

# Maternity/Legal Adoption/Parental Leave

## Frequently Asked Questions

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## General Questions

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### What is the Maternity/Legal Adoption/Parental Leave Supplement to Employment Insurance Benefit (SUB) program?

Also referred to as “top-up”, the SUB program benefit provides employees on maternity/ legal adoption/ parental leave with a supplemental payment that is in addition to the Employment Insurance (EI) benefits received during a period of unemployment.

### What do I need to do to be eligible to receive the SUB program benefits?

You must have applied for and been approved for a Definite Leave of Absence (DLOA) in accordance with the applicable agreement and legislation:

- [PS/GE SGEU](#) – Maternity in accordance with SGEU Article 18.1.1.1
- [PS/GE SGEU](#) – Legal Adoption or Parental Leave in accordance with SGEU Article 18.1.1.2
- [CUPE 600](#) – Maternity /Adoption / Parental Leave in accordance with Article 21.03
- Out-of-Scope – Section 67 of [The Public Service Regulations, 1999](#)

You must have completed thirteen (13) weeks of consecutive service, with no break in service, to be eligible for payments under the Supplement to Employment Insurance (EI) Benefits (SUB) program.

You must be approved for EI maternity/ parental leave benefits.

You must submit an application form for the Supplement to EI (SUB) Program at the time of the leave of absence or no later than seventeen (17) weeks upon return from leave if applying for a retroactive payment.

### If I do not meet the criteria to be eligible for the SUB benefits program, am I still eligible to go on a maternity/parental/legal adoption leave of absence?

Yes. Maternity/parental/legal adoption leaves are job-protected leaves under employment standards and are mandatory leave with the Government of Saskatchewan. Full or part-time employees who are currently employed, and have been employed for more than 13 consecutive weeks by the same employer will qualify for the leave.

### What happens if I have completed my definite leave of absence form for maternity leave and baby is born early or I have to change the start date of my leave?

An amended leave of absence request form will need to be completed. Once approved by the manager/supervisor, the amended form is sent to the Human Resource Service Centre (HRSC)

with the updated information. If an application for top-up has already been submitted, the start and end dates of the leave will also need to be amended.

### When will I get my Record of Employment (ROE) so I can apply for EI Benefits?

An employee's ROE will be completed and sent to Service Canada after their last pay has been processed. Employees can log into their My Service Canada Account (<https://www.canada.ca/en/employment-social-development/services/my-account/access.html>) to view their ROE and apply for EI benefits. You can apply for and start receiving benefits as early as twelve (12) weeks prior to the expected date of birth.

### Will the payment I receive through the SUB program affect the amount I receive from EI?

No, payments that originate from the SUB program are not considered earnings and will not be deducted from EI benefits.

### Am I eligible for benefits if my baby was stillborn or I have a miscarriage?

Yes, you are eligible for benefits as long as you meet all eligibility requirements. (i.e. thirteen (13) weeks of continuous service, on a leave of absence for maternity leave, and approved for EI maternity benefits). Any termination of pregnancy after 19 weeks generally amounts to the same process as childbirth at term and thus would incur the same health-related needs, which would be consistent with the eligibility for maternity benefits under the *Employment Insurance Act*.

### How does the EI waiting period affect the number of weeks that I am eligible to receive the SUB program benefits for?

If you are required to serve the EI one (1) week waiting period, you are eligible for a maximum of seventeen (17) weeks of SUB program benefits which is split as follows:

- One (1) week EI waiting period – paid as 95 per cent (%) of weekly earnings; and
- Maximum of sixteen (16) additional weeks

If EI waives your one (1) week waiting period, you are eligible for a maximum of sixteen (16) weeks of SUB program benefits.

If I am using paid sick leave prior to the start of my leave and the EI waiting period is waived, how many weeks am I eligible to receive the SUB program benefits for?

If you are NOT required to serve the EI one (1) week waiting period, you are eligible for a maximum of sixteen (16) weeks of SUB program benefits.

Can I split my parental leave into multiple definite leaves? For example, request a parental leave for two months, return to work for two months, and then take another three months of parental leave for the same child? Will I be eligible for top-up benefits for both leaves?

There is no provision to grant multiple mandatory parental leaves for the same child. In addition, there is no requirement to provide for the splitting of such leave once the initial mandatory leave has been approved and completed. However, the employer would consider, in good faith, subsequent discretionary leaves within the original 24-month leave period. Subsequent leave requests, that are not considered an “extenuating circumstance” would be considered as “personal” in nature and coded appropriately (i.e., family leave/personal leave; not parental).

