

Employment Insurance

Unemployment Insurance (UI) is now called Employment Insurance (EI).

You may be able to get EI benefits from the government if you are unemployed.

There are different kinds of EI benefits. This booklet is about **regular** unemployment benefits.



CLEO

Community Legal Education Ontario
Éducation juridique communautaire Ontario

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There are 5 kinds of EI benefits:

- **regular** unemployment benefits for people who are looking for work,
- **re-employment** benefits to help unemployed people return to work,
- **sickness** benefits for people who are off work because of illness or accident,
- **compassionate care** benefits for people who must be off work to care for a gravely ill family member or close friend, and
- **pregnancy** and **parental** benefits for people who are pregnant or have a new baby or adopted a child.

This booklet covers **regular** unemployment benefits. It also has a short section about **re-employment** benefits on [page 16](#).

Who can get EI benefits?

If you are unemployed and looking for work you may be able to get EI benefits. EI benefits are based on the number of hours you worked during a certain “qualifying period”.

Usually, your qualifying period is the past 12 months. Sometimes it can be shorter. For example, if you have been on EI in the past year, your qualifying period will only go back to the start of your last EI claim. Sometimes it can be longer, for example, if there were weeks in the past 12 months when you could not work because you were sick, injured, pregnant, or in jail.

The number of hours you need to have worked in your qualifying period depends on the following things:

If you are new or returning to the workforce:

If you are a “new entrant” or “re-entrant”, you must have worked a total of at least 910 hours during your qualifying period.

Note: You might only need 840 hours if your claim starts no later than December 4, 2010 *and* you live in the Huron, Niagara, Northern Ontario, Oshawa, or Windsor region of Ontario.

You are usually considered a new entrant or re-entrant if you were employed or “attached to the labour force” for less than 490 hours in the year *before* your qualifying period. But if you received any pregnancy or parental EI benefits in the 4 years before that year, then you are *not* considered a new entrant or re-entrant.

A few examples of being attached to the labour force are:

- receiving EI benefits, workers' compensation, or sick pay,
- attending a training program approved by a Service Canada Centre, or
- being on strike or lockout.

If you are not a new entrant or re-entrant:

If you are not considered a new entrant or re-entrant:

- you will *usually* qualify if you worked 700 hours or more in your qualifying period,
- you *might* qualify if your hours are between 420 and 700 depending on the unemployment rate where you live (the higher the rate of unemployment, the fewer the hours you will need),
- you will *not* qualify if you worked or were attached to the labour force for less than 420 hours.

If you have a record of EI "violations":

If you have a record of EI violations you might have to work more hours to qualify. Usually, violations result from giving false or misleading information to EI staff.

Sometimes it is difficult to accurately calculate the number of hours an employee worked during their qualifying period. Even if you do not think you qualify, it might be worth applying.

How do I apply for EI?

You can fill out an application at a Service Canada Centre or online at <www.servicecanada.ca>. To find the Service Canada Centre where you live, call **1-800-622-6232**, or visit the web site listed above.

Before you go to the Service Canada Centre in your area, you should call first to find out if you need to make an appointment. You might be asked for your postal code to find out which location you should go to. When you go, you should bring:

- your social insurance card (if your social insurance number begins with 9, you must also bring your work permit and proof of your immigration status),
- a second piece of identification, with your photo if possible, like your passport or driver's licence, and
- your Record of Employment (ROE) from every place you worked in the last 12 months if you have it.

If you do not speak English or French, bring someone who can translate for you.

How do I get my Record of Employment?

Ask your employer for it right away. It is easier to apply for EI if you have your ROE. You will need an ROE for every employer you worked for in the past 12 months.

Your employer must give you your ROE within 6 days after your last day of work. Or your employer can send it to the government electronically instead. The deadline for your employer to do this is 16 days after your last day of work, or sometimes earlier.

If your employer sends your ROE to the government electronically, you do not need a paper copy to apply. But you can get a copy from Service Canada if you want one.

