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Temporary layoff caused by Covid-19 and your group insurance.

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Disclaimer

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Introduction

- ◆ General information
- ◆ Private group insurance plans
- ◆ Specific considerations for Quebec employers (RAMQ)
- ◆ Provincial jurisdiction
- ◆ Non-unionized employees

Introduction (continued)

- ◆ Quarantine or (self) isolation
 - ◆ Covid19 positive or with symptoms
 - ◆ Returning travellers or Covid19 exposure
- ◆ Temporary layoffs
 - ◆ Loss of revenue and/or decreased activity due to Covid19
 - ◆ Provincially mandated shutdowns
- ◆ Reduction of hours
 - ◆ To avoid layoffs, work-sharing programs
 - ◆ Return to work policies (social distancing)

Quarantine or isolation



Quarantine or isolation

- ◆ Employer paid
- ◆ Short Term Disability (STD) benefits
- ◆ Employment Insurance (EI)
- ◆ Special provincial programs

Quarantine or Isolation (STD)

- ◆ Positive COVID19 test result
- ◆ Absence of a positive COVID19 test result
- ◆ Isolation (without symptoms or tests)

Positive COVID-19 test result

- ◆ Positive COVID-19 test result and inability to work
 - ◆ Benefit payout for at least 14 days.
 - ◆ If STD benefit has a waiting period of 7 days or less it will be waived.

Absence of a positive COVID-19 test result

- ◆ Symptoms but either no tests done or no positive COVID-19 test results:
 - ◆ Claim is handled as per the definition of disability under the contract.
 - ◆ Waiting period will apply.

Isolation

- ◆ Isolation
 - ◆ Voluntary (self isolation)
 - ◆ At the request of the employer
 - ◆ At the request of a provincial body or public health official
- ◆ No symptoms or positive COVID-19 test result
 - ◆ No STD benefits paid.

COVID-19 special measures

- ◆ Certain exceptions to administrative procedures that were applied at the start of the crisis are no longer in force.
- ◆ Because of the situation insurers are not requiring an attending physician statement.
- ◆ Insurers are using a standardized document drafted by the Canadian life and health insurance association (CLHIA) the “Confirmation of Illness” form.

Temporary layoffs



Temporary layoffs

- ◆ Fundamental differences between common-law provinces and Quebec. Some common-law jurisdictions do not allow temporary layoffs unless there's a contractual agreement in place allowing it.
- ◆ Where allowed (Quebec), it temporarily suspends the contract of employment between the employer and the employee.
- ◆ A temporarily laid off employee may be called back to work.
- ◆ Employment “link” is maintained during the layoff period.

Temporary layoffs

 NORTON ROSE FULBRIGHT

Cross-jurisdictional guide of layoffs in Canada

March 25, 2020



Group benefits

- ◆ In general employers are not obligated to maintain benefits during a temporary layoff (as opposed to a statutory leave). Obligations can vary from one jurisdiction to another.
- ◆ Some jurisdictions may have specific rules with regards to benefits and layoffs (Extending the lay off period beyond a certain number of weeks provided benefits are being paid).
- ◆ These are exceptional times and anything can happen.

Temporary layoffs - CNESTT

« Si vous devez mettre à pied des personnes salariées pour une durée de moins de 6 mois, vous n'êtes pas obligé de leur donner un avis écrit. Un avis verbal est permis. »

« En raison des mesures prises par le gouvernement dans le cadre de la pandémie, l'avis verbal est aussi permis si vous devez fermer temporairement votre entreprise, peu importe la durée de cette fermeture. »

RAMQ and Temporary Layoffs

- ◆ During a temporary layoff the employment link is maintained.
- ◆ **Temporary layoff clause exists**: If the group insurance contract indicates benefits are maintained during a temporary layoff (provided premiums are being paid) all employees must remain enrolled, at least as far as drug insurance is concerned.
- ◆ **No temporary layoff clause**: the employees must first verify if they are eligible to another private insurance plan through another employer (spouse, professional association, etc.) before enrolling to RAMQ.
- ◆ If the employee is not eligible to another private plan, then the employee must enrol on RAMQ for the duration of the temporary layoff and get off RAMQ once he's recalled to work and eligible to the private plan again.