In order to be eligible for SUB benefits, the employee must be on a parental leave and in receipt of EI parental benefits. Eligibility for top-up payments would only be applicable in the original mandatory parental leave.

Note: Extenuating circumstances such as severe medical issues where ongoing care is required would require consideration and/or assessment for approval of any subsequent leaves within the original 24 month leave period.

## Top-up Calculation

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How is the top-up payment calculated?

The top-up is calculated as 95 per cent (%) of your regular weekly earnings in effect immediately prior to commencement of a definite leave of absence. The top-up is calculated from the gross maximum weekly EI Benefit OR 55% of your regular weekly earnings, whichever is less. For example:

HRSC Calculates	95% of weekly earnings
Minus	55% of weekly earnings OR EI Max Benefit (whichever is less)
Difference	= Top-Up Amount

## How are the regular weekly earnings calculated?

Permanent Full-time employee (in-scope or out of scope) – Regular weekly earnings are calculated using the salary rate in effect immediately prior to the commencement of the definite leave of absence.

Permanent Part-time, non-permanent, and permanent Labour Service employees – Regular weekly earnings are calculated as an average of the regular hours paid during the twenty-six (26) full pay periods preceding the leave of absence (or the period of active employment if less than twenty-six (26) full pay periods).

## I will be sharing the EI parental benefit with my partner. Am I eligible for any SUB program benefits?

### If your partner does NOT work for the Government of Saskatchewan:

- Yes, you may be entitled to the maximum number of weeks as long as you are eligible for the SUB program benefit (i.e., you must be on an approved Definite Leave of Absence, have completed an application form for the SUB program benefits and have been approved for and in receipt of EI parental benefits).

### If your partner works for the Government of Saskatchewan:

- Yes, you can share the benefit with a partner however, both partners must be eligible for the SUB program benefit (i.e. you must be on an approved Definite Leave of Absence, have completed an application form for the SUB program benefits and be in receipt of EI parental benefits);
- Each partner must advise their ministry and the Public Service Commission on the SUB program application form with respect to the portion of the seventeen (17) weeks for which each will be requesting a payment; and,
- The maximum combined benefit available between partners is seventeen (17) weeks.

## Once I have applied for the top-up do I have to do anything else for the top-up to be processed?

- Eligible employees will be required to submit documented proof of Employment Insurance (EI) eligibility and provide a copy of their EI pay stub or online payment details for each week of top-up requested.
- Payment details (EI cheque stub or online “My Payment Details”) can be in the form of a photocopy, screenshot, photo, etc.
- Submit documented proof to the Human Resources Service Centre (HRSC) by email to [hrsc@gov.sk.ca](mailto:hrsc@gov.sk.ca).
- Upon receipt of the EI payment documentation at the HRSC, the payment will be made on regularly scheduled pay dates. These pay dates can be found on Taskroom - [Payroll Schedules](#).

- If while you are on leave, you would like to receive email communications from the HRSC, please ensure you provide an alternate e-mail address in your Employee Profile in [PSC Client](#).
- In order to be eligible for the retroactive top-up payment, you must submit your application form within seventeen (17) weeks of your return to work.

### What deductions will be taken off of my top-up payment?

Income tax, Canada Pension Plan (CPP) contributions, and union dues (if applicable) will be deducted from your top-up payment.

A T4 will be issued for payments received under the Supplement to Employment Insurance Benefit (SUB) Program.

## Return Service Commitment

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### Is there a Return Service Commitment requirement if I receive top-up payments?

Yes. Upon expiry of your leave, you will be required to return to service, with no break in service, with the employer for a period which equals one (1) week of service for each week of benefit received under the SUB program. In the event that you do not return to work with the Executive Government, you will be required to repay the full amount owing upon identification of the return service commitment not being fulfilled.

### What happens if my return in service commitment is partially completed and I am unable to fulfill the remaining portion due to an extenuating circumstance?

On recommendation of the ministry, the Chair of the Public Service Commission may waive all or a portion of the return service commitment and their requirement for repayment of benefits in exceptional circumstances such as death of the employee, severe and prolonged disability or job abolition resulting in termination of the employer/employee relationship.

### If I return to work and decide to work variable hours instead of full-time hours, will that impact the number of weeks that I must work to fulfill my return service commitment?

