

Compassionate Care Leave

Compassionate care leave gives employees the opportunity to take unpaid leave to care for or support a critically ill family member who has a significant risk of death.

What is the difference between compassionate care leave and family leave?

Compassionate care leave provides employees the opportunity to assist a family member who is critically ill and requires care and support for several weeks.

Family leave is a short leave to take care of the needs of the employees family or a personal illness.

Who qualifies for compassionate care leave?

Employees who have worked with the same employer for at least 30 days qualify for this leave. Employees must provide a certificate from a doctor indicating that a family member has a serious medical condition, has a significant risk of death in the next 26 weeks and needs care and support.

How long is the leave?

The leave is up to eight weeks. Employees can take the leave to care for and support a family member without the fear of job loss. Employees can take the leave in one or two periods. Each period must be at least one week long.

Who are considered family members?

Family is defined very broadly for Employment Standards purposes. Children, stepchildren, parents, grandparents, spouses, common law spouses, brothers, sisters, step-brothers, step-sisters, aunts, uncles, nieces and nephews are all considered family. The definition also includes those who are not related, but are considered a family member.

Does the employer pay during the leave?

No, the legislation only requires employers to provide time off and allow employees to return to their job when the leave has ended. Employers are not required to pay wages during the leave. Employers can, and often will, give greater benefits than those provided for in the legislation.

Are there programs to pay employees while on leave?

Yes, the federal government provides programs through Employment Insurance (EI) to cover this type of leave. Please check with your local EI office or call 1-800-206-7218 for details.

How do employees start the leave?

The need for this type of leave is unpredictable. Generally, employees must give one pay period of notice before the leave. They must provide their employer with a doctor's certificate as soon as possible.

Who decides what type of leave an employee is taking?

Employees must tell their employer what type of leave they are taking. The employer will need enough detail to show the time-off meets the requirements for a statutory leave.

If an employee requests time-off without specifying a statutory leave, the employer should ask whether they are advising of a leave under the Code or requesting permission for unpaid time-off. Employers do not control when an employee can take an unpaid leave under the Code, but they do control other types of time-off.

What if an employee cannot give notice?

Employees are still entitled to compassionate care leave even if they are unable to give notice.

What happens when the leave ends?

Employees must be allowed to return to their job, or a comparable job with the same or greater benefits and pay, when they return from leave. Employers may not discriminate or attempt to punish employees for taking a leave.

What if employees want to end the leave early?

Employees who wish to return to work before their leave has ended must give their employer 48 hours' notice that they are returning to work.

What if the employees' job is no longer available?

Generally, a comparable position with the same pay and benefits must be offered. In special circumstances, employers may not have a position available for reasons completely unrelated to the leave. For example, if employers shut down part of their operations and reduce their workforce based on a seniority system, employees who are on unpaid leave would not necessarily be protected from losing their jobs.

Employers must show that the leave has no impact on the decision to lay off or terminate the employment.

What if employers refuse to bring employees back to work?

An employee who believes they were terminated because they took or requested leave may file a claim with the Employment Standards Branch. Employers who do not allow employees to return to work after a leave may be ordered to pay compensation, and in some cases reinstate them to their jobs.

For more information contact the Employment Standards Branch:

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

Fax: 204-948-3046

E-mail: Employmentstandards@gov.mb.ca

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* and *The Worker Recruitment and Protection Act*, or contact the Employment Standards Branch to ask for advice.

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