



Memorandum

Date: May 17, 2004

To: EIA Assistant Directors
(Winnipeg)
EIA Rural Program Managers

From: Pam Goulet, Executive Director
Adult and Children's Programs, and

John Petersen, Executive Director
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Telephone:

Subject: **Compassionate Care Leave**

As of January 5, 2004, Manitoba has new legislation to provide compassionate care leave for employees who need to care for a family member who has a serious medical condition with a significant risk of death within 26 weeks. This legislation protects the employees' jobs while they are on this leave.

Section 59.2 of the *Employment Standards Code* entitles an employee to eight weeks of unpaid compassionate care leave if the family member requires care or support. The employee must be employed by the same employer for at least 30 days before being eligible for compensation leave. The employee must provide the employer with a physician's certificate, and at least one pay period's notice of intent to take the leave. Employees have the option to either take the full eight week period or split the leave into a maximum of two periods, each period being a minimum of one week duration. Both periods must end within the 26 weeks after the day the first period of leave began. This leave may end early. This leave may be granted when the employee is caring for the family members:

- a spouse or common-law partner of the employee;
- a child of the employee, or child of the employee's spouse or common-law partner; or,
- a parent of the employee or a spouse or common-law partner of the parent.

There is provision in the Act for other relatives to be defined in the regulation, but as of this date, there is no such regulation.

Employees who qualify for compassionate care leave can apply for the new federal Employment Insurance (EI) benefits to reduce the financial impact. A two week waiting period would be applicable with six weeks benefits to follow, based on insured earnings. The two week waiting period may be deferred when more than one family member applies. The first person to claim the compassionate benefit would serve the two week waiting period. EI benefits could also be delayed up to four weeks if the physician's certificate is not immediately submitted (e.g. employees family member resides in another province).

When an existing EIA client is employed and is taking this leave, it is appropriate to defer employment expectations until the leave is completed. Staff should ensure that the client has applied for EI benefits if it appears that the EI eligibility criteria may be met. The EI benefits are not an exempted financial resource, so either an assignment of benefits or the income declaration process is applicable as per section 15.6 of the policy manual.

When an existing client is required to pursue employment, but would be eligible for this leave if employed, it is appropriate to defer employment expectations for up to eight weeks. Further deferral would be at the discretion of the director in accordance with the circumstances.

A person who applies for EIA benefits while taking compassionate leave should be required to apply for EI benefits if it appears that the EI eligibility criteria would be met; the policies outlined above respecting an assignment of benefits/income declaration process and deferral of employment expectations apply.