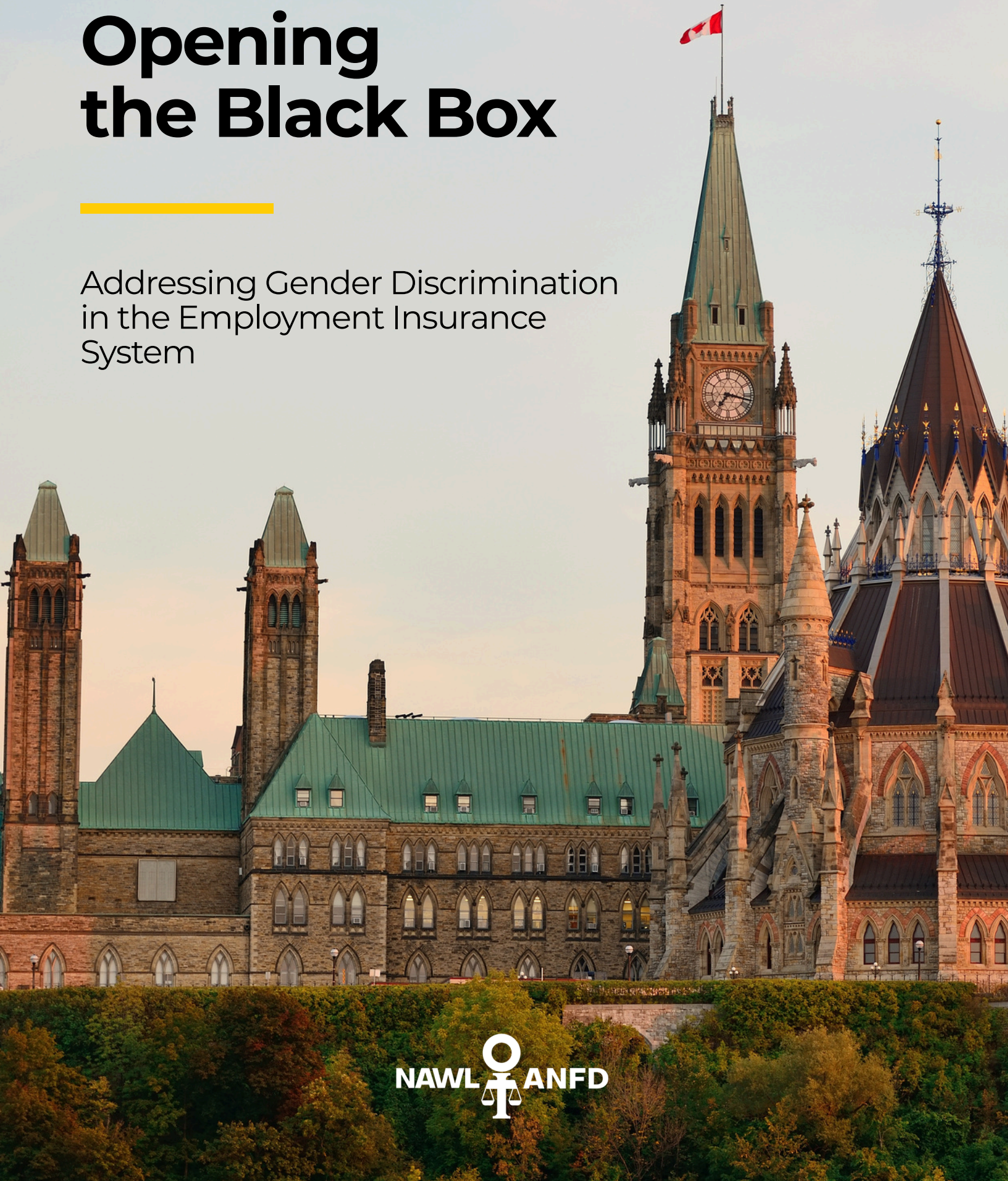
Opening the Black Box

Addressing Gender Discrimination in the Employment Insurance System



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OVERVIEW



There has been no shortage of talk about Employment Insurance (EI) reform. Parliamentary committees have studied it,[1] workers' organizations, feminist organizations, unions, academics, and community advocates have all patiently outlined the many parts that are broken,[2] the federal government has consulted on modernization,[3] and the Canada Employment Insurance Commission (CEIC) monitors the program every year.[4] Yet, despite this talk, the same issues persist year after year, decade after decade.

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[1] See: House of Commons, Standing Committee on Human Resources, Skills, and Social Development and the Status of Persons with Disabilities, "Restoring Financial Governance and Accessibility in the Employment Insurance Program," 38th Parl, 1st Sess, No 3 (February 2005); House of Commons, Standing Committee on the Status of Women "Towards Improving Access to EI Benefits for Women in Canada," 40th Parl, 2nd Sess, No 6 (June 2009); House of Commons, Standing Committee on Human Resources, Skills, and Social Development and the Status of Persons with Disabilities, "Modernizing the Employment Insurance Program," 43rd Parl, 2nd Sess (June 2021).

[2] Interprovincial EI Working Group, "Modernizing Employment Insurance" (22 May 2026).

[3] See: Government of Canada, "Modernizing Canada's Employment Insurance (EI) Program: Consultation – The What we heard report (Phase 1)" (29 April 2022); see also: Government of Canada, "Modernizing Canada's Employment Insurance (EI) Program: Consultation – The What we heard report (Phase 2)" (29 September 2022).

[4] Employment and Social Development Canada, "Monitoring and Assessment Reports".



This report begins with a simple premise: the EI system has a gender issue. It limits women's access to EI benefits in multiple and intersecting ways, and targeted legislative reforms are needed to address the gender discrimination that has been allowed to fester within one of Canada's most important social safety nets.

Too often, EI is treated as something that is too technical to explain, too intricate to reform, and too administratively delicate to disturb. But, as this report illustrates, a system that is "too complex" to amend becomes a black box for discrimination.

This report is an attempt to open that box. EI is not inscrutable. Its mechanisms can be identified, explained, and changed. Some parts of the system may be preserved; others must be redesigned or removed. What is needed now is the political will to stop treating EI's gendered exclusions as technical inconveniences, or as the unfortunate and inevitable byproduct of individual women's employment decisions, and start treating them as serious indicators of systemic and pervasive gender discrimination.

To that end, this report examines the eligibility requirements, benefit amounts, and duration of EI regular benefits, maternity benefits, and parental benefits to identify the barriers that women face in accessing income support. It also examines the temporary measures that were implemented during the COVID-19 pandemic to illustrate that the government already has a template for what a more equitable EI system might look like. During this crisis, the federal government broadened EI support, simplified access, and temporarily lowered eligibility requirements. Crucially, women were among the workers who benefited the most from these temporary measures.[5] Following the pandemic, the EI system largely reverted to its threadbare self, and women have suffered because of it.

Women in Canada need the government, Parliamentarians, Employment and Social Development Canada (ESDC) policy officials, and the Canada Employment Insurance Commission to roll up their sleeves and do the work of EI reform. This report provides a roadmap for that work. It identifies some of the largest ways that EI regular, maternity, and parental benefit systems discriminate against women and proposes concrete legislative, regulatory, and administrative reforms to address them. The COVID-19 crisis may have passed, but the crisis of gender disparities in the EI system persists. It is time for the federal government to address that crisis with the seriousness it deserves.

[5] Employment Insurance Policy Directorate, Employment and Social Development Canada, "Impacts of temporary EI measures during the pandemic: update and new findings," (January 2024) at p. 49.

SCOPE OF THIS REPORT

This report applies a feminist legal analysis to the *Employment Insurance Act* and its regulations by examining how EI rules that appear neutral on their face limit the ability of women to access the program, particularly women whose paid work is shaped by disabilities, caregiving responsibilities, part-time work, racial discrimination, pay inequities, and gender-based violence. Labour market surveys, case law, parliamentary reports, ESDC studies on specific aspects of the EI system, interpretation guides, and the annual EI Monitoring and Assessment Reports were also reviewed to identify barriers to access.

The focus of the report is on EI regular benefits, maternity benefits, and parental benefits. Gender discrimination in EI's caregiving benefits, sickness benefits, and the barriers faced by self-employed women in accessing the EI system are outside its scope. The issues discussed here should not be understood as an exhaustive account of all the gendered barriers in the EI regular, maternity, and parental benefit regimes. They are, instead, some of the largest and most urgent issues requiring reform.