Apply for EI right away, even if you did not get your ROE yet. Bring proof of your employment, such as pay stubs and T-4 slips. If you do not apply within 4 weeks after your employment ends, you will probably get fewer EI payments.

If you are having problems applying for EI or getting your ROE, you can call the Service Canada EI information service at **1-800-206-7218**.

Can I get EI if I quit my job?

If you quit your job, you will probably not qualify for EI unless you had “just cause”. Just cause means you had no other reasonable choice but to quit. See page 5 for examples of situations that could be just cause.

When you quit your job *without* just cause, you cannot use any of the hours you worked at that job or any previous jobs to qualify for EI, even if you worked there for many years.

If you do not return to work when you are recalled after a layoff, that is also considered quitting.

If you have a problem at work, it helps to show you tried to fix it. If the problem is so serious that it cannot be fixed, you might qualify for EI if you quit. Try to get legal advice right away.

What if I had just cause for quitting?

If you can prove you had just cause for quitting your job, then you can get EI. There are many different situations that *could* be just cause for quitting. For example:

- you were sexually harassed, or harassed in another way,
- you need to go with your spouse, common-law partner (which includes same-sex partner), or dependent child who has to move away,
- you were discriminated against because of race, colour, sex (which includes discrimination because of pregnancy or childbirth), national or ethnic origin, religion, sexual orientation, marital status, family status, disability, age, or your conviction for a crime if you have been pardoned,
- you were discriminated against because you belonged to a union,
- you were expected to work in dangerous conditions,
- you were reasonably sure you would start another job right away,
- your wages were significantly reduced, or there were major changes to your duties,
- you were not paid for overtime worked, or were forced to work excessive overtime,
- your supervisor was unfair or hostile to you for no good reason,
- your employer was doing something illegal,
- your employer pressured you to leave your job, or
- you had to care for your child or other close family member.

None of the examples listed will automatically be considered just cause to quit. And there could be other acceptable reasons for leaving your job.

It is important to get legal advice *before* you quit your job for *any* reason.

What if I am refused EI because I quit?

If you are turned down for EI because you quit your job, you can appeal this decision. Try to get legal advice.

Can I get EI if I was fired?

Maybe, depending on the reason you were fired. But if EI officials say you were fired because of “misconduct”, they will not give you benefits. Many things can be considered misconduct, for example:

- threatening or violent behaviour,
- destroying company property on purpose,
- being late or away from work without permission, or
- disobeying an order from your employer.

Because misconduct cases are often unclear, apply for EI anyway and get legal help if you are refused. You have the right to appeal this decision.

If I was fired or I quit, what will happen when I apply for EI?

When you apply for EI, you will have to fill in a special form if you quit or were fired. EI officials use this form to decide if you were fired for misconduct or if you quit without just cause.

If you quit, you will be asked:

- why you quit,
- whether you tried to fix the problem at work before you left, and
- whether you tried to get other work before you quit.

If you were fired, you will be asked:

- why you were fired,
- whether you received warnings, and
- whether you tried to fix the problem.

Once you have filled in the form, EI staff may interview you by phone or in person. They may also contact your employer. They will then decide whether you quit with or without just cause. Or, if you were fired, they will decide whether you were fired for misconduct.

If they decide that you were fired for misconduct or quit without just cause, they will send you a letter that says you are “disqualified” from receiving regular EI benefits. However, you might still be eligible for the special benefits discussed on [page 19](#).

The letter will also tell you that you have the right to appeal within 30 days. This is an important deadline. If you want to appeal you must do it in writing. You can ask your community legal clinic or federal Member of Parliament for help, or send a letter yourself.

Can I be disqualified for other reasons?

Yes. You can be disqualified for a certain period of time if EI officials decide you are not doing what you are supposed to do.

You can be disqualified for 1 to 6 weeks if:

- you do not follow a reasonable instruction from EI staff,
- you do not go to an interview they want you to attend, or
- you do not attend or participate in a course or employment activity they send you to, or you quit it without reason, or you are expelled.

