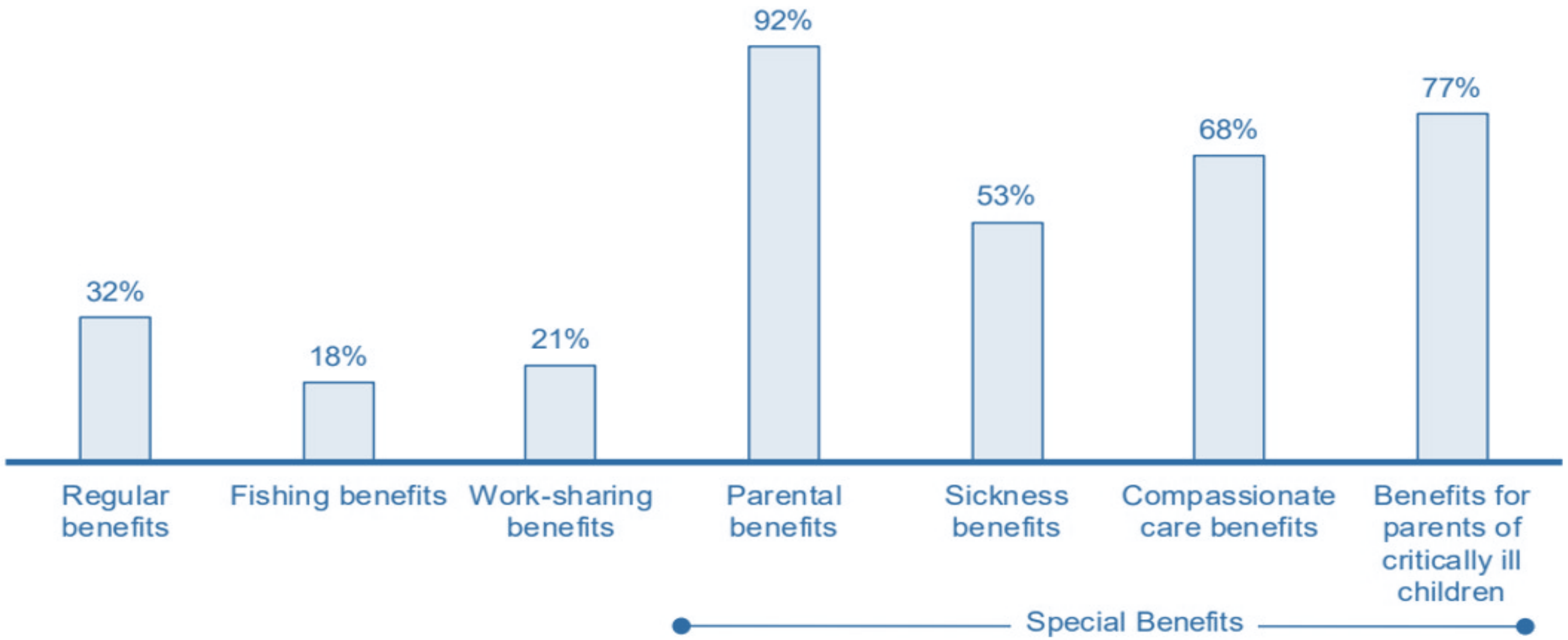
Share of Total Employment Insurance Benefits Paid to Women, by Benefit Type, Canada, 2015-16



Source: *Employment Insurance Monitoring and Assessment Report*, 2015–16.

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PARENTAL AND MATERNAL BENEFITS

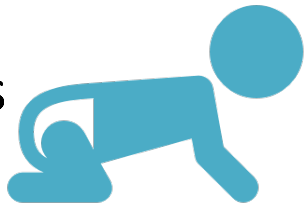
Timeline

1940

The *Unemployment Insurance Act* was introduced. It did not cover any form of leave benefits for parents.

1971

Act was amended to allow some women, depending on their work history, 15 weeks of maternity leave benefit.



1984

Benefits modified and extended to include adoptive parents; both adoptive and birth mothers receive same 15 weeks of benefits.

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Timeline continued

1990 EI benefits amended to include 10 weeks of parental leave – available to birth fathers, adoptive mothers/fathers

2001 EI benefits amended to extend parental leave from 10 weeks to 35 weeks for men and women

2006 Quebec establishes the Quebec Parental Insurance Plan (QPIP)

Timeline continued

2010 Eligibility period extended for Canadian Forces members, up to a maximum of 104 weeks

2011 Parental leave introduced for self-employed individuals

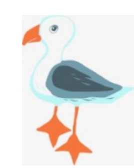
Timeline continued

2017

- Maternity benefits can be accessed up to 12 weeks prior to the due date
- Parents have the option to receive parental benefits over a longer period at a lower benefit rate

Today

2019: If sharing benefits, the maximum number of weeks available increases



Maternity benefits

For biological mothers, including surrogate mothers, who are unable to work because they are **pregnant** or have **recently given birth**.