It should also be noted that EI interacts with other federal, provincial, and territorial income-support systems, including social assistance programs. Those interactions, including benefit clawbacks and the taxation of EI benefits, also have gendered consequences. However, they fall outside the report's scope and are best addressed by amending provincial and territorial benefit legislation and other federal statutes like the *Income Tax Act*.

While this report necessarily engages with technical aspects of the EI system, every effort has been made to explain those mechanisms clearly and without unnecessary jargon. This approach is premised on the belief that individuals should not require specialized legal, economic, or policy expertise to understand the EI system and address the gender discrimination that lurks within it.

EMPLOYMENT INSURANCE: *A BRIEF PRIMER*

EI is one of Canada's central income-security measures and its animating purpose is to preserve the economic security of workers by providing them with temporary income replacement benefits when their employment is involuntarily terminated or interrupted by life events like pregnancy, childbirth, illness, or caregiving.[6] The *Employment Insurance Act* (*EIA*) provides the underlying framework for the EI system and it, coupled with its regulations, sets out everything from the program's eligibility requirements to the duration and amount of benefits.[7]

This report focuses both on regular benefits and on maternity and parental special benefits. Generally speaking, regular benefits are intended for individuals who lose their employment, maternity benefits are intended for individuals who are unable to work because of pregnancy or having recently given birth, and parental benefits are meant for individuals who are away from work to care for a newborn or newly adopted child.

The EI program is overseen by the Canada Employment Insurance Commission (CEIC). Although the CEIC oversees the EI program, it is administered by Employment and Social Development Canada (ESDC) and Service Canada on its behalf.[8] This is noteworthy because the gender discrimination outlined in this report arises not only from the *EIA* itself, but also from the way the *Act* is interpreted and administered. The EI regime is shaped by legislation, regulations, administrative policy, program guidance, actuarial assumptions, appellate decisions, and institutional choices about what data is collected and what problems are treated as urgent.



A feminist legal analysis of EI must therefore look at the full ecosystem. It must ask not only whether women can access benefits on paper, but also whether the rules reflect the realities of women's work.

As this report will demonstrate, many of EI's most important components, like insurable hours, valid job separation, availability for work, benefit calculation, benefit duration, and the interaction between regular and special benefits, produce predictable negative outcomes for women that can and must be addressed.

[6] Reference re *Employment Insurance Act* (Can.), ss. 22 and 23, 2005 SCC 56, at para 48.
[7] *Employment Insurance Act*, SC 1996, c 23; *Employment Insurance Regulations*, SOR/96-332.
[8] Government of Canada, Canada Employment Insurance Commission.

Finally, a note on how the program is financed. The EI program was previously financed through contributions from the federal government, employers, and workers. This all changed in 1990 when the federal government ended its regular contributions and the program became financed through employer and worker premiums. This financing model has important implications for EI reform since improvements to access, benefit adequacy, and duration all have an impact on premiums.

The objective of keeping premiums low, particularly for employers since they contribute 1.4 times the premium paid by workers, is inherently in tension with the need to address inequities within the system. As a result, large-scale EI reform is often slow and inadequate. These concerns were recognized by the House of Commons Standing Committee on Human Resources, Skills, and Social Development and the Status of Persons with Disabilities in 2021, which is why its first recommendation regarding modernizing EI was that ESDC assess the costs and benefits of returning to a tripartite financing arrangement.[9]

NAWL echoes this recommendation because a system that is focused solely on keeping premiums down cannot adequately address gender equality, since it is always cheaper to discriminate against women than it is to support them.

Recommendation 1

That Employment and Social Development Canada collaborate with the Department of Finance to assess the costs and benefits of returning to a tripartite (employer, employee and government) financing arrangement for the Employment Insurance program.

[9] House of Commons, Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities, "Modernizing the Employment Insurance Program," 43rd Parl, 2nd Sess (June 2021) at pp. 22-23.

Part 1:
EI Regular Benefits



A more equitable future for EI may actually mean taking a step towards the past.

ELIGIBILITY



WOMEN ARE LESS LIKELY TO QUALIFY FOR EI REGULAR BENEFITS

In order to qualify for EI regular benefits, claimants must have lost their job through no fault of their own, experienced an interruption in earnings of at least seven days, and have accumulated a minimum number of insurable hours during the qualifying period (usually the year immediately before the claim begins).[10] The exact number of hours a claimant needs in order to qualify varies depending on the unemployment rate in the claimant's EI economic region.[11]

Although these eligibility requirements appear neutral on their face, they create insurmountable barriers for many women who are attempting to access the EI system. As a result, fewer women are eligible for EI regular benefits than men.[12] Urgent reforms to the EI eligibility criteria are needed, not only to ensure that more women can access the program, but also because gendered inequities at the eligibility stage carry through and impact the duration and amount of EI that women receive.

[10] *Employment Insurance Act*, SC 1996, c 23 at ss. 7(2), 8(1), 13 and 30(1); *Employment Insurance Regulations*, SOR/96-332 at s. 14(1).
[11] Government of Canada, EI Program Characteristics for the Current Month. As an example, Ontario is divided into 17 economic regions with different regional unemployment rates. Claimants in Ottawa, where unemployment is relatively low, need 665 hours to qualify for EI while those in Windsor, where unemployment is high, must have 595.
[12] Canada Employment Insurance Commission, *Employment Insurance Monitoring and Assessment Report 2024-2025*, (31 March 2025), at p. 6.

The regional unemployment rate ignores inequality within regions

As mentioned, the number of insurable hours needed to qualify for EI regular benefits is linked to the unemployment rate in the claimant's economic region. The rationale is that workers in regions with stronger labour markets will have more opportunities to accumulate hours and find replacement employment, while workers in regions with higher unemployment will face greater barriers.

That reasoning falls apart almost instantly when one applies an intersectional lens to regional unemployment. Regional unemployment rates do not capture the labour-market barriers faced by different groups of women within the same region. A region may appear to have a relatively strong labour market while disabled women, immigrant women, racialized women, Indigenous women, single mothers, and women experiencing intimate partner violence continue to face significant barriers in obtaining and maintaining employment.[13]



For example, even in a region with a high demand for workers, immigrant women still face high levels of unemployment due to discrimination and the fact that employers often do not recognize their international training or qualifications.[14] The same is true of disabled women who face significant barriers to employment regardless of geographic region.[15]

Similarly, Indigenous women living on reserve or in rural, remote, northern, and fly-in communities may find their ability to access employment in those regions constrained by a lack of transportation, childcare, and other social infrastructure that is the result of colonialism and the persistent underinvestment in Indigenous communities. Indigenous women living off reserve, on the other hand, continue to experience higher levels of unemployment than non-Indigenous women and Indigenous men.[16]

[13] See testimony of Dr. Parisa Mahboubi, House of Commons, Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities, "Evidence", 43rd Parl, 2nd Sess (23 February 2021).
[14] Marie Drolet, "Unmasking differences in women's full-time employment", Statistics Canada, (26 September 2022). See also Nadia Z Hasan, Lina El Bakir and Youmna Badawy, "Social Discord and Second-class Citizenship: A study of the impact of Bill 21 on Quebec Muslim Women in Light of the COVID-19 Pandemic", National Council of Canadian Muslims (2024).
[15] Vincent Hardy and Daniel Vergara, "Labour market characteristics of persons with and without disabilities, 2024", Statistics Canada (14 May 2025).
[16] Statistics Canada, "Labour force characteristics by detailed Indigenous group living off reserve, three-month moving averages, monthly, unadjusted for seasonality," (4 September 2026).

Consistent with the recommendation made by the Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities (HUMA) as part of its EI modernization study,[17] NAWL recommends that the variable hours requirement be replaced with a uniform national standard that is more attainable for women. This proposal will be explored more fully in the following section.