You can be disqualified for 7 to 12 weeks if:

- you do not accept a suitable job, or
- you are aware of a suitable job but do not apply for it.

If EI officials disqualify you, they must tell you this in writing. They might send you a warning letter first, but they do not have to. In either case, get legal help right away.

Will a disqualification be counted against me in future EI claims?

This can happen. A disqualification will be carried forward to a future EI claim if all of the following 3 points apply:

- you re-apply for EI but have not worked 700 hours since your last EI claim,
- the event that led to the disqualification happened in the last 2 years, and
- the disqualification was not yet finished when your last EI benefit period ended.

Can EI officials refuse to pay me for other reasons?

Yes. In some situations, EI officials can decide that you are “disentitled” to benefits. This means that your benefits will be suspended temporarily. This could happen if:

- you are not available for work,
- you are not looking for work,
- you do not provide EI staff with information they ask for, or
- you are not working because of a strike or lockout.

You can end your disqualification by proving that the reason for it has stopped.

Note: Any decision that disqualifies you or disentitles you can be appealed within 30 days. You can also provide EI officials with new information and ask them to change their decision. If you are not sure what to do, get legal advice right away.

How much will I get?

If you qualify for EI benefits, you will receive 55% of your average weekly insurable earnings, up to a maximum of \$457 a week.

To calculate your average weekly insurable earnings, EI staff will add up your insured earnings in the 26 weeks before you stopped working, and then divide this total by a number known as a “divisor”. The lowest the divisor can be is 14, and the highest it can be is 26.

The rules about this are complicated. If you have questions about how your benefits are calculated, ask someone at the Service Canada Centre or your community legal clinic.

People with higher incomes may have to repay some of the EI benefits they received when they do their income tax.

Do people with children get more money?

Some claimants with children can get more money through the “Family Supplement”. To be eligible, you or your spouse or common-law partner must receive the Canada Child Tax Benefit, and your annual family income must not be more than \$25,921. The Family Supplement can increase your benefits up to a maximum of 80% of your earnings, but no higher than \$457 per week. Only one spouse or partner at a time can get the Family Supplement.

How long can I get EI?

It depends on the unemployment rate where you live and how many hours you worked in your qualifying period. The maximum is 50 weeks for claims that start no later than September 11, 2010. After that, the maximum may drop to 45 weeks.

You may be able to get extra weeks of benefits if you are what the government calls a “long-tenured” worker. You might be considered a long-tenured worker if you received less than 36 weeks of regular benefits in the last 5 years. It also depends on your past EI contributions.

If you are a long-tenured worker, you might also qualify for extra weeks of benefits to attend a training program that Service Canada refers you to, if your claim starts by May 29, 2010.

Service Canada should send you a letter if you qualify for any of these extra benefits. If you do not get a letter but think you might meet the definition of long-tenured worker, contact the Service Canada Information Centre at **1-800-206-7218**.

When will I get my first payment?

You are not covered by EI for the first 2 weeks after you make your claim. This is your “waiting period”. Benefits are calculated from the third week. It will then take at least another 2 to 4 weeks before you get your first payment.

Most money you get when your job ends, such as vacation pay, termination pay, or severance pay, is considered earnings and may affect when your benefits start.

If you receive earnings during your waiting period, an amount up to the full amount of those earnings will be deducted from the first 3 weeks of benefits payable to you.

What do I have to do while I am getting EI?

While you are getting EI you have to:

- be available for work,
- actively look for work,
- submit your weekly reports,
- report any income you have received,
- provide a record of your job search when asked,
- follow up on job referrals made by EI staff,
- meet with EI staff when asked,
- participate in training programs and other activities that EI staff have approved for you, and
- be able to make child care arrangements when needed.

What is a job search?

A job search includes checking employment advertisements, checking the jobs listed by the Service Canada Centre, asking friends about work, calling employers, and applying for work.