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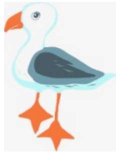
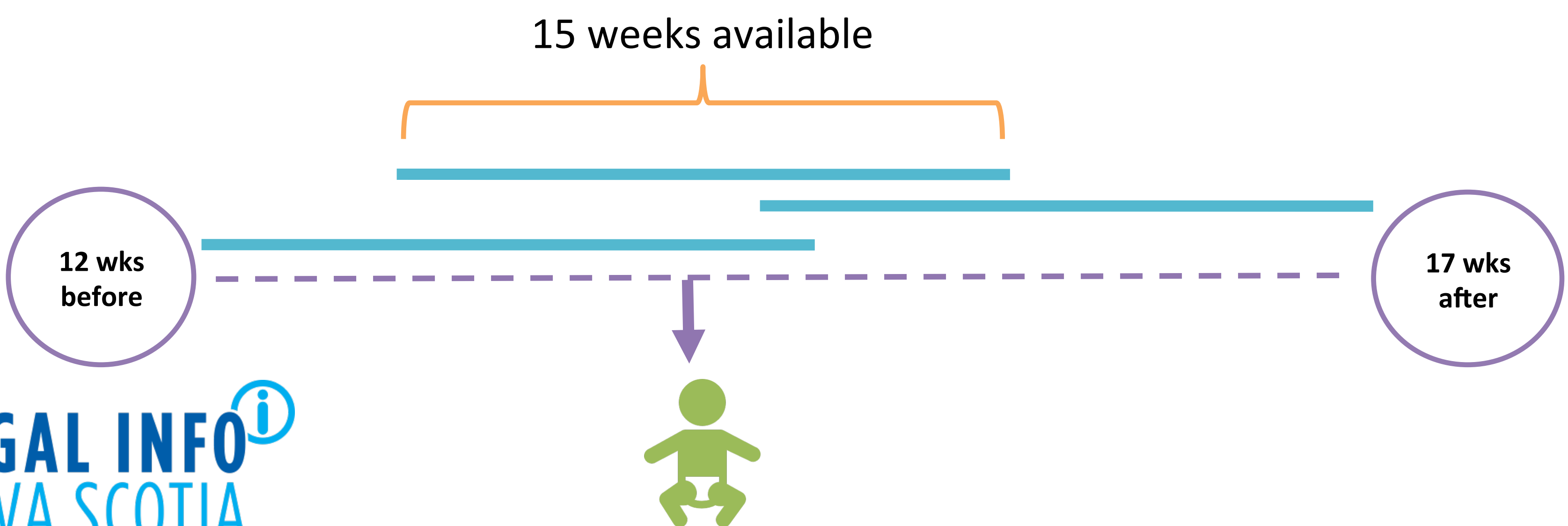


Maternity benefits

- Maximum of **15 weeks**
- Can start **as early as 12 weeks** before the expected date of birth
- Cannot receive benefits more than 17 weeks **after** the week you were expected to/actually gave birth (whichever is later)



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Parental Benefits

- For parents who are **caring for a newborn** or **newly adopted child or children**
- Can be paid **starting from the child's date of birth/placement**
- There are two options for claiming parental benefits: **standard** or **extended**
- Note: Number of weeks of benefits you are entitled to does not change for multiple births

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Applying for Parental Benefits:

Standard or Extended Option (non-shared)

	Standard	Extended
Period of time the benefit must be claimed within, after the child has been born/placed:	**52 weeks**	**78 weeks**
Maximum number of weeks benefit can be paid for:	**35 weeks**	**61 weeks**
Weekly benefit rate of average weekly insurable earnings:	**55%**	**33%**
Weekly Maximum:	**Up to $562**	**Up to $337**

Applying for Parental Benefits:
Standard or Extended Option (non-shared)

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Period of time the benefit must be claimed within, after the child has been born/placed:	**52 weeks**	**78 weeks**
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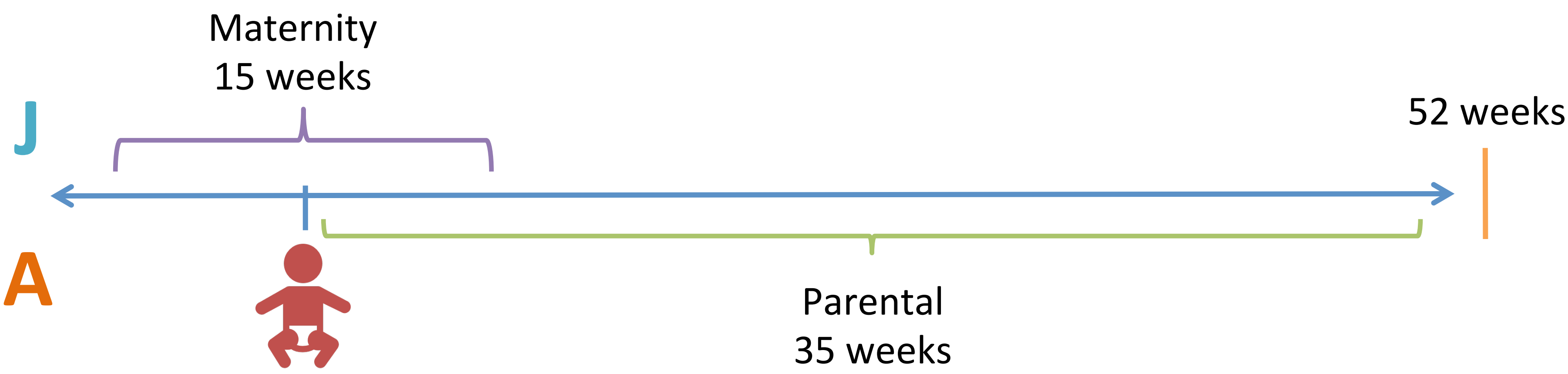
Applying for Parental Benefits:

Non-Shared Benefits

- Example (standard): Jasmine, the biological mother, wants to return to work after her maternity leave. The other parent, Alicia, can then take the entire leave.