The number of hours needed to qualify is too high

ESDC has acknowledged that the primary reason women are less likely to qualify for EI regular benefits is that they are less likely to accumulate enough insurable hours during the qualifying period.[18] One of the main reasons for this is that a higher proportion of men hold full-time or permanent jobs, while a higher proportion of women work in part-time or temporary jobs.[19] However, it should also be noted that women are also much more likely to experience intimate partner violence, including economic abuse, which often disrupts their ability to maintain consistent employment.[20]

One element of economic abuse is employment sabotage, where the abusive partner deliberately prevents the woman from working or makes it difficult for her to maintain her employment. Both Indigenous women and disabled women experience particularly high levels of economic abuse and employment sabotage.[21] Women also continue to perform the majority of unpaid caregiving, which constrains their ability to consistently engage in paid employment.[22]

[17] House of Commons, Standing Committee on Human Resources, Skills, and Social Development and the Status of Persons with Disabilities, "Modernizing the Employment Insurance Program," 43rd Parl, 2nd Sess (June 2021), at p. 35-36.
[18] Canada Employment Insurance Commission, *Employment Insurance Monitoring and Assessment Report 2024-2025*, (31 March 2025), at p. 78.
[19] *Ibid* at p. 78.
[20] C. N. Wathen, J. C. D. MacGregor and B. J. MacQuarrie, with the Canadian Labour Congress, *Can Work be Safe, When Home Isn't? Initial Findings of a Pan-Canadian Survey on Domestic Violence and the Workplace* (Centre for Research & Education on Violence Against Women and Children, 2014) at p. 6.
[21] Government of Canada, "Economic Abuse" (17 August 2026).
[22] Statistics Canada, "More than half of women provide care to children and care-dependent adults in Canada, 2022" (8 November 2022).

Rather than viewing women's inability to qualify for EI as just a natural consequence of the way that women "choose" to work, lawmakers must consider how eligibility rules interact with broader systems of oppression and ask themselves how the hours requirement can be recalibrated to ensure that women are not disproportionately excluded from the EI system that they contribute to.

And, in fact, lawmakers have been grappling with that very question for decades now. This issue has been repeatedly acknowledged in the annual EI Monitoring and Assessment Reports and by many House of Commons Committees, several of which have recommended lowering the eligibility threshold to a uniform 360 hours.[23]

Despite these recommendations, the threshold was not lowered until the COVID-19 pandemic. During the pandemic, the government applied a minimum unemployment rate of 13.1% to all regions and issued a one-time credit of 300 hours for all new claims. This effectively brought the number of hours people needed to qualify for EI down to 120 hours across Canada.[24] Without these measures, 14.1% of the claims established by women between September 2020 and September 2021 would have been ineligible.[25] As the economy rebounded, the government replaced that temporary measure with a flat 420-hour minimum regardless of region.[26] Again, if this had not been in place, 15.3% of EI claims established by women between September 2021 and September 2022 would not have been eligible.[27] Those percentages represent thousands of women across Canada who would have been left without employment insurance.

The temporary measures were discontinued in September 2022, which meant that the variable hours threshold was reinstituted and women were once again disproportionately excluded from EI regular benefits because they failed to accrue the required number of hours. The government should decrease the number of hours required to qualify for EI to an attainable level for all workers but, as the next section outlines, this only solves one part of the eligibility problem.

[23] See House of Commons, Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities, "Restoring Financial Governance and Accessibility in the Employment Insurance Program," 38th Parl, 1st Sess, No 3 (February 2005) at p. 32; House of Commons, Standing Committee on the Status of Women, "Towards Improving Access to EI Benefits for Women in Canada," 40th Parl, 2nd Sess, No 6 (June 2009) at p. 41. See also House of Commons, Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities, "Modernizing the Employment Insurance Program," 43rd Parl, 2nd Sess (June 2021) at p. 35.
[24] Employment Insurance Policy Directorate, Employment and Social Development Canada, "Impacts of temporary EI measures during the pandemic: update and new findings." (January 2024), at p. 4.
[25] *Ibid* at p. 16.
[26] *Ibid* at p. 4.
[27] *Ibid* at p. 32.

Measuring labour-market attachment in hours rather than weeks disadvantages women

Lowering the number of hours required to qualify for EI regular benefits is necessary, but the deeper problem with EI's qualification criteria is the fact that labour-market attachment is measured in hours rather than weeks worked.

An hours-based system requires part-time workers to remain employed for much longer than full-time workers to demonstrate the same level of labour-market attachment. For example, in regions requiring 700 hours, a part-time worker working 15 hours per week must remain employed for nearly 47 out of the 52 weeks of the qualifying period to be eligible for EI benefits. This issue is highly gendered since women account for more than 60% of all part-time workers,[28] and this requirement is completely unreachable for many part-time workers.

As with all of the EI rules discussed in this report, these requirements do not impact all women in the same way. For example, the hours-based requirement has a particularly negative impact on disabled women since disabled people are more likely to work part-time (often involuntarily).[29] Many disabled women have periods when they cannot participate continuously in the labour force due to inaccessible workplaces, discrimination, chronic health conditions, and a lack of disability-related support. Since disabled women are already more likely to live in poverty,[30] the consequences of being unable to access EI regular benefits in the face of job loss can be catastrophic.



[28] Canada Employment Insurance Commission, *Employment Insurance Monitoring and Assessment Report 2024-2025*, (31 March 2025), at p. 21.
[29] Vincent Hardy and Daniel Vergara, "Labour market characteristics of persons with and without disabilities, 2024", Statistics Canada, (14 May 2025).
[30] Campaign 2000 and Disability Without Poverty, Disability Poverty Report Card 2025, at p. 21.

The decision to adopt an hours-based qualification system for EI benefits is not neutral and is relatively recent. Prior to 1996, the EI system utilized a weeks-based qualification requirement where a week was considered insurable if it involved at least 15 hours of insurable employment or weekly earnings equal to at least 20% of the maximum weekly insurable earnings.[31] In 1996, the eligibility criteria was converted to an hours-based system based on a 35-hour work week.[32] This change immediately made it much more difficult for women to qualify for benefits.[33]

Women and feminist legal advocates fought against this change. In *Lesiuk v Canada*, a nurse working part-time accrued 667 hours during the qualifying period but was 33 hours shy of the 700 hours she needed to access EI. Ms. Lesiuk challenged the denial of her EI claim on the basis that the hours-based requirement violated her right to equality under the *Canadian Charter of Rights and Freedoms*.[34] The EI Umpire (the legal decision maker for EI claims at that time) agreed, stating that the "eligibility requirements demean the essential dignity of women who predominate in the part-time labour force because they must work for longer periods than full-time workers in order to demonstrate their work force attachment."[35]



Unfortunately for generations of female workers, the Federal Court of Appeal overturned that decision, characterizing the eligibility requirement as "an administratively necessary tool" meant to ensure that the EI system remained viable rather than an attack on the dignity of female workers.[36]

Those comments are revealing as administrative necessity and cost became the Trojan horse that allowed gender discrimination to proliferate within the EI system. It raises the question as to what the human cost of "administrative necessity" might be in the context of a social program that is meant to help bridge individuals to their next employment and support them during periods of extreme financial precarity and vulnerability.

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[31] House of Commons, Standing Committee on Human Resources, Skills, and Social Development and the Status of Persons with Disabilities, "Restoring Financial Governance and Accessibility in the Employment Insurance Program," 38th Parl, 1st Sess, No 3 (February 2005) at p.29-30. The maximum weekly insurable earnings amount in 2026 is $1,325 per week and is based on the maximum yearly insurable earnings (essentially the cap on EI premiums).

[32] House of Commons, Standing Committee on the Status of Women "Towards Improving Access to EI Benefits for Women in Canada," 40th Parl, 2nd Sess, No 6 (June 2009), at p. 4.

[33] *Ibid* at p. 4 and 34.

[34] *Canada (Attorney General) v. Lesiuk (C.A.)*, 2003 FCA 3 (CanLII), [2003] 2 FC 697, at paras 4-8.

[35] *Ibid* at para 10.

[36] *Ibid* at para 51.

In 2009, the Standing Committee on the Status of Women (FEWO) recommended that the federal government examine the impact of returning to a weeks-based qualification requirement, given that the current hours-based requirement unfairly discriminated against women in precarious and part-time work.[37] That recommendation was never implemented. Advocates have also called for the creation of hybrid eligibility requirements based on the lesser of hours or weeks worked,[38] but these recommendations have likewise been ignored.

NAWL recommends the adoption of a hybrid eligibility requirement as this would preserve an hours-based pathway for workers to combine insurable hours from multiple jobs and create a weeks-based pathway for part-time workers who would otherwise be unable to accrue sufficient hours.

As this section has illustrated, several components of EI's eligibility system work together to disqualify and disentitle women from accessing regular benefits. These qualification requirements are the result of policy decisions that failed to prioritize the needs and experiences of female workers. It is striking that, in 2026, women may have access to a less flexible and less gender-inclusive EI system than workers did before the 1996 reforms. A more equitable future for EI may actually mean taking a step towards the past.

