



Workplace Benefits Liabilities in the COVID-19 Era

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Presented by:

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Presentation Roadmap

Understanding the changing landscape of employee benefits during a global pandemic

Outline & Intro

- 1) Income Relief Options - *for Employees*
 - 2) Income Relief Options - *for Employers*
 - 3) Reducing Employer Risks during the Crisis
- Q&A

Goal of this webinar

- To help employers understand options available to them for income and benefit relief help during this COVID-19 crisis
- To understand employee benefit relief to help supplement and inform labour decisions
- To issue spot, minimize and hopefully avoid benefits related risks
- Get the ideas flowing about how your business can survive the next few difficult months
- POV:
 - Insurance policy terms
 - Legal terms
 - Practical reality in a global pandemic so we all get through this somehow

A group of five men are captured in a dynamic, joyful pose, jumping or running through a brightly lit hallway. They are dressed in business-casual attire, including white shirts and dark trousers. The man on the far left is wearing a patterned shirt and is captured mid-air with his arms outstretched. The man next to him is wearing glasses and a white shirt, also jumping with a wide smile. The man in the center is wearing a white shirt and dark trousers, leaning forward as if in motion. The man on the right is wearing a white shirt and dark trousers, jumping with his arms outstretched. The man on the far right is wearing a blue denim shirt and dark trousers, jumping with his arms outstretched. The hallway has a white ceiling with recessed lighting and a concrete floor. A large potted plant is visible on the right side of the hallway. The overall mood is energetic and positive.

(1) Income Relief Options for Employees

Photo by [Husna Miskandar](#) on [Unsplash](#)

Income Relief Options - Employees

- Ontario *Employment Standards Act* Covid-19 Unpaid Leave:
 - Job protection, not a benefit
 - Do we have to continue benefits during the new ESA leave?
 - Can I ask for volunteers to use the unpaid leave?
- Can I require employees to use up their unused vacation and sick leave time first?

Income Relief Options - Employees (cont'd)

- Government Programs for Employees:
 - Regular EI
 - <https://www.canada.ca/en/employment-social-development/corporate/notices/coronavirus.html>
 - 55% of up to a max of \$54,200 insurable earnings (ie max of \$573/wk)
 - 14-45 weeks, depending on region (for Toronto: need 700 insurable hours, up to 36 weeks of regular bens)
 - CERB - Canadian Emergency Response Benefit
 - New COVID-19 benefit
 - Applies to employees, contract workers, self-employed
 - No income threshold - everyone gets \$500/wk for 16 weeks
 - <https://www.canada.ca/en/department-finance/news/2020/03/introduces-canada-emergency-response-benefit-to-help-workers-and-businesses.html>
 - <https://www.canada.ca/en/department-finance/economic-response-plan.html>

Income Relief Options - Employees (cont'd)

- **Government Programs for Employees:**
 - **EI Sickness Benefits**
 - Up to 15 weeks of income replacement
 - Also 55% of up to a max of \$54,200 insurable earnings (ie max of \$573/wk)
 - If COVID-19 related: 1 week waiting period waived; no med note required
 - New specific COVID-19 number to call:
 - Telephone: 1-833-381-2725 (toll-free)
 - Teletypewriter (TTY): 1-800-529-3742
 - **Maternity/Parental Leave Benefits**
 - Same as before
 - May be more relevant 9 months from now ;)

Income Relief Options - Employees (cont'd)

- Sick Leave Benefits for Employees:
 - **STD Benefits**
 - Either third-party insured or self-insured
 - *What if laid off during the STD application process but before decision made?*
 - *Can I lay off an employee on STD benefits?*
 - **LTD**
 - (probably not a relevant relief option for employees during COVID-19 pandemic)

Paperwork for Employees

- The government relief programs require an ROE for employees
- Code A Shortage of Work at Block 16
- Notify in writing wherever possible
- What about the new CERB benefits?

A photograph of two women in an office environment. The woman on the left has long, straight red hair and is wearing a white button-down shirt. She is leaning over a dark desk, looking at a smartphone held in her hands. The woman on the right has short, wavy brown hair tied back with a large red fabric bow. She is wearing glasses and a dark top, and is also looking at the smartphone. On the desk, there is a laptop and some papers. In the background, there is a vase with dried flowers and framed artwork on the wall.

