

## **Maternity Leave**

Maternity leave gives expectant mothers the opportunity to take unpaid leave from work, without the fear of job loss.

### **What is the difference between maternity leave and parental leave?**

Maternity leave is an unpaid leave, taken near the end of a pregnancy or immediately afterwards.

Parental leave is taken by fathers and mothers to care for a child after birth or adoption.

### **Who qualifies for maternity leave?**

Employees, who have worked with the same employer for at least seven consecutive months and are expecting to give birth to a child, are entitled to take maternity leave.

### **How long is maternity leave?**

The leave is up to 17 weeks long.

### **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.

### **When can an employee start her maternity leave?**

Maternity leave can begin up to 17 weeks before the expected date of the birth.

## **When must employees end maternity leave?**

Generally, the leave will end 17 weeks after it began. The latest that a leave can last is 17 weeks after the birth.

## **What if employees have started their leave and the birth is after the expected due date?**

Employees are entitled to more maternity leave equal to the number of days between the expected date and the birth. For example, if the birth is 14 days after the estimated date of delivery, the mother would receive an additional 14 days of maternity leave.

## **How do employees start the maternity leave?**

Employees requesting maternity leave must give their employers at least four weeks' written notice before the leave. They must also provide a medical certificate indicating the estimated date of delivery.

## **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 employees do not give the required notice?**

Expectant mothers are still entitled to maternity leave if they fail to give four weeks written notice. Within two weeks of stopping work, employers must receive a medical certificate stating the expected date of delivery and noting any dates employees were unable to work because of the pregnancy in the 17 weeks before the expected date of birth. This time missed from work can be included in the maternity leave.

## **What happens when maternity leave ends?**

At the end of maternity leave, employees may take parental leave. Mothers must take maternity and parental leave one after the other. They cannot take their maternity leave, return to work, and then take the parental leave.

## **How do employees start parental leave after maternity leave?**

Employee wanting to take parental leave must give employers notice in writing at least four weeks before the leave. More information can be found on the [Parental leave](#) page.

## **What if employees want to end their Maternity or parental leave early?**

Employees who want to return to work before their leave has ended must give their employers notice, in writing, at least, two weeks, or one pay period, whichever is longer, before 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.

## **How does an unpaid leave affect vacations?**

During a legislated or approved leave of absence from work, employment is considered continuous. Therefore, an employee is still considered employed, though not earning wages. The leave does not affect employees right to take vacation time; it only affects the amount of vacation wages earned. See the [Vacations and Vacation Pay](#) page for details on earning and paying vacation.

## **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](mailto:Employmentstandards@gov.mb.ca)

Website: [www.manitoba.ca/labour/standards](http://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.

Date Published: July 8, 2009