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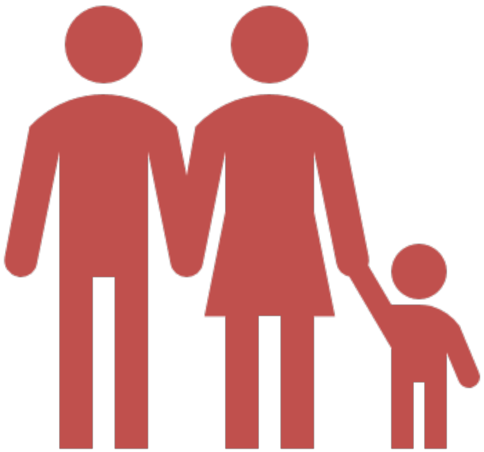
Applying for Parental Benefits:

Sharing Benefits

- **Sharing benefits** (NEW as of March 17th!)
  - Both parents must choose the same parental benefit option
  - Parents can receive their weeks of benefits at the same time or one after another
  - ***Standard***: 5 extra weeks
    - (40 weeks in total)
  - ***Extended:*** 8 extra weeks
    - (69 weeks in total)



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Applying for Parental Benefits: Standard or Extended Option (shared)

	Standard	Extended
Period of time the benefit must be claimed within, after the child has been born/placed:	52 weeks	78 weeks
Maximum number of weeks benefit can be paid for:	40 weeks (One parent cannot receive more than 35 weeks	69 weeks (One parent cannot receive more than 61 weeks)
Weekly benefit rate of average weekly insurable earnings:	55%	33%
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Applying for Parental Benefits: Standard or Extended Option (shared)

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Weekly benefit rate of average weekly insurable earnings:	55%	33%
Weekly Maximum:	Up to $562	Up to $337

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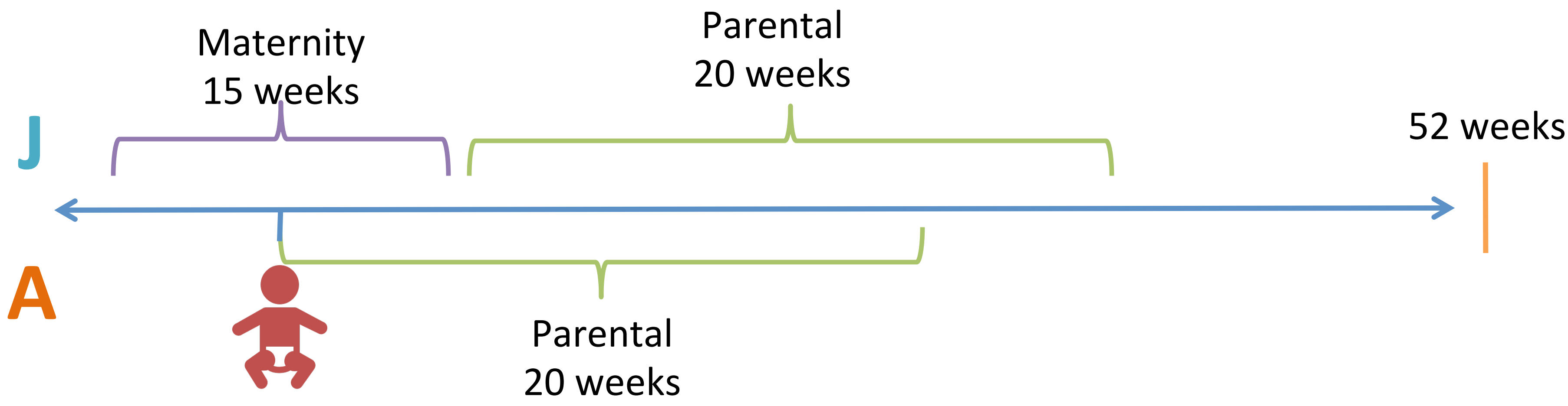
Applying for Parental Benefits:

Sharing Benefits

- Example (standard): Julie and Alex are having a baby. Julie takes the full 15 weeks of maternity leave. She and Alex each take 20 weeks of standard parental benefits.