Recommendation 2



Amend paragraph 7(2)(b) of the *Employment Insurance Act* to replace the variable regional hours requirement with a uniform national entrance requirement for EI regular benefits based on the lesser of 360 hours of insurable employment or 12 weeks of insurable employment during the qualifying period. A week would be considered insurable if it involves at least 15 hours or weekly earnings equal to at least 20% of the maximum weekly insurable earnings.

[37] House of Commons, Standing Committee on the Status of Women "Towards Improving Access to EI Benefits for Women in Canada," 40th Parl, 2nd Sess, No 6 (June 2009) at p. 42.
[38] House of Commons, Standing Committee on Human Resources, Skills, and Social Development and the Status of Persons with Disabilities, "Modernizing the Employment Insurance Program," 43rd Parl, 2nd Sess (June 2021), at p. 33-34.



WOMEN ARE MORE LIKELY TO BE DISENTITLED AND DISQUALIFIED FROM EI REGULAR BENEFITS

A disqualification is a suspension of benefit payments because of conduct attributed to the claimant either before or during the benefit period. Circumstances that can lead to a disqualification include voluntarily leaving employment without just cause or failing to accept suitable employment without just cause.[39] Depending on the severity of the conduct, a disqualification can last a few weeks or for the entire benefit period. For example, voluntarily leaving employment without just cause leads to an indefinite disqualification, while refusing or failing to apply for suitable employment may result in a disqualification of 7 to 12 weeks.[40] In contrast, a disentitlement suspends benefits because the claimant has not met an ongoing condition of entitlement. One of the most common reasons for disentitlement is not being available for work.[41]

From 2018 to 2023, ESDC found that the proportion of regular EI claims with disqualifications and disentitlements was higher among women.[42] ESDC did not explain the reason for this difference. However, the way that availability for work is interpreted, the way that pre-claim work patterns are disregarded, and the fact that women are more likely to have their quitting viewed as unjustified may all play a role.

[39] Employment Insurance Policy Directorate, "Long-term trends in disqualifications and disentitlements," (May 2026), at p. 3.
[40] *Ibid* at p. 4.
[41] *Ibid* at p. 22.
[42] *Ibid* at p. 19.

Women's reasons for leaving employment are less likely to be accepted as justified

Statistics Canada data has consistently shown that women are more likely to leave their jobs than men, particularly for personal and family reasons.[43] This fact is significant because EI claimants must have a valid reason for job loss in order to be eligible for EI regular benefits.[44] Individuals who voluntarily leave their employment are disqualified from receiving EI unless the voluntary separation amounts to "just cause."[45] Examples of "just cause" under the *EIA* include sexual or other harassment, discrimination, caregiving responsibilities, or accompanying a spouse, common-law partner, or dependent child to another residence.[46] In order to prove just cause, the claimant must demonstrate that they had no reasonable alternative to leaving.[47]



Data from the last 30 years shows that men were more likely than women to have a quit classified as justified.[48] One reason for this disparity is that the "no reasonable alternative" standard imposes a high and unrealistic burden on workers who leave their employment because of harassment, discrimination, or caregiving responsibilities.

The Digest of Benefit Entitlement Principles, the interpretation document that guides EI decision-making, states that, in cases of sexual or other harassment (including intimate partner violence), reasonable alternatives to leaving include discussing the issue with the employer, requesting a transfer to another division, contacting the union, or using the provisions in the collective agreement.[49] While a claimant is not required to await the outcome of any particular remedy before leaving, they are required to explain why they did not make use of the employer's remedies if the employer had a structured policy in place that could have immediately resolved the situation.[50]

[43] Statistics Canada, "Reason for leaving job during previous year, annual (x 1,000)", Table 14-10-0126-01, (9 January 2026).
[44] *Employment Insurance Act*, SC, 1996, c 23, s. 29(c) and s.30(1).
[45] *Ibid* at s. 30(1).
[46] *Ibid* at s. 29(c).
[47] *Ibid* at s. 29(c).
[48] Employment Insurance Policy Directorate, "Quits and Use of the Employment Insurance Program," ESDC (April 2022), p. 16.
[49] Employment and Social Development Canada, Digest of Benefit Entitlement Principles, (10 March 2026), at 6.5.2 Sexual or other harassment.
[50] *Ibid* at 6.5.2.



In cases involving systemic discrimination, the Digest classifies filing a claim with a human rights tribunal as a possible reasonable alternative to leaving.[51] That guidance ignores the reality that human rights claims often take years to resolve and may do nothing to make the workplace environment safe or accessible in the meantime. The "no reasonable alternative" requirement in this context is predicated on the assumption that workers experiencing harassment or discrimination have the time, safety, bargaining power, and emotional capacity to exhaust employer mechanisms and human rights remedies before leaving. It reinforces a hierarchy of deservingness where the woman who reports, escalates, waits, documents, and exhausts every employer-controlled process is treated as more deserving of EI than the one who simply leaves to protect her safety and wellbeing.

The Digest applies the same demanding logic to caregiving. It states that reasonable alternatives to leaving may include seeking help from relatives, friends or neighbours, arranging for paid childcare, attempting to change work schedules, considering sharing responsibilities with other family members, and requesting leave from the employer.[52] Just cause will only be established in this scenario if all reasonable alternatives have been exhausted and the Digest takes pains to state that "the necessity of taking care of a young child must not be confused with the simple desire to do so, as the latter is a voluntary personal choice."[53]

[51] *Ibid* at 6.5.4 Discrimination on a prohibited ground.
[52] *Ibid* at 6.5.6 Obligation to care for a child or a member of the immediate family.
[53] *Ibid* at 6.5.6.



It assumes that the line between caregiving obligations and personal choice is clear when, in many families, caregiving decisions are often shaped by poverty, cultural expectations, and an absence of meaningful support.

With regard to women fleeing intimate partner violence, the Digest acknowledges that they may suddenly leave their employment in order to escape, and that they are "generally fully justified" in doing so.[54] However, the claimant still bears the burden of showing that leaving was the only reasonable alternative under the circumstances.[55]

Neither the *EIA* nor the Digest outline what evidence survivors are expected to provide in these circumstances, but EI eligibility should not depend on survivors reporting the abuse to the police or their employer, and evidence standards must be flexible and trauma-informed since many survivors fleeing violence may not have access to police reports, court orders, or even their own personal documents.

The above are all indicative of an EI regime that penalizes workers who fail to leave employment in the "right" way. A finding that a quit is unjustified carries severe consequences for the claimant since they are disqualified from receiving benefits on that claim and, if they later try to establish a new claim, are prevented from using insurable hours accumulated before the quit. This even includes hours from unrelated employment.[56] In practical terms, years of work can be treated as though they do not count. This is a disproportionate response that converts one disputed job separation into the loss of years of accumulated labour-market attachment.

During the COVID-19 pandemic, the government softened this rule somewhat and allowed claimants to count all hours of employment so long as the last job separation in the qualifying period was valid.[57]

[54] *Ibid* at 6.5.2.
[55] *Ibid* at 6.4.2. A crucial test: no reasonable alternative but to leave.
[56] *Employment Insurance Act*, SC, 1996, c 23, s. 30(5) and 30(6). See also *Canada (Attorney General) v. Trochimchuk*, 2011 FCA 268 at para 15.
[57] Employment Insurance Policy Directorate, Employment and Social Development Canada, "Impact of measures of using the last reason for separation on access to EI benefits," (September 2024) at p. 5.

This meant that, even if the claimant had previously left their employment for unjustified reasons, they could still count those hours if the departure from their last job before their claim was justified. Had the government not relaxed this rule, 3.8% of the claims established by women from September 2021 to September 2022 would not have been eligible for EI.[58] The government announced in August 2026 that it would be reintroducing those COVID-19 measures for a period of one year in response to the economic threat posed by U.S. tariffs.[59]

Having a valid reason for leaving employment is one of the first hurdles that EI claimants must overcome. The *EIA* must therefore be amended to recognize the fact that leaving employment because of intimate partner violence, harassment, discrimination, caregiving responsibilities, or an employer's failure to accommodate is not a capricious or unjustified decision. They are circumstances that can make continued employment unsafe and inaccessible. Where those circumstances materially contribute to a claimant's decision to leave, it should be presumed that the separation was justified unless ESDC can establish otherwise.

At the same time, the consequences of leaving employment without just cause should be made less severe. A claimant should not lose years of accumulated insurable hours, even in unrelated prior employment, because a decision-maker later concludes that they should have pursued one more internal complaint, one more accommodation request, or one more caregiving arrangement before leaving. The government has already recognized the unfairness of this rule during periods of economic precarity caused by pandemics and tariffs and should amend the *EIA* to make this temporary relief permanent.

