



July 3, 2013

Via email: diane.finley@hrsdc-rhdsc.gc.ca

The Honourable Diane Finley, P.C., M.P.
Minister of Human Resources and Skills Development
Place du Portage, Phase IV, 14th Floor
140 Promenade du Portage, Mail Stop: 1401
Gatineau, QC K1A 0J9

Dear Minister:

Re: Employment Insurance for Parents

We write on behalf of the Equality Committee and the Young Lawyers Conference of the Canadian Bar Association to recommend some improvements to the EI parental and maternity leave benefits program to better meet the needs of Canadian families. The CBA is a national association representing approximately 37,000 jurists, including lawyers, notaries, law teachers and students across Canada. Our primary objectives are to uphold the rule of law, improve the administration of justice, and promote equality in the law.

The CBA has a long history of working with your government for better EI coverage for maternity and parental benefits. We were pleased when you extended EI maternity and parental leave benefits to the self-employed. We share your view that extending these benefits will improve the well-being of thousands of Canadian families each year.

We propose that parents should continue to qualify for EI benefits on return to work after a maternity or parental leave. People who have been off work due to illness or even incarceration are able to subsequently qualify for EI if they lose their jobs. This is not so for people who have been off work to care for children. Parents who take time to do the crucial work of caring for infants should not be penalized if they subsequently become unemployed through no fault of their own.

The inequities in the EI system are felt more strongly by disadvantaged women workers such as women with several young children, women living in a region of high unemployment, immigrant women, racialized women, women with a disability, or Aboriginal women.¹ Workers from historically marginalized groups bear a disproportionate burden of the rule excluding those from maternity or parental leave from regular EI because they are statistically more likely to be let go in

¹ See Shillington 2002: 9, Shillington, Richard 2003. « Access to Maternity Benefits.» En ligne: www.shillington.ca/publications/Maternity_Benefits.pdf and Townson, Monica. 2003. *Women in Non-Standard Jobs, The Public Policy Challenge*. Ottawa : Status of Women Canada at 34.

an economic downturn. Where there is financial instability it is even more essential that parents have appropriate income support for maternity and parental leaves, regardless of income source.

As it stands, the law is unfair. The issue of entitlement to EI after a maternity leave was touched on in the *Miller* case when a woman worker challenged the fact that the maternity and parental benefits that she had received were subtracted from the regular benefits to which she was entitled when, at the end of her maternity and parental leave, she became unemployed.² Similarly, in the *Périgny* case, the Federal Court of Appeal could not recognize the discriminatory effects of more stringent eligibility requirements on women for “new entrants” to the labour force.³ While these cases did not result in success for the claimants, there is as yet no decision by the Supreme Court of Canada on the issue. The mandate of the CBA is to seek improvement to the law. It would be a better, fairer, more just law if it were changed.

Legislative change is necessary to prevent continued injustice to Canada’s working parents. Changes to the EI system to allow for parents to collect benefits if laid off shortly after a maternity or parental leave would not only serve justice but also increase productivity of a nimble young work force that fully includes woman workers in the legal profession and in other sectors.

We hope you find this submission helpful, and we would welcome an opportunity to work with you and your officials to assist in developing the structure of an improved program.

Yours truly,

(original signed by Rebecca Bromwich for Jennifer J. L. Brun and Level Chan)

Jennifer J. L. Brun
Chair, Young Lawyers Conference

Level Chan
Chair, Equality Committee

² 2002 FCA 251 (CanLII), (see also *Sollbach v Canada* (1999), 1999 CanLII 9146 (FCA)),

³ *Perigny v Canada (Attorney General)*, 2003 FCA 94 (CanLII).