Keep a record of your job search and follow up on any leads. Make notes about where you look and who you talk to. Keep copies of all job ads, letters, and applications.

What information do I have to report?

You must send reports covering every week that you receive benefits. In these reports you must say if you:

- worked, and if so, how much you earned,
- received any other money,
- were sick or injured, and
- were available for work each weekday.

How do I report the information?

Most people can report this information using a touch-tone telephone or through the Internet. If you cannot report using a touch-tone telephone or the Internet, you can make your reports by filling out special cards and mailing them.

Soon after you apply for EI, you will receive a “Benefit Statement” in the mail. This statement will tell you when you must make your first report. It will also give you your access code. This is a 4-digit number near the bottom of the statement. You need your access code to report by telephone or the Internet. The Benefit Statement comes with instructions about how to use the telephone or Internet reporting service.

If your reports are late, missing information, or not completed correctly, your payment will be delayed.

Reporting by telephone:

You can practice reporting by calling **1-800-531-7555** and selecting option “1” for a demonstration. If you have not used the service before, it is a good idea to try the demonstration first.

When you use the telephone reporting service, you will be asked several questions. It is important to listen carefully so you are able to answer each question correctly. After you answer each question, you will be asked to confirm that your answer is right.

When you finish your report, a message will tell you when your next report is due. Be sure to write down this date. You cannot make your next report before this date. Usually reports are due every 2 weeks.

Do not hang up the phone until you are told that your report was successful. If you hang up before that, your report will probably not go through and you will have to start again.

If you realize later that you made a mistake in your report, call **1-800-206-7218**, then **press 0 (zero)**, as soon as possible during business hours.

Reporting by Internet:

If you have Internet access you may be able to make your reports online. Follow the instructions carefully. After you answer each question, you will be asked to confirm your answer. Once you finish your report, the system will confirm that your report was received. It will also tell you when your next report is due. Be sure to write down this date. You cannot make your next report before this date.

If you realize later that you made a mistake in your report, call **1-800-206-7218**, then **press 0 (zero)**, as soon as possible during business hours.

Can I earn money while I am getting EI?

You can earn \$50 a week or 25% of your weekly EI benefits (whichever is higher) before deductions are made. Anything you earn above this amount will be deducted dollar for dollar from your EI.

You must declare all of your earnings in your reports. If you do not declare all of your earnings and are caught by EI officials, you will not be able to keep the 25% of your earnings you are entitled to. You will probably also get other penalties (see [pages 18 and 19](#)).

Do I have to take any job?

No, but you must apply for and accept any job that EI officials consider “suitable” for you. If they decide that you refused a suitable job, or that you knew about one but did not apply for it, they will disqualify you for 7 to 12 weeks. If you disagree with their decision, you can appeal.

What if I take a job, and then lose it or quit?

If you take a job while you are receiving EI and then quit without just cause, your benefits will be cut off, even if the job is part-time. For this reason, it might be a mistake to accept work that is unsuitable or that you cannot handle. Work can be unsuitable for many reasons, such as the hours or travel involved, or the low pay.

Your EI will also be cut off if you take a job while you are getting benefits and then get fired for misconduct. In either case, you have the right to appeal.

Re-employment benefits

Re-employment benefits, also called reach-back benefits, are a type of assistance for people who want to re-enter the workforce. These benefits may be available to:

- people receiving EI,
- people who received EI in the last 3 years, or
- people who received pregnancy or parental benefits in the last 5 years, and have not worked since then because they were caring for the child.

You do not receive these benefits automatically. You must develop an “action plan” showing how you intend to get work. This plan must be approved by the Service Canada Centre, and you must negotiate how much money you will receive. Benefits might cover an allowance, tuition costs, and travel expenses.

What happens if I receive more money from EI than I should?

Receiving money you were not entitled to is called an “overpayment”. In almost all cases, you will have to pay it back. If you cannot pay back the full amount right away, contact EI staff and ask to pay it over a period of time.