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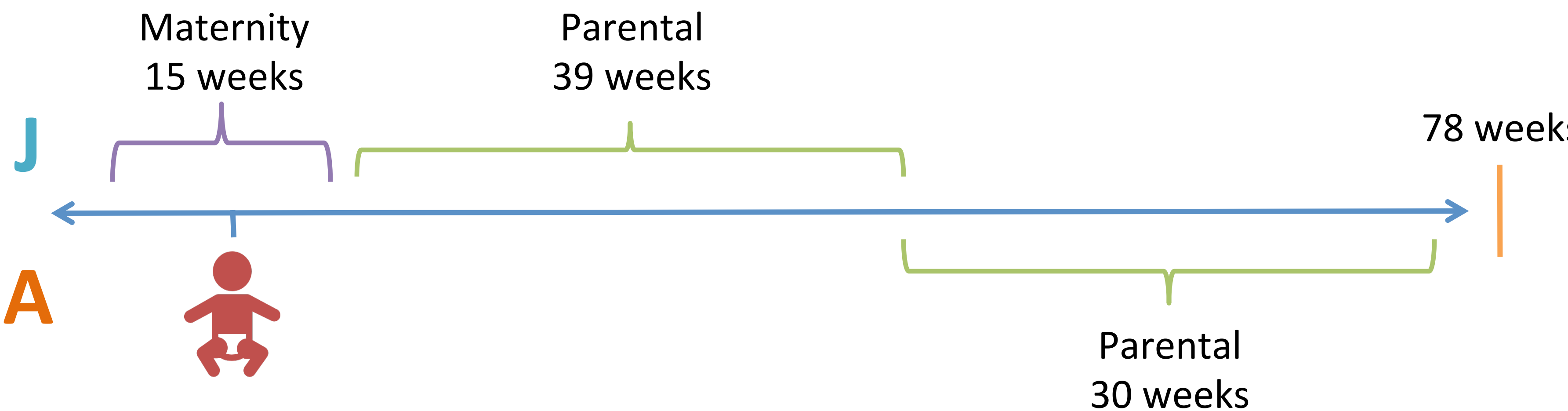
Applying for Parental Benefits:

Sharing Benefits

- Example (extended): Jaclyn and Andrew are having a baby. Jaclyn takes the full 15 weeks of maternity leave. She takes 39 weeks of extended parental benefits. This means Andrew can take up to 30 weeks.



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FAMILY CAREGIVER AND COMPASSIONATE CARE BENEFITS

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Caregiving and Compassionate Care Benefits

This benefit helps you take time away from work to **provide care or support** to a **critically ill or injured** person or someone **needing end-of-life care**.

Caregiving and Compassionate Care Benefits: Definitions

Caregiver
Family member, or someone who is considered to be like family, who provides care or support.

Care or support
Participating in care, or providing psychological or emotional support

Critically ill or injured person
Someone whose baseline state of health has changed significantly because of illness or injury; life is at risk as a result; they need the care or support of at least one caregiver

End-of-life care
Providing care or support to a person who has a serious medical condition with a significant risk of death within 6 weeks

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Caregiving and Compassionate Care Benefits

Benefit Name	**Maximum Weeks Payable**	**Who you are Providing Care to**
Family caregiver benefit for children	Up to 35 weeks	A critically ill or injured person **under 18**
Family caregiver benefit for adults	Up to 15 weeks	A Critically ill of injured person **18 or over**
Compassionate care benefits	Up to 26 weeks	A person of **any age** who requires end-of-life care

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Caregiving and Compassionate Care Benefits

- Benefits can be collected during the 52 weeks following the date the person is **certified by a medical doctor or nurse practitioner** to be **critically injured** or in need of **end-of-life care**.
- The weeks of benefit can be taken all at once or in separate periods.
- The weeks of benefit **can be shared** by eligible caregivers at the same time or one after another.

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Eligibility

Apply for caregiving benefits and leave if:

(1) You are a **family member** (or considered to be **like a family member**) of the person who is critically ill or injured or needing end-of-life care

(2) A **medical doctor** or **nurse practitioner** has certified that the person you are providing care or support to is **critically ill or injured** or **needing end-of-life care**

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Family or "considered to be like family"...

- Spouse or common-law partner
- Child, their spouse or common-law partner
- Child of spouse or common-law partner, their spouse or common-law partner
- Parent, their spouse or common-law partner
- Parent of spouse or common-law partner, their spouse or common-law partner
- Sibling, step-sibling, their spouse or common-law partner

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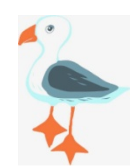
- Sibling, step-sibling of spouse or common-law partner
- Grandparent, their spouse or common-law partner
- Grandparent of spouse or common-law partner
- Grandchild, their spouse or common-law partner
- Grandchild of spouse or common-law partner
- Uncle, aunt, their spouse or common-law partner
- Uncle, aunt of spouse or common-law partner
- Nephew, niece, their spouse or common-law partner

- Sibling, step-sibling of spouse or common-law partner
- Grandparent, their spouse or common-law partner
- Grandparent of spouse or common-law partner
- Grandchild, their spouse or common-law partner
- Grandchild of spouse or common-law partner
- Uncle, aunt, their spouse or common-law partner
- Uncle, aunt of spouse or common-law partner

AND MORE...



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Service Canada

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Medical Certificate for Employment Insurance Family Caregiver Benefits

This form must be completed by a medical doctor or nurse practitioner.

The **Authorization to Release a Medical Certificate for Employment Insurance Family Caregiver Benefits** is a separate form and will be provided by the individual requesting that you complete this medical certificate. This medical certificate and the Authorization to Release a Medical Certificate form must be submitted together when a claim for Family Caregiver benefits is made.