Group insurance contract

- ◆ Your group contract contains a temporary layoff clause:
 - ◆ Benefits that can be maintained or not
 - ◆ Possible choices or not.
 - ◆ Maximum duration.
- ◆ Your group contract does not have a temporary layoff clause:
 - ◆ Some insurers are allowing plan sponsors to add their standard layoff clauses (COVID-19 special measures).

Sample clauses

◆ Benefits

- ◆ **Maintain all benefits except for short term and long term disability insurance.**
- ◆ Suspend all benefits except for Health insurance (drug insurance)
- ◆ Maintain all benefits including short term and long term disability insurance.

◆ Maximum duration

- ◆ 3 months, 6 months, 12 months etc.

Employer/Employee splits

- ◆ The insurer continues to bill the plan sponsor.
- ◆ Billing is generally on a monthly basis (but could be prorated).
- ◆ The employer must make arrangements with his employees.
 - ◆ Post-dated checks prior to departure.
 - ◆ Calculate the total and deduct on subsequent pays or post-dated checks upon return.
 - ◆ Procedure in case of non-payment or employee departure.
 - ◆ How will you handle insurer premium reduction?

Hour reductions



Hour reductions

- ◆ Federal 75% wage subsidy for companies with 30% revenue drop (15% for March). Replaces the 10% subsidy. Eligible income of \$58,700 and retroactive. First wave of applications (April 27 – May 4) treated May 5th, disbursement on or after May 7, 2020.
- ◆ Work-sharing program
- ◆ Possibility to work and receive EI

Hour reductions

- ◆ Group insurance contracts stipulate a minimum number of hours worked per week for eligibility purposes (example: 20-22 hours/week).
- ◆ Benefits coverage (Life, AD&D, STD, LTD) calculated based on salary.
- ◆ Verify with the carrier the impact of reducing the hours on eligibility and benefits coverage and if there can be exemptions to the normal administrative measures.

Hour reductions

- ◆ Are you employees still “actively at work” or “on company payroll” only? Are they allowed/encourage to do volunteer work? What’s happening?
 - ◆ Example #1: Employees receiving full pay but not actively at work or otherwise working from home.
 - ◆ Example #2: Employees receiving full pay but doing less hours remotely. The employer is suggesting they do volunteer work for a community centre for the rest of their hours.

Premium Splits (HR)

- Hour reduction leading to lower pay worked could mean the weight of employee payroll deductions increases.

- Example*:

Salary (normal number of hours) of \$1,000 per pay with \$70 of premiums payable 50% by the employer and 50% by the employee. For the employee the weight of benefits deductions is 3.50% per pay for employee benefits.

Salary (50% hour reduction) of \$500 per pay with \$70 of premiums payable 50% by the employer and 50% by the employee. For the employee the weight of benefits deductions is 7.00% per pay for employee benefits

**In this example the insurer is maintaining benefit coverage at 100% of pre covid19 wages despite the reduced hours/pay.*

Communication



Communication

- ◆ Make sure you communicate all temporary layoffs, reduced hours, and other leaves with the insurer.
- ◆ Make sure the insurer has a clear picture of what's happening in your workplace.
- ◆ Advise of any travelling employees.

Communication

- ◆ Provide written documentation (individual or memo) of which benefits are being maintained (and for how long) and which benefits are not. Advise employees on any impact to their insurance coverage.
- ◆ Note down any verbal conversation in the employee file.
- ◆ If you offer an EAP share their contact of information. You could also share information on EI or the CERB etc.

Communication

- ◆ Keep in touch with employees to communicate changes in benefit offerings (mental health, virtual care additions by insurers) or changes in your benefits policy (plan suspension, termination) that might affect their benefits.

ROE Codes

- ◆ Code A – work shortage (layoff)
When you are laying off employees because of shortage of work or due to a temporary shutdown.
- ◆ Code D – Illness or Injury
When the employee is absent for reason of quarantine or sickness
- ◆ Code H – Work-Sharing
- ◆ Code N – Leave of absence
Could be used when the employee is not able to work (needs to stay home to take care of the kids because daycare or school is closed.)

Do not write anything in the comments section. This would slow down treatment as they must be manually reviewed.