No. The commitment is to work for the same number of weeks that you received top-up. For example, if you received top-up for sixteen (16) weeks, you must return and work for the employer for sixteen (16) weeks.

## Do I need to return to the position I took a leave from to fulfill my return service commitment?

No. However, you must immediately return from leave to work for the Executive Government in a ministry or one of the eligible Agencies, Boards, or Commissions. (as listed in Article 2 of the PS/GE CBA).

## If I commence a new leave of absence before fulfilling the return service commitment from my first leave, what happens to the return service commitment?

If you were in receipt of top up benefits during the initial leave, the return service commitment requirement to repay the top up will be held in abeyance until the completion of the subsequent leave.

## I was on a medical leave immediately preceding my maternity/parental leave and have served the one (1) week waiting period during the medical leave. Will I be eligible to receive SUB program benefits for the waiting period already served?

No, in order to receive top-up for the waiting period, it must be served during the maternity/ parental leave EI claim. Therefore, if you do not serve a waiting period during the maternity/ parental EI benefit period, you will be eligible for up to sixteen (16) weeks of top-up.

- If a new waiting period is served in the maternity/ parental EI benefit claim, you will be eligible for the top-up for the one (1) week waiting period plus up to sixteen (16) additional weeks.

Note: Service Canada – EI Program determines the requirement to serve a waiting period.

## Term employees/non-permanent employment

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### Are non-permanent “term” employees eligible for the top-up benefit?

Yes. Term employees who meet the eligibility requirements can receive top-up payments.

- In order to be eligible for top-up, you must have been approved for and placed on a maternity/legal adoption/parental leave of absence PRIOR to the end of the term appointment.
- A definite leave of absence will be approved until the end of the employee’s term appointment.
  - If the end date of the term appointment extends beyond the expiry date of the maternity/legal adoption/parental leave and will provide sufficient number of weeks to

fulfill the return in service commitment, you can apply for benefits at the time of your leave of absence.

- If the end date of the term appointment DOES NOT extend beyond the expiry date of the maternity/legal adoption/parental leave to provide a sufficient number of weeks to fulfill the return in service commitment, you may be eligible for retroactive benefits upon return to eligible employment.

If SUB program benefits for a non-permanent employee are restricted, in whole or in part by these provisions, the employee may be eligible for a retroactive payment if rehired within 24 months of the commencement of the maternity/legal adoption/parental leave.

Note: If applying for a retroactive payment, the application form must be received within seventeen (17) weeks following the return to work from maternity/legal adoption/parental leave.

**I am a non-permanent term employee on a maternity/legal adoption/parental leave. I have now accepted and commenced a permanent position while on leave. When will I be able to submit my EI stubs for payment?**

You can submit your EI stubs on commencement of your new permanent position and are eligible for top up payment while on leave of absence from your permanent position (providing the application form for the SUB benefit has been completed). Your SUB benefit will be based on your permanent full-time (PFT) salary.

**I am a non-permanent term employee on an approved maternity/legal adoption/parental leave. My term appointment will expire while I am on leave. Will I be eligible for top-up?**

If SUB program benefits are restricted in whole, or in part, you may be eligible for a retroactive payment upon rehire. In this example, the term appointment will expire prior to the end of the leave of absence therefore, there is not enough time left in the term appointment to fulfill the return service commitment.

Special consideration for a retroactive SUB program payment is given to term employees that return to work for the Government of Saskatchewan within twenty-four (24) months of commencing the maternity/legal adoption/parental leave. In order to qualify, the application must be received within seventeen (17) weeks of the rehire date.

**Will I have a break in service if my non-permanent term appointment expires while I am on a maternity/legal adoption/parental leave?**

Term employees will be deemed to have a break in service if they do not return to work for the Government of Saskatchewan within twenty-four (24) months of

commencing the maternity/ legal adoption/ parental leave:

- they will not be eligible to receive top up and/or the retroactive payment benefits; and
- seniority will be deemed broken.

**Will I be eligible for top-up if I have a baby after my term has expired?**

No, in order to be eligible for top-up upon return to work, you must have been approved for and placed on a leave of absence for maternity/ parental/ legal adoption PRIOR to the expiry of the term appointment.

## **Labour Service Employees**

**I am a Permanent Labour Service employee on lay-off. Will I be eligible for top up benefits?**

Yes, eligible Labour Service employees can apply for SUB program benefits on the date on which they are recalled.