

# FAQ SHORT TERM DISABILITY AND SICK LEAVE



## ? Where do I find information about sick leave?

- Article 28 of the collective agreement
- Memorandum of Agreement #1-3 Enhanced Disability Management Program (EDMP).

## ? How do sick leave credits work?

- Regular employees who have completed their probationary period shall accrue sick leave credits at the rate of 6.9% to a maximum of 1,170 hours.

## ? How does sick leave pay work?

- Sick leave pay is only payable for sickness.
- Prior to enrollment in EDMP, employees may be required to prove sickness.
  - Failure to do so may be cause for disciplinary action.
  - Where proof is required, the employer will reimburse 50% of the cost of the medical note (\*once enrolled in EDMP the employer pays 100% for medical information).
- Employees must notify the employer as promptly as possible of an absence due to sickness.
- Employees must notify the employer before they return.

## ? I don't like the questions the employer is asking the doctor.

- If you are unsure whether the questions you/your doctor are being asked, please reach out to the EDMP union advocate (more information below) to discuss further.

## ? What sick leave am I entitled to under the Employment Standards Act?

- All employees 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%.

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## ? What do I need to know 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 and vacation will not accrue.
- Unused vacation credits will not be lost.
- Article 25 (Health Care Plans) will continue to apply to employees who are entitled to receive WCB wage-loss benefits.

## ? What is the Enhanced Disability Management Program (EDMP)?

- A joint program between the employer and the union that facilitates an employee-centred proactive, appropriate and customized disability management program for employees with work and non-work-related illness/injury.

## ? How does EDMP work and who does it apply to?

- The program is mandatory for regular employees (unless there is a bona fide reason to decline - i.e. hospitalization, inability to give informed consent).
  - Failure to participate in the program will result in the matter being referred to the HR/LR process
- Regular employees who are absent with a **work-related** illness or injury will be referred to the program on the **first day** of their illness/injury.
- Regular employees who are absent with a **non-work-related** illness or injury will be referred after an absence of five consecutive shifts.
- Participation is voluntary for casual employees.
- Services for casual employees and those struggling at work are considered on a case-by-case basis and at the discretion of the employer (enrollment is not automatic).
- All casual employees and regular employees who self-refer and continue to work and who participate in a case management plan where services are being provided are required to participate unless there is a bona fide reason to decline.
- If an employee will not be absent for more than 30 days and does not require a case management plan or a gradual return to work, they will not be enrolled in EDMP. Their file will be monitored and reviewed as needed.
- Confidential information is protected.
- You will be contacted by a disability management provider (DMP). See next section for more details.

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## ? Who can refer an employee to EDMP?

- Employee (self-referral), employer, union, WCB, LTD provider.

## ? What is a “DMP” – Do I have to talk to them?

- Yes, you need to communicate with the DMP as part of the program.
- The DMP is the employer representative in disability management and is there to liaise between you, the employer, insurance providers and the union regarding medical information and plans for returning to work.
- The DMP is responsible for case management from start to finish.
- The DMP may create a medical questionnaire that you take to your doctor (at no cost to you).
  - The Union EDMP Advocate (see next section) will review these questionnaires before they are sent to the treatment provider to ensure the questions are appropriate.
- The DMP will receive the medical information back from the doctor and can only share information about limitations (activities you cannot perform, or can only perform for a limited time) and restrictions (activities you cannot safely perform without harm to yourself or others), and a prognosis for a return to work.
- The DMP, in consultation with you, your doctor, the employer and the union advocate can also assist with return-to-work planning.

## ? What is a case management plan (CMP)?

- The CMP is developed by the DMP to help with a safe and timely return to work.
- It may include: Medical intervention, Transition work, Gradual return to work, Workplace modifications, Vocational rehabilitation and/or retraining.

## ? What is an EDMP union advocate?

- The Union Advocate for EDMP is not a shop steward and is not a staff representative – they do not have the authority to file grievances or sign off on agreed-upon accommodations/monitoring agreements etc.
- The union advocate is there to support you through the process, and to work with the DMP.
- The union advocate will review medical questionnaires before they are sent to you or your doctor.
- The union advocate will direct members to their union for guidance on WCB and LTD.

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## What are my return-to-work options? In order of consideration by all parties.

- Return to your own job.
- Return to your own job with modifications.
- Return to an alternate vacant job that is not posted (with or without modifications).
- Fill an alternate posted job (with or without modifications).
- Fill an alternate job with retraining (with or without modifications).
- Find other alternative work that can accommodate your limitations/restrictions.
- Exercise seniority options.

## How do benefits work when I'm on an unpaid leave of absence? (Article 20.6)

- Benefits will not be earned or accrued when an unpaid leave of absence or an accumulation of unpaid leaves of absence exceeds 20 workdays in a calendar year.
- Time off pursuant to Article 2.10 (Time Off for Union Business) shall not be taken into consideration.
- Employees may maintain coverage for health care plans provided in the agreement by paying the employee's and the employer's share of the premiums for the coverage in advance of the unpaid leave of absence.

## What forms should I expect?

- The union and the employer have agreed-to forms. If you receive a letter or form and are not sure about it you can check with your union advocate.

# THE COLLECTION OF MEDICAL EVIDENCE

## 1. The DMP 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, or early referral service, the employer may ask for more information than would be required for a return to work from a short-term leave

## 2. The employer has a duty to inquire regarding the medical situation.

- The least intrusive method of obtaining the medical information must be the first. For example, a medical questionnaire should be requested and reviewed before an employee is asked to attend an independent medical examination, functional capacity evaluation, etc.

## 3. The medical collection/information is kept confidential from the employer.

## 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 will present the doctor with a medical questionnaire 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 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 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.**

**7. 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 they were absent, 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

**8. 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.

**9. 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. Any meetings specific to medical inquiry should happen in the EDMP. A shop steward can request a referral to EDMP.