

Employees in Self-Managed and Family-Managed Care

If you receive funding for home care from any of the Regional Health Authorities (RHA) in Manitoba, this fact sheet outlines the expectations of Manitoba Health and Manitoba Employment Standards with respect to employee entitlements under the *Employment Standards Code* (the *Code*).

Information is specific to the RHA jurisdiction in which a person falls. You can find out more about your RHA and the role they play in self and family-managed care programs here: <http://www.gov.mb.ca/health/homecare/>.

What do individuals who receive funding under Manitoba's Self-Managed Care and related programs need to know about paying workers?

Individuals who use funding from Manitoba's Self-Managed Care Program or In the Company of Friends to hire a worker are employers. Typically, many of the workers employed under an arrangement of this type would be excluded from most minimum employment standards. However, Manitoba Health and the Department of Families expect recipients of their programs to pay their workers in accordance with the basic minimum standards set out in the *Code*.

Are all workers hired under the Self-Managed Care or related programs entitled to the same standards?

All workers who are hired under the Self-Managed Care Program or In the Company of Friends in Manitoba are expected to receive basic minimum employment standards including: overtime wages, vacation allowance, general holiday wages, termination notice, and the right to protected leaves.

Do the same rules apply for workers hired under the family-managed care category?

The answer is dependent on the specific circumstances surrounding employment. Outlined below are three common scenarios:

- If the family member who is hiring the worker lives in the same place as their family member requiring care, the worker must be paid in accordance with all basic minimum standards under the *Code* (or their contract) as per Manitoba Health expectations.
- If the family member hiring the worker lives separately from their family member requiring care and the worker providing the care does not reside with the person requiring the care, the basic minimum employment standards would also apply.

- Different rules may apply if the worker meets the definition of a Residential Caregiver. If the family member hiring the worker lives separately from their family member requiring care and the worker resides with the person requiring care, the worker would be entitled to all basic minimum standards under the *Code*. However, entitlements like rest periods, hours of work and overtime would be specific to Residential Caregivers.

What happens when workers don't believe they have been paid properly?

Workers who are employed under the Self-Managed Care, In Company of Friends, or Family-Managed Care Programs can start by discussing their concerns with their employers. There may have been a mistake or the employer may not realize there is a problem.

If the dispute cannot be resolved, the worker can file a complaint with Employment Standards. Employment Standards will determine if the worker is being paid properly in accordance with the employer's contract for funding.

What if the employer disputes the decision or fails to follow the contract with Manitoba Health or the expectations of the Department of Families?

Most matters are resolved voluntarily once employers understand their obligations. In the event the employer chooses not to comply with a decision, the action Employment Standards takes will depend on whether the employer is violating the *Code*, or the contract with the Regional Health Authorities (RHA), or program expectations. Employment Standards may:

- Order the employer to pay any outstanding wages to which the worker is entitled under the *Code* and/or
- Notify the appropriate funder (i.e. RHA or Department of Families) about the employer's failure to fulfill their contract agreement and/or meet program expectations.

How do employees file claims?

Filing a claim can be done in person at an Employment Standards office, or claim forms can be downloaded from the website and returned to Employment Standards in person, by fax or mail. The office address and fax number are on the forms. An Employment Standards Officer will contact both the employer and employee to gather more information after a claim is received.

Does a claim have to be filed when contacting Employment Standards?

No. Anyone can call Employment Standards to get information. Employment Standards Officers will answer general questions and offer help understanding the rights and responsibilities in the workplace. This is not a

formal investigation.

When can employees file claims?

Employees who believe their employers did not pay them correctly can file a claim with Employment Standards. Claims must be filed within 6 months of the last day of work or 6 months after the wages were due to be paid. Employment Standards can only investigate and collect up to 6 months of unpaid regular and overtime wages, and up to 22 months for unpaid vacations and general holiday pay.

Are appointments needed to file claims?

Appointments are not needed to file claims. Claims can be filed in person at any time during office hours, or claim forms can be downloaded from the website and returned to Employment Standards by fax or mail. The office address and fax number are on the forms.

Are claims confidential?

The Employment Standards' general inquiry line is confidential, but once a claim is filed, Officers must investigate and speak to anyone who has information about the claim, including the employer. This allows Officers to make proper decisions based on their investigation.

How long before employees are contacted after filing a claim?

Sometimes it can take several weeks for investigations to begin. It depends on the number of claims Employment Standards is processing at the time. When claims are received by Employment Standards, Officers start the investigation by contacting the employer and employee to get more information.

For more information contact Employment Standards:

Phone: 204-945-3352 or toll free in Canada 1-800-821-4307

Fax: 204-948-3046

Website: www.manitoba.ca/labour/standards

This is a general overview and the information used is subject to change. For detailed information, please refer to current legislation including The Employment Standards Code, The Construction Industry Wages Act , The Worker Recruitment and Protection Act, or contact Employment Standards.

**Available in alternate formats
upon request.**

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