(2) Income Relief Options for Employers

Photo by [SOCIAL.CUT](#) on [Unsplash](#) 11

Income Relief Options - Employers

Layoff (furlough)	Termination (fired, dismissal, sever)
Temporary with intention to recall employee when business picks up	Permanent end to employment contract and relationship
No “severance” or payment owed	Termination pay triggered
Will be deemed a termination and trigger termination pay if layoff lasts longer than specific period of time (13 or 35 weeks in Ontario)	

Income Relief Options - Employers (cont'd)

- **SUBP - Supplemental Unemployment Benefit Plan**

- <https://www.canada.ca/en/employment-social-development/programs/ei/ei-list/ei-employers-supplemental-unemployment-benefit.html>
- Employer plan to top up employees' EI benefits during a period of unemployment due to a temporary or indefinite layoff
- If registered, then top up payments are not set off against EI payments
- Can top up up to 95% of employee's income (less EI payments)
- **Can employer do SUBP top up if employee on a self-funded STD Plan?**

Income Relief Options - Employers (cont'd)

- **Workshare**

- <https://www.canada.ca/en/employment-social-development/corporate/notices/coronavirus.html#h4.02>
- Program where employees work reduced hours and get EI benefits
- Must reduce hours from 10-60%
- Must be at least 6 weeks; up to 76 weeks under COVID-19 measures
- Employees not eligible includes senior management and more than 40% owner
- **How would modified hours impact Workshare EI coverage?**

Income Relief Options - Employers (cont'd)

- **Small Business Temporary Wage Subsidy Program**
 - For a period of three months
 - 10% of employee pay
 - to a maximum of \$1,375 per employee or \$25,000 per employer
 - Available to:
 - Not-for-profits
 - Registered charities
 - Canadian-controlled private corporations with taxable capital employed in Canada of less than \$15 million (for preceding tax year)
 - <https://www.canada.ca/en/revenue-agency/campaigns/covid-19-update/frequently-asked-questions-wage-subsidy-small-businesses.html>

Income Relief Options - Employers (cont'd)

- **Other Ideas**

- Delayed CRA tax payments
- Delayed payroll tax payments
- Insurer premium holidays
- Extended bank credit
- Discounted projects to clients lucky to be in the right industry right now
- Talk to staff and offer up unpaid leave, in case anyone does want this

(3) Reducing Employer Risks During the Crisis

A woman with dark hair pulled back, wearing a light blue blazer, is seated at a desk. She is looking over her right shoulder towards the camera with a serious expression. Her hands are on a silver laptop keyboard. The background is a solid light blue wall.

Photo by [Icons8 Team](#) on [Unsplash](#)

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The Layoff Landscape

- We don't include a layoff section in the employment contract - can I lay off the employee anyways?
- Is it really a constructive dismissal?
- Should we continue benefits during the layoff?
- Are we required to provide a specific benefit or to just pay a premium for a benefit?
- What if our benefit booklet is silent on layoffs?

The Layoff Landscape (cont'd)

- If continuing benefits:
 - Can we continue only some of the benefits?
 - Must employees continue to pay their portion of the benefits?
 - What if the employee refuses?
 - How do we receive employee premium payments during a layoff?
- If not continuing benefits:
 - Do we give notice like a regular benefits change?
 - What if an employee gets sick while on layoff but has no access to benefits?

Benefit Services During COVID-19

- Can employers get a premium discount for unavailable services?
- How do we handle complaints about benefit costs without access to in-person services?
 - Certain Insurance Providers are accepting receipts for virtual appointments such as Dietitian, Naturopath, Occupation Therapist, Optometrist, Physiotherapist, Psychologist, Social Worker, Speech Therapist
- Are employers required to cover ergonomic tools in home offices? Are they covered under our benefits plan?

Working During COVID-19

- If we are an essential service required to remain open, what risk do we have if an employee tests positive for COVID-19?
- Can our employee claim WSIB benefits if they test positive for COVID-19?
- Are there other benefits to consider for employees exposed to COVID-19? STD or LTD benefits?
- Will my employee have a travel insurance claim if they contract COVID-19 while on a work trip?

Miscellaneous

- We're laying off the full office - how do we handle benefits for employees out on a parental or sick leave?
- What happens to the employee portion of a benefit if we get a premium holiday (e.g. for 60 days)? How should payroll deal with any co-payments?
- My brain hurts from all these benefits questions. Is there a special insurance policy for that?

Take-aways



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Takeaways

- Hot tip: toilet paper will not cure COVID-19
- We're in uncharted waters - do not expect to have all the answers!
- Go back to the basics:
 - What promises are in the employment contract?
 - What does the benefit plan say?
- Email or pick up the phone and ask questions. This is tricky stuff.

Questions?

Benefits questions?

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Employment law questions?

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Thank you!