Recommendation 3



Amend section 29 of the *Employment Insurance Act* to create a rebuttable presumption of just cause where intimate partner violence, sexual harassment, harassment, discrimination, caregiving responsibilities, or a failure to accommodate materially contributed to a claimant's decision to leave their employment.

[58] *Ibid* at p. 41.
[59] Government of Canada, "Support for Canadian workers and businesses affected by U.S. tariffs," (25 August 2026).

Recommendation 4



Amend subsections 30(1), 30(5), 30(6), and 30(7) of the *Employment Insurance Act* to ensure that claimants who voluntarily leave their employment without just cause are able to use those hours to qualify for benefits, determine the maximum number of weeks of benefits, and set the weekly benefit rate, provided that the last job separation in the qualifying period was valid. At minimum, paragraph 30(5)(a) should be amended to remove the phrase "or any other employment before the employment was lost or left" to ensure that hours accumulated in unrelated employment prior to an invalid job separation remain available to establish eligibility, benefit duration, and the weekly benefit rate.

Recommendation 5



Amend the Digest of Benefit Entitlement Principles to expressly state that claimants who voluntarily leave their employment due to intimate partner violence are not required to provide a police report or protection order to establish just cause, and that the absence of formal reporting or corroborating documentation must not, on its own, give rise to an adverse inference.



The availability for work rules penalize women

In order to be eligible for EI benefits, claimants must prove that they are "capable of and available for work and unable to obtain suitable employment" for each working day of the claim.[60] The Digest emphasizes that caregiving responsibilities will usually be treated as a voluntary restriction on the claimant's ability to work where suitable arrangements likely could have been made.[61] For example, a claimant who must care for a family member two days per week could be subject to an indefinite disentitlement because the Digest interprets the *EIA* as requiring claimants to be available for work every day from Monday to Friday.[62]

This creates a disturbing contradiction. The obligation to care for a child or other member of a claimant's immediate family can constitute just cause for voluntarily leaving employment,[63] yet that same obligation may then be used as a justification for disentitlement.

[60] *Employment Insurance Act*, SC, 1996, c 23 at s. 18(1)(a); *Employment Insurance Regulations*, SOR/96-332, at s. 32.
[61] Employment and Social Development Canada, *Digest of Benefit Entitlement Principles*, (10 March 2026), at s. 10.4.3.2 Involuntary Restrictions.
[62] *Ibid* at 10.7.4.1 Not Available for a Working Day.
[63] *Employment Insurance Act*, SC, 1996, c 23 at s. 29(c)(v).

In fact, the Digest provides an example of that exact scenario:

> An example would be an employee who, after numerous years of service with the same employer, terminates employment because of difficulties concerning baby-sitting arrangements, but a few weeks later alleges to be again available for work after making new childcare arrangements. Although a claimant in this situation may not be disqualified for voluntarily leaving their employment, they would be subject to a disentitlement from benefits for failing to prove availability for work, until new childcare arrangements were made. Once the barrier to being available no longer exists, benefits could become payable.[64]

The above example is illustrative of an employment insurance regime that fails to meaningfully account for caregiving responsibilities and actively penalizes claimants for those responsibilities by withholding benefits. Here, caring for a child or elder is viewed as a "barrier" and the solution offered is for the barrier to simply cease existing. The barrier is conceptualized as being the fault of the woman because she has "chosen" to care for a family member or has "chosen" to work part-time rather than recognizing that the way the EI system has been developed and interpreted is what creates the barrier.

Disabled women face a similar barrier when trying to demonstrate availability for work. Although the Digest states that disabled claimants are only required to be available within the full extent of their capabilities,[65] the *Employment Insurance Act* places the onus on the claimant to prove that they are capable and available for employment for each day of the claim.[66] Disabled women may require flexible, modified, remote, part-time or accommodation-supported work which may be difficult to prove and which, under a rigid conceptualization of availability, could disqualify them from EI regular benefits they would otherwise be entitled to.

The same is true for women experiencing intimate partner violence who may need to temporarily restrict their job search or available hours in order to relocate, enter a shelter, or protect their children. For both disabled women and women experiencing intimate partner violence, the issue is not that they are less committed to working or less connected to the labour market; it is that the EI system is not sufficiently responsive to their lived realities and the conditions that they face.

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[64] Employment and Social Development Canada, *Digest of Benefit Entitlement Principles*, (10 March 2026), at 10.2.3 Presumption of non-availability.
[65] Employment and Social Development Canada, *Digest of Benefit Entitlement Principles*, (10 March 2026), at 10.10.3 Application.
[66] *Employment Insurance Act*, SC, 1996, c 23 at s.18(1)(a).

Recommendation 6

Amend paragraph 18(1)(a) of the *Employment Insurance Act* to create a rebuttable presumption that claimants with caregiving responsibilities, claimants with disabilities, and/or claimants experiencing intimate partner violence, are capable of and available for suitable employment compatible with their family obligations, disability-related needs, and safety needs.

Recommendation 7

Revise the Digest of Benefit Entitlement Principles to ensure that caregiving responsibilities, disability-related needs, and/or work limitations related to intimate partner violence are not treated as voluntary restrictions on availability.

The disregard of pre-claim work patterns penalizes women

Another potential explanation for women's higher proportion of disentitlement and disqualifications lies in how the Digest treats part-time workers during the benefits period. The *EIA* requires claimants to be available for suitable employment but does not specify that this must amount to full-time employment.[67] The Regulations also specify that employment is not suitable where the hours of work would be incompatible with the claimant's family obligations.[68] Nevertheless, the Digest is explicit that a claimant's previous pattern of work during the qualifying period is deemed irrelevant.

[67] *Employment Insurance Act*, SC, 1996, c 23 at s.18(1)(a).
[68] *Employment Insurance Regulations*, SOR/96-332 at s. 9.002(1)(b).

It states that, notwithstanding any pattern of work in the qualifying period, claimants must seek and accept all hours of suitable work available in the labour market, including "full-time, part-time, evenings, nights and shift work, as well as work that may involve inconvenient or long hours, or overtime."[69]

This interpretation has serious consequences for part-time workers in specific and is a gendered issue since women represent the majority of part-time workers.[70] A woman may be available to work every day from Monday to Friday on a part-time basis, but still find herself disentitled for non-availability.[71] Since the *EIA* doesn't allow for partial days of disentitlement, this claimant could even find herself disentitled for the entire week.[72] The Digest's interpretation appears more restrictive than the language of the *Act* and Regulations. It is also difficult to reconcile with recent jurisprudence that has recognized that the *Act* does not create a presumption in favour of full-time work and that a claimant's established pattern of part-time employment is relevant to determining whether they are available for suitable employment.[73]

The availability rule and the disregard of pre-claim work patterns are examples of how the EI system privileges an idealized full-time worker who is available for any and all work and has no caregiving responsibilities, no disabilities, and has not been exposed to intimate partner violence. The *EIA* and Digest should therefore be amended to emphasize that a determination regarding the work's suitability, or the claimant's availability to work, cannot be made without a contextual analysis of the claimant's needs and circumstances.

Recommendation 8

Amend section 9.002(1) of the *Employment Insurance Regulations* to require that the determination of what constitutes suitable employment include a contextual assessment of the claimant's established work patterns, work capacity, and individual circumstances.

[69] Employment and Social Development Canada, *Digest of Benefit Entitlement Principles*, (10 March 2026), at 10.7.2 Hours of Work: A Fixed Criterion.
[70] Canada Employment Insurance Commission, *Employment Insurance Monitoring and Assessment Report 2024-2025*, (31 March 2025), at p. 21.
[71] Employment and Social Development Canada, *Digest of Benefit Entitlement Principles*, (10 March 2026) at 10.7.4.2 Available for each working day but not full-time.
[72] *Ibid* at 10.7.4.2 Available for each working day but not full-time.
[73] See *Page v. Canada (Attorney General)*, 2023 FCA 169, and *CM v. Canada Employment Insurance Commission*, 2025 SST 1389, at para 70.

Recommendation 9

Revise Chapter 10 of the Digest of Benefit Entitlement Principles to state: 1) there is no presumption in favour of full-time employment, 2) pre-claim work patterns must be assessed before a determination on availability to work is made, and 3) assessments regarding availability to work must be in keeping with s. 9.002(1) of the Regulations and the contextual approach to suitable employment recognized in the jurisprudence.

