

## EMPLOYEE & LABOUR RELATIONS BULLETIN

March 2004

### ONTARIO ANNOUNCES NEW COMPASSIONATE LEAVE PLAN

On March 2, 2004, the Ontario government announced that it would table legislation this Spring that would provide for up to eight weeks of unpaid, job-protected time off work for employees taking care of seriously ill family members.

The planned Ontario legislation is expected to complement the federal compassionate care benefits program that came into effect on January 4, 2004. Under that program, employees are eligible for up to six weeks of federal compassionate care benefits, after a two-week "waiting period" of unpaid leave.

The purpose of the Ontario legislation is to alleviate the stress on employees who are struggling to care for seriously ill family members, and who may not otherwise take a leave, for fear of losing their employment. According to the Ontario Minister of Labour, the Honourable Chris Bentley, "employees who have taken job-protected family medical leave tend to return to their workplace better able to focus on their jobs and are likely to be more loyal to their employer for providing this benefit." The Ontario government reported that the direct cost of absenteeism due to high levels of caregiver stress has been estimated at just over \$1 billion a year in Canada, with indirect costs of an additional \$1 to \$2 billion.

Currently, under the *Employment Standards Act*, an Ontario employee of an employer with 50 or more employees is entitled to take an unpaid emergency leave of absence of up to 10 days each year, in order to care for certain, defined relatives of the employee. It is expected that the eight weeks of leave provided under the new legislation will be inclusive of, not in addition to, the current 10 day emergency leave provisions.

It has been reported that the Ontario government may plan in its new legislation for the eight weeks of leave to be available within 26-week periods, rather than each year. The intent would be that if a worker's family member recovers from an illness during a leave, but relapses into illness less than a year later, the worker could seek another leave.

It is not known whether the Ontario plan will cover part-time workers, like the federal program. To be eligible for federal compassionate care benefits, a claimant must have only 600 hours of insurable employment in the 52 weeks prior to a claim, an average of less than 12 hours per week. Under the current emergency leave legislation in Ontario, part-time workers are eligible for unpaid leave, regardless of their hours of work, as long as their employers regularly employ 50 or more employees.

At this point, there is no draft legislation available, so it is unknown whether and to what extent the Ontario benefits will mirror the federal benefits program. A representative at the Ministry of Labour said that there was no specific date for the release of draft legislation, and could not say if the Ontario program would be similar to the federal program. For information on the federal program, please see Debra Singer's article, "The New Compassionate Care Benefits Under the *Employment Insurance Act*", published at this website in October 2003.

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*The foregoing provides only an overview. Readers are cautioned against making any decisions based on this material alone. Rather, a qualified lawyer should be consulted.*

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