Note: For purposes of the Family Caregiver benefits, the following definitions apply:

- "Care" means all care that is required because of a patient's state of health, other than the care provided by a health care professional;
- "Support" means all psychological or emotional support that is required because of a patient's state of health.

A. Patient last name

Patient given name (s)

Date of birth (yyyy-mm-dd)

B. Based on my assessment, I certify that the 3 conditions listed below existed as of ____ (yyyy-mm-dd)

Note: This date may be the date you examined the patient, an earlier date, or the date this certificate is signed.

1. The patient's life is at risk as a result of illness or injury. Yes ☐ No ☐

If yes, please elaborate briefly (for example: condition and diagnosis):

2. There has been a significant change in the baseline state of health of the patient. Yes ☐ No ☐

3. The patient requires the care or support of one or more family members. Yes ☐ No ☐

C. In my professional opinion, the patient will require the care or support of one or more family members until: ____ (yyyy-mm-dd)

Note: A specific date must be provided.

D. In my professional opinion and to the best of my knowledge, the patient identified above is unable to consent to the release of medical information because they are below the age of majority, or because of a physical or mental condition. Yes ☐ No ☐

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Service Canada

PROTECTED WHEN COMPLETED - B

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A. Patient last name | Patient given name (s) | Date of birth (yyyy-mm-dd)

B. Based on my assessment, I certify that the 3 conditions listed below existed as of

1. The patient's life is at risk as a result of illness or injury. Yes ☐ No ☐

2. There has been a significant change in the baseline state of health of the patient. Yes ☐ No ☐

3. The patient requires the care or support of one or more family members. Yes ☐ No ☐

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P. D. v Canada Employment Insurance Commission, 2018 SST 1114

- A woman's son, 5, was in a full body cast after hip surgery and required 24 hour care
- On the medical certificate, the physician answered **no** to: "The patient's life is at risk as a result of illness or injury"
- The Commission determined that **the Claimant was not entitled to paid benefits**
- Her appeal was dismissed by the Social Security Tribunal

IV

SICKNESS BENEFITS

Sickness Benefits

You may receive a maximum 15 weeks of EI Sickness Benefits

You may qualify for EI sickness benefits if you cannot work because of:

- illness, injury, or quarantine.

  (with a medical certificate signed by an approved medical practitioner)

and

- you would otherwise be available to work

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Due to Illness, Injury or Quarantine

Illness. Injury. Quarantine

For this benefit the illness injury or quarantine is understood to be affecting the person making the claim.
And it must be the cause of your inability to work.

*** in some circumstances drug and alcohol dependency can constitute an EI sickness claim

Medical Certificate

signed by your doctor or an approved medical practitioner

- Including expected period of incapacity
- keep it in a safe place
- *** you would be responsible for any fees associated with obtaining the medical certificate from a doctor.

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Otherwise be Available to Work

You must show that you would have been ready and able to work if you had not gotten ill, injured, or quarantined

For example: if you had enrolled to go back to school full time before you got sick, you may not be able to receive the benefit because you wouldn't be working full time regardless if you had gotten sick or not

If through your employer you are eligible to sick paid leave- you must use up all of that time before receiving EI sickness benefits

*** this does not strictly apply when combing special benefits.
 i.e. sickness benefits with pregnancy benefits.

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You must stay in Canada

You can **only** leave Canada and continue to receive EI sickness benefits if you are outside Canada to obtain medical treatment that is not offered or immediately available in a hospital, medical clinic, or equivalent health institution in Canada.

If you decide on your own initiative to go to another country to rest or recuperate, you are not entitled to benefits.

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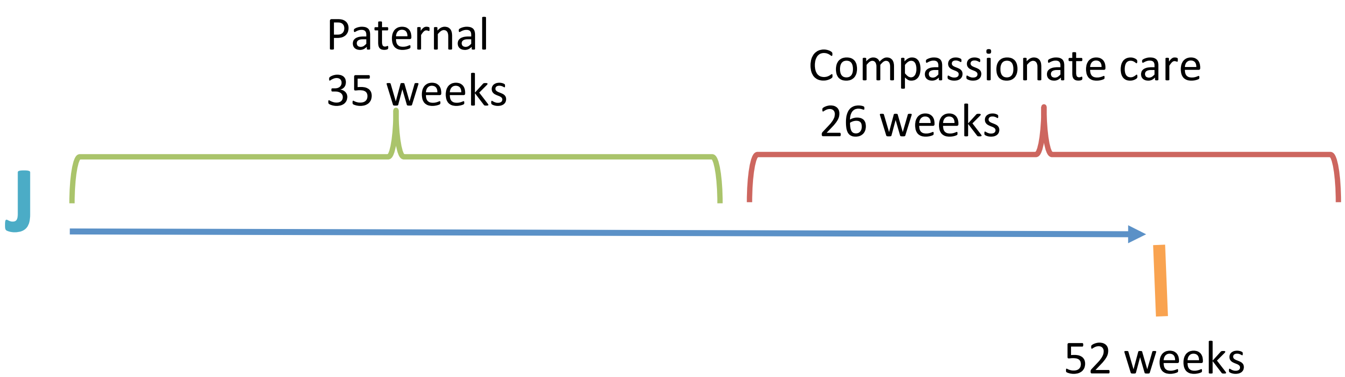
V

COMBINING SPECIAL BENEFITS

Extending the Benefit Period

The standard benefit period is a **maximum of 52 weeks**, however situations may arise where someone may not be able to collect the maximum number of weeks for the specific types of special benefits with that 52 week period.