The 50-week cap on combining benefits limits women's access to EI regular benefits

The *EIA* allows claimants to combine different types of benefits if they meet the qualifying rules for each type. However, when regular and special benefits are combined, the *Act* generally limits the claimant to 50 weeks of paid benefits within a 52-week benefit period.[74] After the claim ends, the worker must re-establish eligibility to qualify for additional benefits. This cap is particularly detrimental for women since they are much more likely to claim more than one type of benefit.[75]

The limit on combining regular and special benefits is extremely problematic when job loss coincides with the birth or adoption of a child. A claimant returning from a year of maternity and parental leave may be unable to access regular EI if she is fired shortly before or after returning to work because she has not accumulated enough new insurable hours. The inverse is also true: a woman who was terminated shortly before her parental leave may find her weeks of parental benefits cut short or eliminated if she has already used up to 50 weeks of EI regular benefits.

[74] *Employment Insurance Act*, SC, 1996, c 23 at s. 10(2), 10(8), and s. 12(6).
[75] Canada Employment Insurance Commission, *Employment Insurance Monitoring and Assessment Report 2024-2025*, (31 March 2025), at p. 51.



Even women in Quebec, where parental leave is governed by a separate system called the Quebec Parental Insurance Plan (QPIP), find themselves hampered by the 50-week rule since the EI regulations treat weeks of QPIP as weeks of EI benefits for the purposes of calculating the overall maximum.[76]

As with most of the issues identified in this report, this is a known problem that has haunted the EI system for decades. The federal government's own evaluation of EI maternity and parental benefits confirms the gendered impact of the 50-week rule. ESDC found that claimants who lost their jobs before the birth or adoption of a child were less likely to access their full parental benefit entitlements because of the 50-week maximum.[77] On average, 3,300 female claimants are affected by the 50-week rule each year, compared to fewer than 500 male claimants.[78] ESDC also found that female claimants who combined regular benefits with maternity and parental benefits were often low- or modest-income workers, and that those laid off during maternity or parental leave would have been entitled, on average, to only 1.1 weeks of regular benefits before reaching the 50-week limit.[79]

[76] *Employment Insurance Regulations*, SOR/96-332, at s.76.19.
[77] Evaluation Directorate, Strategic and Service Policy Branch, "Evaluation of the Employment Insurance Maternity and Parental Benefits," (18 November 2022), at p. 24.
[78] *Ibid* at p. 24.
[79] *Ibid* at p. 26.

In 2009, the FEWO committee recommended that the government modify the program to ensure that benefits for women who are laid off following parental leave are calculated based on the number of hours worked prior to their leave.[80] The HUMA committee heard similar concerns in 2021 and recommended that the duration of combined regular and special benefits be extended to avoid penalizing women.[81] Even ESDC management agreed that this was an issue and, in 2022, committed to exploring approaches to enhance flexibility for claimants who needed to combine maternity and parental benefits with regular benefits.[82]

Despite a clear consensus among various government actors that this is a serious, gendered issue that disproportionately harms women, nothing was done to address it. In fact, when six women who had been denied EI benefits because of this very rule challenged the provisions in court, the government argued that it did not discriminate against women and, even if it did, it was justified because of EI's complexity and the need to balance contributions and benefits.[83] The government did not provide any evidence to back up their assertion that changing these rules would undermine the fiscal integrity of the EI system.[84] Here again we see "administrative necessity" invoked as a rationale for gender discrimination in the Employment Insurance system even in the absence of any evidence to support that assertion.

Fortunately, in September 2026, the Federal Court of Appeal disagreed with the government's characterization and ruled that several provisions of the *EIA* violate women's equality rights under section 15(1) of the Canadian Charter of Rights and Freedoms on the basis that they reinforce the longstanding economic disadvantage associated with pregnancy and motherhood by diminishing the unemployment protections available to women who have assumed the caregiving responsibilities that accompany childbirth.[85] As Justice Gleason succinctly put it, "the price the legislation exacts for granting maternity and parental benefits is the loss of job loss benefits, and this price is disproportionately paid by women."[86]

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[80] House of Commons, Standing Committee on the Status of Women "Towards Improving Access to EI Benefits for Women in Canada," 40th Parl, 2nd Sess, No 6 (June 2009) at p. 48 and 51.
[81] House of Commons, Standing Committee on Human Resources, Skills, and Social Development and the Status of Persons with Disabilities, "Modernizing the Employment Insurance Program," 43rd Parl, 2nd Sess (June 2021) at p. 45.
[82] Evaluation Directorate, Strategic and Service Policy Branch, "Evaluation of the Employment Insurance Maternity and Parental Benefits," (18 November 2022), at p. 36.
[83] *Chalifour-Racine v. Canada (Attorney General)*, 2026 FCA 145, at paras 76 and 81.
[84] *Ibid* at paras 158-161.
[85] *Ibid* at para 147.
[86] *Ibid* at para 133.

The Federal Court of Appeal declared the challenged sections of the *Employment Insurance Act* to be invalid but suspended that declaration of invalidity for one year to provide Parliament with an opportunity to make legislative amendments.[87] The government now has not only a moral imperative, but also a legal requirement to amend the *Employment Insurance Act* to bring it into compliance with the *Charter* on this issue.

Addressing this issue requires two connected reforms. First, the *Act* must be amended so that claimants can combine regular and special benefits for more than 50 weeks. Second, the *Act* must protect pre-leave labour-market attachment by allowing claimants laid off during, or shortly after, maternity or parental leave to rely on pre-leave insurable hours to establish entitlement to regular EI. Without both reforms, women will continue to fall between the cracks: either capped out of regular benefits because they used maternity and parental benefits, or unable to requalify because the qualifying period treats their parental leave as a gap in labour-market attachment.

Recommendation 10

Amend sections 12 and 23 of the *Employment Insurance Act* to eliminate the 50-week cap on combining EI regular benefits and special benefits.

Recommendation 11

Amend sections 10 and 23 of the *Employment Insurance Act* to ensure that the benefit period may be extended where necessary to allow claimants to receive the full regular, maternity, and parental benefits for which they qualify, whether unemployment occurs before, during, or after maternity or parental leave.

[87] *Ibid* at para 175.

AMOUNT



THE EI SYSTEM KEEPS WOMEN POOR

EI claimants generally have lower average employment income, both before and after their claim, than people who do not receive EI.[88] In other words, EI is serving workers who are already more likely to be economically vulnerable. Yet the benefit formula does not respond adequately to that vulnerability. Men, as higher earners, are much more likely to receive the maximum weekly benefit rate[89] and receive most of the amount paid out in EI regular benefits.[90]

ESDC attributes this disparity to women's greater concentration in part-time employment and their lower average weekly insurable earnings.[91] ESDC also found that, after controlling for other factors, women were more likely than men to experience a decrease in income after an EI claim.[92]

[88] EI Policy Directorate, Skills and Employment Branch, "Comparison of pre-claim and post-claim income levels – EI Regular and Special Benefits," (February 2021), at p. 3.
[89] Canada Employment Insurance Commission, *Employment Insurance Monitoring and Assessment Report 2024-2025*, (31 March 2025), at p. 48.
[90] *Ibid* at p. 60.
[91] *Ibid* at p. 84.
[92] *Ibid* at p. 20.

Taken together, these findings suggest that EI does not provide women with equal income replacement during unemployment. Women enter the EI system with lower earnings and subsequently receive lower weekly benefits during their claim than men. This is not because women simply choose to make less money than men. As should be obvious by now, women's wages and ability to participate in the labour force are shaped by their caregiving responsibilities, exposure to violence, disability, discrimination, and a persistent gender wage gap. Addressing systemic barriers to women's participation in the workforce is a laudable goal, but women who lose their jobs in the meantime deserve an EI system that does not reinforce income inequality or push them into poverty.

The solution lies in reforming how benefits are calculated, creating a minimum weekly benefit, and strengthening the Family Supplement, all of which will be explored in greater detail below.

The way that EI Regular Benefits are calculated disadvantages women

Men are, on average, entitled to a higher weekly amount of EI than women ($608 and $549 respectively).[93] This gap is particularly pronounced for individuals who had fewer hours of insurable employment during the qualifying period, but persists even among claimants who had over 1,800 hours.[94]



Women's lower average benefit rates reflect both their greater concentration in part-time employment and their lower earnings within the labour market. Because EI replaces a fixed percentage of prior weekly insurable earnings, gendered wage inequality in those earnings is replicated when the time comes to determine the benefit amount a claimant will receive under EI.

