

FAQ SHORT TERM DISABILITY AND SICK LEAVE



? Where do i find information about sick leave?

- Article 19 of the collective agreement

? What sick, illness, and injury leaves am I entitled to under the Employment Standards Act?

- All employees (regular or casual) who have been employed for ninety consecutive days are entitled to up to five days of paid illness and injury leave.
- **The legislation does not allow for partial days.** If you use one hour of sick time under this provision that counts as one day and you will have four remaining days available.
- This leave is paid at 100%.
- [Employment Standards Act Section 49.01](#) provides 27 weeks of UNPAID leave within a 52 week period for employees who are unable to work due to their own serious illness or injury
 - Employer paid health and welfare benefits continue while on this leave
 - Employees continue to accrue continuous service for the purpose of vacation entitlement and will move to the next increment step in the wage grid as though they were still working

? How do sick leave credits work?

- Regular employees who have completed their probationary period will accrue sick leave credits at the rate of one day per month to a maximum of 156 days.
- Upon completion of probation, the employee will be credited sick leave credits back to their start date.
- Sick leave credit balance requests must be submitted in writing.
- Sick leave credits are cancelled when an employee's employment is terminated.

? How much will I be paid when I use sick leave?

- Sick pay is paid at 100% of the regular rate of pay.

? What am I required to tell my employer when I'm sick?

- As soon as possible, employees must inform the employer if they are not able to report to work because of illness or injury.
- Employees will make every reasonable effort to provide the employer advance notice of their intended return to work.

FAQ SHORT TERM DISABILITY AND SICK LEAVE

? Can my employer ask me to prove I'm sick?

- The employer may request proof of illness.
- The Employment Standards Regulation Part 7.02 Section 45.033 [Specified Circumstances in Which Sick Note Cannot Be Requested - Regulation Part 7.02, Section 45.033 - Province of British Columbia](#) speaks to when an employer is allowed to request proof of illness. Any dispute related to this section must be resolved through the regular grievance process.

? What medical information is my employer allowed to ask my doctor?

- Sometimes you will be asked to provide medical evidence
 - If you are enrolled in the EIP program a request for medical information will come from the provider, not the direct employer.
- The employer is not entitled to any information about diagnosis (more information below).
- The employer is entitled to information about physical/cognitive limitations and restrictions and information about prognosis for returning to work.
- If you are unsure whether the questions you/your doctor are being asked, please reach out to a shop steward to discuss further.
- If you do not know who your steward is, [please contact your local area office](#) for a list of stewards at your workplace.

? What about WCB?

- If you are injured at work, make sure you report your injury to your supervisor and [file a claim with WCB](#).
- If you have an accepted claim, you will be paid directly by WCB.
- While in receipt of WCB wage loss benefits, paid holidays will not accrue.
- An employee can use accrued sick leave credits while waiting for WCB benefit approval.
 - If there is duplication of sick leave credit payment and WCB payment, the employee will reimburse the employer for the sick leave pay and the employer will adjust the sick leave credit bank in accordance with the reimbursement.

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? What is Community Social Services Early Intervention program (CSSEIP)?

- A joint program that assists ill/injured workers with returning to work.

? Who is on the CSSEIP team?

- Employee
- Employee's doctor/treatment team
- EIP service provider
- Employer
- Union

? What do I need to know?

- The program is mandatory.
 - Failure to participate in the program will result in the matter being referred to the labour relations process.
- Regular employees (full time or part time) who are absent with a **work-related** illness or injury or injury due to a motor vehicle accident will be referred to the program immediately.
- Regular **full-time** employees who are absent with a **non-work-related** illness or injury will be referred after an absence of **five consecutive shifts**.
- Regular **part-time** employees who are absent with a non-work-related illness or injury will be referred if they have been, or will be, absent for more than **eight calendar days**.
- Confidential information is protected.
- You will be contacted by the provider and must communicate with them.

? Who can refer an employee to EIP?

- Employee (self-referral), employer.

FAQ SHORT TERM DISABILITY AND SICK LEAVE

? What happens once I am referred?

- The EIP provider must contact you within two working days to:
 - Explain the program
 - Confirm participation is mandatory
 - Confirm eligibility for the program
 - Confirm where to send the enrollment package
 - Explain that you must complete the consent form and medical form and return the forms to the provider within 7 days
- Once in the program, you and your doctor will be required to complete a **confidential** Occupational Fitness Assessment (OFA) form.