Example: Jude and his partner adopt a child and Jude takes the maximum standard parental leave of 35 weeks. Near the end of this leave his father becomes critically ill and needs end of life care.



Jude is eligible for 35 weeks of parental leave and 26 of compassionate care with EI benefits however this would extend past 52 weeks

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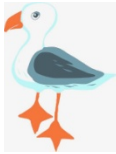
Extending to a 104 Week Benefit Period

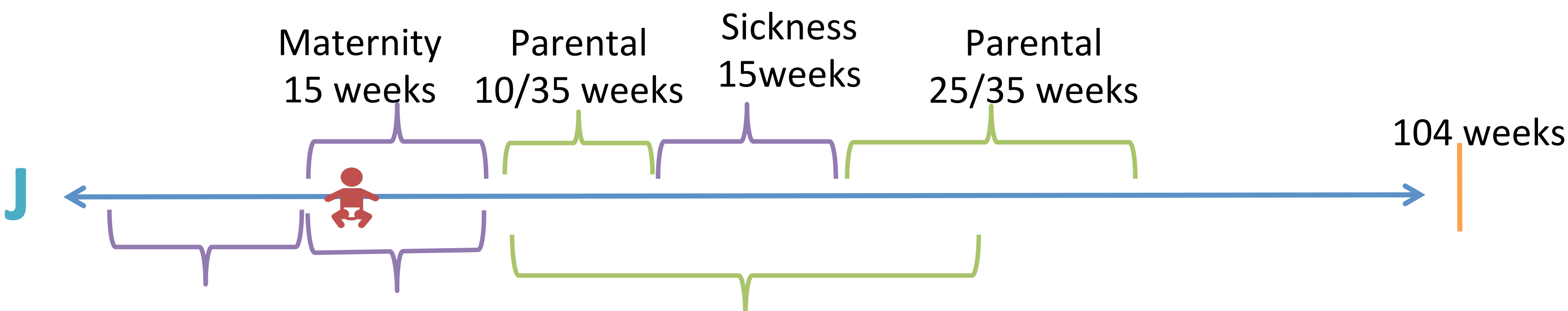
- Maximum Extension of **104 weeks**
- Must prove they are entitled to each of the specific special benefits
- No regular benefits are paid in the benefit period
- Ends when the maximum amount of applicable special benefits is up
- Can be extended multiple times but it always must be while the benefit period is still
- Cannot be extend after the benefit period has ended



Combining Special Benefits

- Example: Janna is planning on taking her full 15 weeks of maternity leave and 35 weeks of Parental leave

- Scenario 1: During her parental leave Janna becomes ill and wants to claim sickness benefits. Her parental benefits "pause" while she is claiming her sickness benefits and she may still receive the full remaining weeks of parental leave



Scenario 2:Jana has complications with her pregnancy early on so she leaves work early and claims sickness benefits. She can then still take her 15 weeks of maternity leave and 35 weeks of parental leave

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Combining Special Benefits

Special Benefit	**Max Weeks**
Sickness	15
Maternity	15
Standard Parental (individual)	35
Extended Parental (individual)	61
Compassionate Care	26
Family Caregiver for Children	35

Each of these specific benefits can be combined to a maximum of 104 weeks

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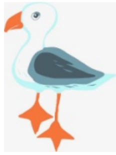

Combining Benefits:

Example 1:

Special Benefits	Weeks	Max length of benefit period
Sickness	15	
Maternity	15	
Parental (standard)	35	
Family Caregiver Benefits for Children	35	
Total:	**100**	**100**

Example 2:

Special Benefits	Weeks	Max length of benefit period
Parental (extended)	61	
Family Caregiver Benefits for Children	35	
Compassionate care benefits	26	
Total:	**122**	**104**

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VI

LEAVES FROM WORK

Leaves from Work

Leaves provide job protection so employees can take time off from their job due to events in their personal lives.

- Pregnancy and parental
- Reservists
- Compassionate care
- Critically ill child/adult care
- Domestic violence
- Crime-related death or disappearance
- Emergency
- Sick
- Bereavement
- Citizenship ceremony

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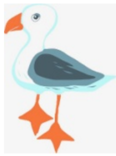
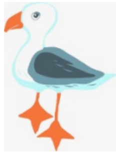
Leaves from Work (continued)

- Most of the leaves are **unpaid leaves of absence**. This means that the employer does not have to pay the employee during these absences.
- In the case of domestic violence leave, employees are entitled to receive pay for part of the leave (up to three days)



resources

- IWK Family Legal Health Program
- Nova Scotia Legal Aid
- Dal Legal Aid
- A lawyer in private practice



questions?