[93] Canada Employment Insurance Commission, *Employment Insurance Monitoring and Assessment Report 2024-2025*, (31 March 2025), at p. 48.
[94] Canada Employment Insurance Commission, *Employment Insurance Monitoring and Assessment Report 2024-2025*, (31 March 2025), at p. 82. "The average weekly benefit rate for women who had 420 to 559 hours of insurable employment during their qualifying period was 80.4% of the average rate for men in 2024-25, while for those who had 1,820 or more hours of insurable employment, that ratio was 95.1%."

It is important to note that EI does not replace all of a claimant's lost earnings. A claimant's weekly EI benefit amount is based on their highest earning weeks during the qualifying period. These are known as the claimant's "best weeks." Depending on the regional unemployment rate, EI uses between 14 and 22 of those weeks. The claimant's earnings from those weeks are added together, divided by the number of weeks used (called the "divisor"), and then multiplied by 55%. The result is the claimant's weekly EI benefit rate, subject to the maximum weekly benefit of $729.[95]

In regions with high unemployment, fewer weeks are used to calculate benefits and vice versa.[96] The number of weeks used to calculate the benefit amount matters because including a large number of weeks can actually reduce the claimant's weekly benefit amount. When more weeks are used to calculate average weekly earnings, lower-paid weeks can be pulled into the calculation, decreasing the total. This is particularly important for workers in part-time, temporary, precarious, seasonal, or low-wage employment, whose hours and earnings may vary significantly from week to week.

Recall also that, like the eligibility criteria, the weekly benefit amount is tied to the regional unemployment rate, illustrating another way in which the regional unemployment rate obscures, rather than responds to, the economic inequalities faced by women. During the pandemic, the number of best weeks used to calculate the benefit amount was set at a uniform 14 weeks,[97] meaning that many claimants were entitled to a higher weekly benefit rate than they would otherwise have received if the regional unemployment rate was factored in.[98]

As with most of the COVID-19 measures, a higher share of women than men benefited from this change.[99] The first step towards making the benefit calculation more equitable is to reinstitute a uniform best-14-weeks calculation as it would make the benefit formula simpler, more predictable, and less punitive for workers with fluctuating earnings.

[95] *Employment Insurance Act*, SC, 1996, c 23 at s. 14 and s. 17. See also Service Canada, How we calculate your weekly benefit amount.
[96] *Employment Insurance Act*, *SC, 1996, c 23* at s. 14(2).
[97] Employment Insurance Policy Directorate, Employment and Social Development Canada, "Impacts of temporary EI measures during the pandemic: update and new findings." (January 2024), at p. 9.
[98] *Ibid* at p. 10.
[99] *Ibid* at p. 24.

The second way to make the benefit calculation more equitable for women is to change how much of their pre-claim income is replaced while on EI. A claimant who was financially precarious before accessing EI will see that financial precarity deepen while receiving benefits since, at best, they can only receive 55% (the "income replacement rate") of their pre-claim insurable earnings. This income replacement rate has not increased in over thirty years.



At least two House of Commons committees, studying the issue a decade apart, recommended raising the percentage to ensure that EI regular benefits remain sufficient and liveable, but this has not been done.[100] NAWL supports raising the income replacement rate to 75% to help ensure that minimum-wage workers do not fall below the poverty line as defined by the Market Basket Measure.[101] This change ensures that EI lives up to its goal of protecting individuals from sliding into poverty as a result of a temporary interruption in their earnings.

However, reforms must go further than raising the replacement rate because simply increasing the percentage across the board does not address the gender pay gap that haunts the system.[102] A progressive replacement rate would help address this problem by replacing a higher share of income for claimants with lower levels of insurable earnings. This matters because the impact of income loss is not the same at every income level. A worker with low weekly earnings cannot absorb a 45% income reduction in the same way as a higher-earning worker. Rent, food, transportation, medication, childcare, and other basic costs do not fall simply because a worker's prior wages were low. For low-income claimants, a flat replacement rate can therefore turn an already inadequate wage into an even more inadequate benefit.

[100] House of Commons, Standing Committee on the Status of Women "Towards Improving Access to EI Benefits for Women in Canada," 40th Parl, 2nd Sess, No 6 (June 2009) at p. 44; See also, House of Commons, Standing Committee on Human Resources, Skills, and Social Development and the Status of Persons with Disabilities, "Modernizing the Employment Insurance Program," 43rd Parl, 2nd Sess (June 2021), at p. 43.

[101] *Ibid* at p. 41.

[102] For example, Statistics Canada has found that Canadian-born women working in the same occupation and industry as Canadian-born men earned 9.2% less on average. If Mark and Lois perform the same job and work the same number of hours, but Mark earns $800 per week while Lois earns $726.40, the current 55% replacement rate would provide Mark with $440 per week in EI benefits and Lois with $399.52. Increasing the flat replacement rate to 75% would raise their benefits to $600 and $544.80 respectively, but the 9.2% income gap between them would remain unchanged.

The EI system already recognizes this principle in a limited way through the Family Supplement. As will be discussed further, the Family Supplement can increase the benefit rate for eligible low-income claimants with children from 55% to as much as 80% of weekly insurable earnings, subject to the maximum weekly benefit rate. However, the Family Supplement is only available for individuals with dependent children who also receive the Canada Child Benefit. A general progressive benefit rate would therefore ensure that low-income women without children are still able to retain most of their earnings while on EI. Under a general progressive benefit formula, all claimants would receive a baseline replacement rate of 75%, with the replacement rate gradually increasing up to 100% as a claimant's insurable earnings decrease.

Recommendation 12



Amend subsections 14(2) and 14(4) of the *Employment Insurance Act* to replace the variable best-weeks rule with a uniform best-14-weeks calculation. Weekly EI benefits should be calculated using the claimant's highest 14 weeks of insurable earnings during the qualifying period, regardless of the regional unemployment rate.

Recommendation 13



Amend section 14 of the *Employment Insurance Act* to establish a progressive benefit formula that provides a baseline replacement rate of 75% and progressively higher replacement rates for claimants with lower levels of insurable earnings subject to a minimum and maximum weekly benefit rate.

The lack of a minimum weekly benefit pushes low-income women deeper into poverty

Although EI has a maximum weekly benefit ceiling, it does not have a benefit floor, which means that there is nothing in place to ensure that individuals who qualify receive a benefit amount that is adequate to meet their basic needs.

At the risk of sounding repetitive, the temporary measures put in place during the COVID-19 pandemic once again provide a glimmer of what a gender-responsive EI system could look like. As part of its initial measures, the federal government instituted a minimum benefit rate of $500 for claims established between September 2020 and September 2021.[103] A significantly higher share of women than men had a weekly benefit rate of $500 during that period.[104] Women who benefited from the minimum weekly rate received, on average, an additional $208 per week in regular benefits, which suggests that, without this measure, some women would only have gotten $292 per week in EI benefits, assuming they qualified at all.[105]

Since the end of the temporary measures in September 2022, there has been nothing to stop low-income claimants, particularly women, from sliding deeper into poverty while on EI. The minimum benefit amount should therefore be reinstituted and made permanent to ensure that individuals accessing the EI system are not rendered economically precarious. In some cases, this may result in a claimant temporarily receiving a higher weekly benefit than they earned prior to their claim. The appropriate response to this possibility is to raise wages rather than lowering EI benefits.



The federal government can, and should, work with provincial and territorial governments to increase wages to a liveable amount, but while this occurs the EI system must serve as a bulwark that prevents low-income claimants from being forced completely underwater.

[103] Employment Insurance Policy Directorate, Employment and Social Development Canada, "Impacts of temporary EI measures during the pandemic: update and new findings." (January 2024), at p. 2.
[104] *Ibid* at p. 22.
[105] *Ibid* at p. 23.