? Do i have to talk to the EIP provider?

- Yes, you need to communicate with the provider as part of the program.

? What is the provider's role?

- Design the return-to-work plan in consultation with the employee, employer and union, including:
 - Integration back to the workplace
 - Graduated return or modified duties
 - Accommodation
- Monitor progress and adjust as needed.
- Advise the employer and union of any non-compliance/non-participation.

THE COLLECTION OF MEDICAL EVIDENCE

1. The employer/provider can only collect information that is reasonably necessary

- The extent of what is reasonably necessary will depend on the situation - if an employee is requesting a medical accommodation the employer/provider may ask for more information than would be required for a return to work from a short-term leave.

2. The least intrusive method of obtaining the medical information must be the first.

- For example, an Occupational Fitness Assessment (OFA) doctor's certificate or medical questionnaire should be requested and reviewed before an employee is asked to attend an independent medical examination, functional capacity evaluation, etc.

3. The employer is not entitled to know the employee's diagnosis.

4. The employer is entitled to know the functional physical or cognitive limitations and restrictions. Limitation and restrictions detail how the employee's medical conditions impact their ability to perform specific tasks or activities.

- A medical limitation indicates the employee is not capable of performing that task/activity
- A medical restriction indicates the employee cannot perform the task/activity safely without causing harm to themselves or others
 - Limitations and restrictions may be temporary or permanent

5. Sometimes the employer/provider will present the doctor with a medical questionnaire or OFA that includes a table listing the tasks/activities of the job and ask the doctor to identify whether the employee can do that task and for how long.

- The employer/provider should only ask about tasks/activities related to the role the employee is in unless it is a request for an accommodation. In the case of an accommodation request, the employer/provider may need more information to determine how they can accommodate the employee.
- If an employee is requesting a medical accommodation, the employer has a duty to inquire about the medical limitations

THE COLLECTION OF MEDICAL EVIDENCE

6. If the employer has objective evidence that a medical condition may be impacting an employee's ability/function at work, they have a duty to inquire.

- Example: If an employee is slurring their speech, stumbling, falling asleep at work, has increasing absenteeism/lateness, or is having dizzy spells, it is important that the employer inquire further, in order to understand what is causing the issues. This is relevant to ensure whether there is an underlying medical condition so that the employer can address the situation appropriately without negatively impacting the employee's employment.

7. Any questions asked of the doctor must relate to functional ability - i.e. what the employee can or cannot safely do at work. The employer/provider can ask whether the limitations/restrictions are temporary or permanent.

- Broad questions (e.g. What is the patient's medical status?) may be unreasonable as the doctor may be inclined to provide more information than is necessary. Questions should be specific to the role and the medical limitations/restrictions.

8. The employer/provider can ask about prognosis, but only as it pertains to any anticipated change in the condition and/or a return to work.

- The question should be specific and worded in a way to indicate that the employer is not entitled to information about diagnosis. Questions about prognosis are only relevant for prolonged leaves where there is an anticipated change/recovery or return to work.

9. Can my employer stop an employee from returning to work if I do not provide medical information?

- If the employee has been absent on short term leave for a period of time (i.e. more than a few weeks), and depending on the reason for their absence, the employer may require medical clearance to ensure the employee is safe to return to work
- If the employee was absent for two weeks (or less) with a cold or flu, then it would not be reasonable for the employer to require medical clearance to return to work.
 - If the employer does ask for medical information due to patterns of absence and the employee is unsure whether this is required they should speak to a shop steward

THE COLLECTION OF MEDICAL EVIDENCE

10. Safety-sensitive work: This is a term used to describe work where an employee's action or errors could lead to harm to themselves, coworkers, the public or the environment. These jobs may involve driving, operating heavy equipment, or making decisions that impact the well-being of others etc.

- When a role is deemed by the employer to be safety-sensitive, they may explain this fact to the doctor through a medical questionnaire. However, this does not change the information they are entitled to receive from the doctor.
- If an employee is suffering from substance use challenges and is in a safety-sensitive role the employer may request information from a provider trained in the area of substance use. If the employee is unsure about any requests of this nature they should speak to their shop steward.

11. Employees are not required to provide their employer with personal information or information related to any diagnosis.

- If the employer invites the employee to a meeting to discuss their health, or if the employer provides the employee with a medical questionnaire, employees are encouraged to engage their union advocate to ensure their medical information is protected.