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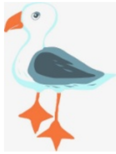

Thanks

- Natasha Procenko and Kristina Manas-Chmielowski, Dalhousie Schulich School of Law

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The Law Foundation of Ontario

Advancing access to justice

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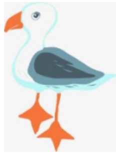
(EXTRA SLIDES)



RIGHTS AND RESPONSIBILITIES

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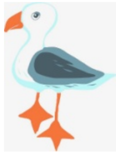

One-week waiting period

- Before you can start receiving EI benefits, there is a one-week waiting period during which you will not be paid
- Usually served at the beginning of your benefit period

Applying for Benefits

- You need to **apply** for EI benefits so it can be determined if you are eligible to receive them
- You should apply **as soon as possible** after you stop working

Applying for Benefits

- To find our if you are eligible, you must fill out an online application. This takes about 60 minutes
- To complete the application, you will need:
  - Social Insurance Number
    - (proof of immigration status and work permit if SIN begins with a 9)
  - Mother's maiden name
  - Mailing address and residential address
    - (apply in person at Service Canada Centre if no usual place of residence)
  - Complete banking information

Applying for Benefits

- You will need (continued):
  - Employment information if you are/were an employee
    - Names and addresses of employers you worked for in the last 52 weeks, including dates of employment and reason for separation from employers
    - Detailed version of the facts, if you quit or were dismissed
    - Dates and earning for each of your highest paid weeks of insurable earnings in the last 52 weeks or since the start of your last EI claim (whichever is shorter)

Applying for Benefits

- For **maternity benefits**, you will also need the expected or actual date of birth
- For **parental benefits**, you will also need:
  - Date of birth of newborn/date of placement (with full name and address of adoption agency)
  - SIN of other parent if benefits will be shared

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When will I know if I'm eligible?

- If you are **eligible**:
  - You will receive your first payment within 28 days that the application and documents are received
- If you are **not eligible:**
  - You will be notified by letter or telephone to explain why.
    - If you disagree, you have the right to request a reconsideration (more on this later!)

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L. S. v. Canada Employment Insurance Commission

https://www.canlii.org/en/ca/sst/doc/2018/2018sst1115/2018sst1115.html?searchUrlHash=AAAAAAAAAAEAFVNDIDE5OTYsIGMgMjMsIHMgMjItMgAAAAEAFS8xMzE2My1jdXJyZW50LTEjMjItMgE&resultIndex=1&fbclid=IwAR0qoyT5imxqUeGRAjvNglSYdJRLEQOBzNOR66c6OiCyJ0nLqL4A_0Gq_qE

Overview:

- The Claimant is appealing the Commission's decision that she is ineligible to start receiving maternity benefits immediately after

Facts:

- Claimant is Pregnant: Due date December 21st, 2018
- Early in pregnancy experienced medical conditions rendering her unable to work until after the pregnancy. She stopped working at the end of April 2019
- Immediately claimed her sickness benefits (maximum 15 weeks) this took her to the end week of August 18th
- The claimant could not begin receiving maternity benefits until 12 weeks before her due date (September 23rd)

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The Claimant's Questions:

- Why was she not allowed to start her maternity benefits immediately following her sickness benefits? As she had a medical certificate that she could not return to work.
- Why was she only able to claim 31 weeks of parental leave rather than the maximum of 35 weeks?

Courts Response:

- The court concluded that although maternity benefits is 15 weeks there is **no discretion** (despite circumstances) to allow the payment of maternity leave benefits prior to 12 weeks before the pregnancy due date

- She did not have enough hours of insurable employment to start a new benefits period so the benefit period she started continues running and as she did not return to work those 4 weeks, she was only able to take 31 weeks (4 weeks less the 35) of parental leave
- Her husband however could take the remaining parental benefit weeks (in this case did not make sense for family to do that – but that is an individual choice)

- **Decision: Appeal Dismissed**
- Side note: She would be eligible to take the sick leave and maternity leave back to back if her 15 weeks ended 12 weeks before the due date.