If you receive EI money you know you are not entitled to, it is an offence to cash the cheque. You must return it. If you do not, there could be serious legal consequences.

Can I still get EI if I am applying for or getting CPP benefits or workers’ compensation?

It is possible to get Canada Pension Plan (CPP) retirement benefits and regular EI at the same time. But in some cases, the CPP amount will be deducted from your EI benefits.

To get CPP disability benefits, you must be unable to work regularly. To get EI regular benefits, you must be ready and able to work. So, you usually cannot get both.

The rules are more complicated for workers’ compensation wage loss benefits. These benefits are now called Loss of Earnings benefits or “LOE”. You can usually apply for both LOE and regular EI. But, it is important to tell EI staff about any LOE or other benefits you receive. Get legal help if you think you might qualify for both.

If you are getting or applying for EI sickness benefits, you can also apply for LOE or CPP. The rules for EI sickness benefits are not covered in this booklet.

What happens if I give information that is not true?

It is against the law to knowingly give false or misleading information in connection with an EI claim. Some examples of this are:

- not telling the EI staff about all of your earnings,
- leaving the country while collecting EI, or
- changing information on your Record of Employment.

Penalties for violations can be very severe. You will have to pay back all the EI money you should not have received. You might also have to pay as much as 3 times your weekly “benefit rate” for every false statement that EI officials think you have made. Sometimes criminal charges can be laid against you.

If you have received a penalty, get advice about filing an appeal. EI staff must prove that you knowingly made the false statement. This means they must prove you told them something that was not true and that you knew it was not true. If your appeal is successful, your penalty could be reduced or removed.

How will a violation affect my future EI claims?

Violations stay on your EI record for 5 years and make it more difficult for you to receive EI benefits in the future.

If you have any violations on your record, you will have to work extra hours to qualify for EI the next time you apply.

Can I get other special EI benefits if I have been penalized or disqualified?

You can apply for special benefits even if you would not be able to get regular EI. You might qualify even if you quit your job or were fired for misconduct. While you are receiving special benefits, any violations on your record will be suspended temporarily.

Special EI benefits are:

- **sickness benefits** if you are ill,
- **compassionate care benefits** if you have to care for a gravely ill family member or close friend, and
- **pregnancy and parental benefits** if you are pregnant or have a new baby or adopted child.

Can I apply for social assistance (welfare) while I wait for EI?

Yes, you might be able to get social assistance benefits from Ontario Works while you wait for EI. You should apply right away. You will be asked about your income and assets and why you are unemployed. You may also be asked for proof that you have applied for EI, or that you are appealing an EI decision.

Because EI applications can take a long time to process, you might get social assistance for several weeks before you get your EI. When you apply for social assistance, you will have to sign an Assignment of Benefits form. This gives social assistance officials the right to have EI pay them back for the social assistance benefits you receive while you wait for your first EI payment. It also makes sure that you are not paid benefits for the same period from both sources.

You should notify the social assistance office as soon as you get your first EI payment. If your EI benefits are less than the amount you receive on social assistance, you might be able to continue to get some social assistance benefits to make up the difference.

If you are refused social assistance, contact your community legal clinic for help. You have to act quickly because there are strict time limits to have your refusal reviewed.

Where can I get legal help?

For more information and help with EI, contact your community legal clinic or federal Member of Parliament.

You can usually find the community legal clinic nearest you by looking under “Legal Aid” or “Lawyers” in your phone book. You can also check Legal Aid Ontario’s web site at <www.legalaid.on.ca> or phone them:

| | |
|----------------------|-----------------------|
| Outside Toronto: | 1-800-668-8258 |
| Outside Toronto TTY: | 1-866-641-8867 |
| Toronto: | 416-979-1446 |
| Toronto TTY: | 416-598-8867 |

This publication contains general information only. It is not a substitute for getting legal advice for your particular situation.

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