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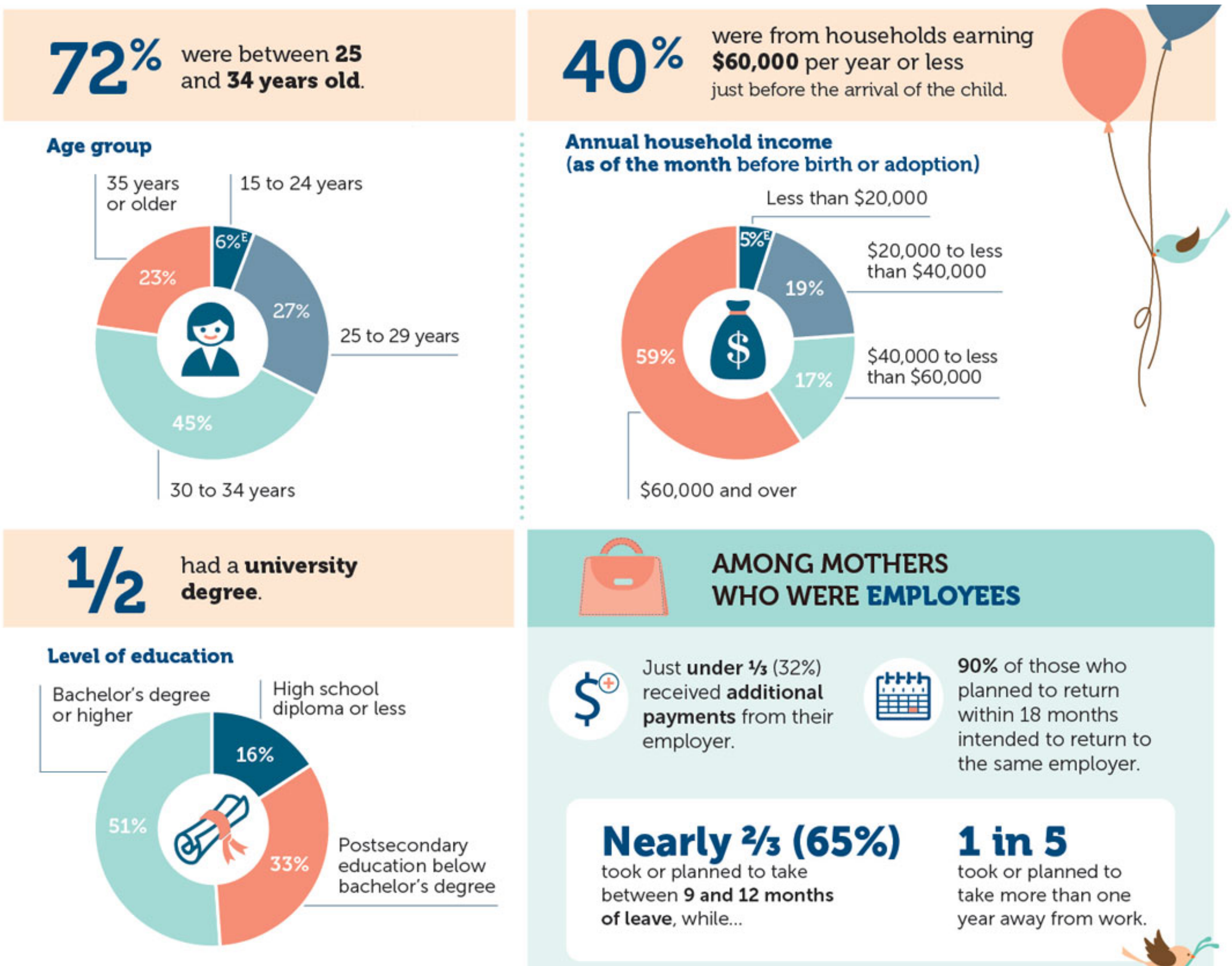
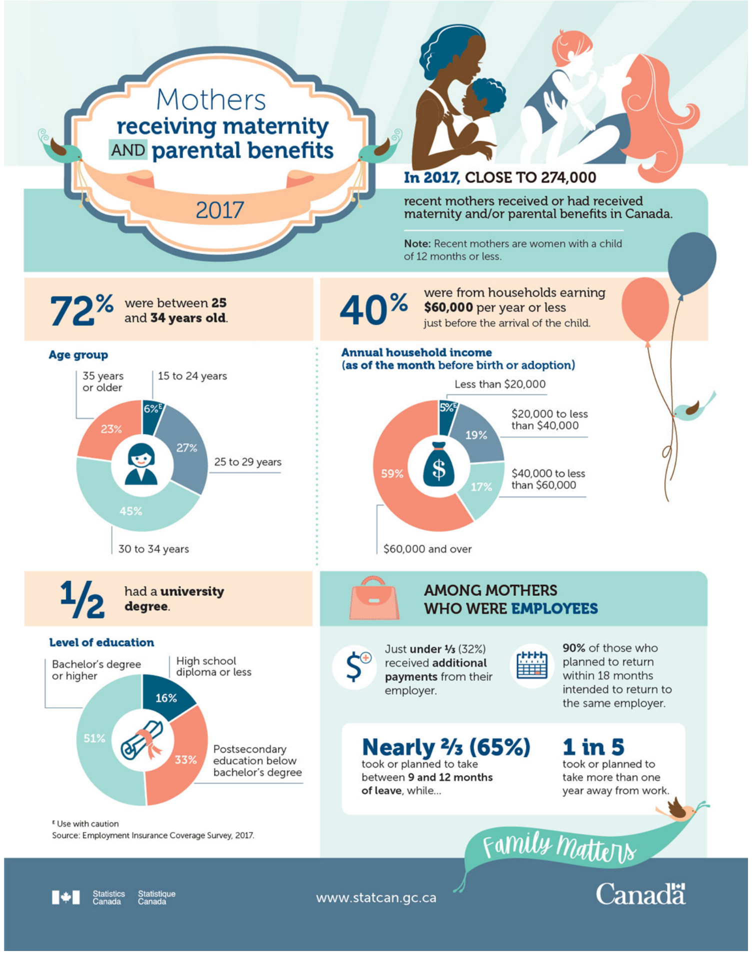
Mothers receiving Maternal and Parental Benefits in Canada: 2017



Receiving maternity/parental benefits and other benefits in the same benefit period (this slide also not done).

- when maternity or parental benefits are combined with other types of special benefits (sickness, compassionate care or family caregiver), the maximum number of weeks for which benefits may be paid may increase to 102 weeks. Please note that you must meet the eligibility criteria specific to each type of benefits you claim.



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