Recommendation 14



Amend section 14 of the *Employment Insurance Act* to establish a minimum weekly benefit rate of at least $500 per week for EI Regular Benefits, indexed annually.[106]

The Family Supplement is inadequate

It must be emphasized that a direct consequence of women living in poverty is the fact that their children are also forced to live in poverty. In 2023, almost 1.4 million children in Canada lived in poverty.[107]

Recognizing that the amount of EI is largely inadequate to support low-income workers and their children, the federal government introduced the Family Supplement to claimants who have dependent children under 18 and an annual net family income equal to or less than $25,921.[108] This supplement is available for all types of EI claims and can increase the claimant's benefit rate from 55% up to a maximum of 80% of their weekly insurable earnings depending on the family's net income, the number of children, and the age of the children. However, only one family member may claim the Family Supplement at a time and the *Employment Insurance Act* places a cap on the Family Supplement, stating that the increase to a claimant's weekly benefit cannot exceed 25% of the claimant's weekly insurable earnings.[109]

[106] The $500 minimum should be understood as the value of the minimum weekly benefit introduced in September 2020, adjusted using the same annual indexation mechanism that applies to the Maximum Yearly Insurable Earnings under the *Employment Insurance Act*. The minimum benefit should continue to be adjusted annually using that mechanism.
[107] Leila Sarangi, 2025 Report Card on Child and Family Poverty in Canada - Investing in Tomorrow: A Future Without Poverty, Campaign 2000, (25 February 2026), at p. 7.
[108] Canada Employment Insurance Commission, *Employment Insurance Monitoring and Assessment Report 2024-2025*, (31 March 2025), at p. 48-49.
[109] *Employment Insurance Act*, SC, 1996, c 23 at s. 16(4); *Employment Insurance Regulations*, SOR/96-332 at s. 34(6).

The fact that the Family Supplement can only be claimed by one spouse is extremely problematic in cases of intimate partner violence, particularly situations involving economic abuse. The Digest states that it is up to the spouses to decide which of them will receive the Family Supplement, and that this decision must be made prior to any weeks of benefits being paid.[110] This could allow an abusive partner to refuse to agree on who will receive the Supplement in order to prevent or delay their partner's access to EI benefits. Basing eligibility on net family income rather than the claimant's individual income raises a similar concern because it assumes that financial resources are shared within the family, when in reality one partner may control some or all of those resources. For these reasons, eligibility for the Family Supplement should be based on the claimant's individual income, and each eligible claimant should be entitled to receive the Supplement.

In theory, the Family Supplement should help prevent families from slipping deeper into poverty while on EI, and women are the main demographic group benefitting from it.[111] However, "benefitting" may be too generous a term since the average weekly Family Supplement amount is currently $46, a number that has remained unchanged for over a decade.[112] The number of claims that even qualify to receive the Family Supplement has actually been decreasing for the past 20 years.[113] Sadly, this is not because poverty has been solved; it is because neither the amount nor the eligibility threshold have been indexed to inflation since 2000.[114] A net family income of $25,921 was slightly below the poverty line in 2000 but, in 2026, it is so low that the benefit is actually inaccessible except by individuals who are already in deepest poverty. Had it been indexed to inflation, the income threshold for the Family Supplement would now be over $40,000.[115]

This has severe consequences since even individuals who fall below the Low Income Measure (another way to measure poverty that looks at whether the household income falls below half of the median total income) are ineligible for the Family Supplement.[116]

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[110] Employment and Social Development Canada, *Digest of Benefit Entitlement Principles*, (10 March 2026) at 1.9.4. Increase in the benefit rate; see also *Employment Insurance Regulations*, SOR/96-332, at s. 34(4).
[111] Canada Employment Insurance Commission, *Employment Insurance Monitoring and Assessment Report 2024-2025*, (31 March 2025), at p. 48.
[112] Canada Employment Insurance Commission, *Employment Insurance Monitoring and Assessment Report 2024-2025*, (31 March 2025), at p. 40; see also Annex 2.23.3 - Family Supplement: Average weekly Family Supplement.
[113] *Ibid* at p. 48-49.
[114] Evaluation Directorate, "EI Family Supplement", (February 2024) at p. 5.
[115] *Ibid* at p. 8.
[116] *Ibid* at p. 23.

In 2021, only 30.7% of claimants with children with a total income under the Low Income Measure qualified for the Family Supplement. If the Family Supplement income threshold had been indexed to inflation, that percentage would have been 61.8%.[117]

It boggles the mind how a measure that was meant to alleviate poverty for low-income families on EI can have been left to languish for 26 years when all that was needed to course-correct was to index it to inflation. This, perhaps more than any other issue within the Employment Insurance regime, illustrates the absolute disinterest that multiple governments have had in addressing the poverty experienced by women and children.

Should the government heed these recommendations and adopt a general progressive income replacement rate, the Family Supplement could instead operate as an additional benefit recognizing the increased costs borne by low-income claimants with dependent children on EI. The Supplement should be payable in addition to the claimant's benefit calculated under the progressive replacement formula, ensuring that it serves as genuine additional support for low-income families rather than as a mechanism for correcting an inadequate basic replacement rate.

Recommendation 15



Amend subsections 34(4) and 34(5) of the *Employment Insurance Regulations* to make the Family Supplement an individual entitlement. Eligibility for the Family Supplement and the amount payable should be determined based on the claimant's individual income rather than family income, and each eligible claimant should be entitled to receive the Family Supplement regardless of whether their cohabitating spouse or common-law partner is also receiving EI benefits or the Family Supplement.

[117] *Ibid* at p. 23.

Recommendation 16



If the government adopts a general progressive benefit formula, amend section 16 of the *Employment Insurance Act* and section 34 of the *Employment Insurance Regulations* so that the Family Supplement operates as an additional benefit for low-income claimants with dependent children, payable in addition to the claimant's weekly benefit calculated under the progressive replacement formula.

Recommendation 17



Regardless of whether the government adopts a general progressive benefit formula, amend the table at subsection 34(5) of the *Employment Insurance Regulations* to increase the Family Supplement income threshold and weekly amounts to the values they would have reached had they been indexed annually since their introduction, and index them annually thereafter.

Recommendation 18



Repeal subsection 16(4) of the *Employment Insurance Act* and subsection 34(6) of the *Employment Insurance Regulations* to remove the rule that limits the Family Supplement increase to 25% of the claimant's weekly insurable earnings.

DURATION



WOMEN RECEIVE FEWER WEEKS OF BENEFITS

The number of weeks of EI regular benefits available to claimants ranges between 14 and 45 weeks and is dependent on two factors: the regional unemployment rate and the number of hours of insurable employment accumulated during the qualifying period.[118] This information is entered into a table and the number of weeks of EI benefits are determined.[119] It should come as no surprise that, because women tend to work fewer insurable hours, they receive fewer weeks of benefits than men (28.4 weeks and 30.4 weeks respectively).[120] Another predictable result is that women have historically been more likely to exhaust their EI benefits than men.[121]

[118] *Employment Insurance Act*, SC, 1996, c 23 at s. 12(2).
[119] *Ibid* at Schedule I.
[120] Canada Employment Insurance Commission, *Employment Insurance Monitoring and Assessment Report 2024-2025*, (31 March 2025), at p. 96.
[121] *Ibid* at p. 96.

The EI system therefore penalizes women for having fewer hours of insurable employment three times: first by limiting their eligibility, then when setting their weekly benefit amount, and yet again when determining how long their benefits will last. The regional unemployment rate also limits women's EI benefit duration as individuals in regions with lower unemployment are usually entitled to a shorter benefit period. As previously discussed, the assumption that claimants living in a region with low unemployment will find a job quickly does not hold true for all women, particularly racialized and disabled women. As such, women in areas with a low unemployment rate may still find themselves exhausting their EI benefits.

This design is especially punitive because the need for income support is even greater for individuals who had fewer paid hours before their job loss. A claimant who worked part-time, in temporary employment, or in a sector with fluctuating hours may have fewer savings and face a lengthy job search. Indeed, many of the workers who qualify for fewer weeks of benefits are also workers who face structural barriers to re-employment, including caregiving responsibilities, discrimination, disability, lack of affordable childcare, and concentration in lower-wage or precarious sectors.

This issue was identified long ago. The FEWO Committee noted in 2009 that the duration of regular benefits for women was lower under the hours-based system than under the previous weeks-based system and placed women in a position where they were more likely to exhaust their benefits.[122] In one example before the Committee, a grocery store worker with steady work of 25 hours per week over 52 weeks would have been eligible for up to 40 weeks under the previous weeks-based system, but only 26 weeks under the hours-based system.[123]

The eligibility and duration rules are therefore connected, but they raise distinct problems. Lowering the entrance requirement and moving towards a hybrid eligibility model would help more women qualify for EI regular benefits but would not, on its own, ensure that those women then receive enough weeks of support once they qualify. For that reason, EI reform must address not only who gets through the door, but how long the system supports them once they are inside. The temporary measures enacted during the COVID-19 pandemic provide a precedent for the implementation of a minimum benefit period.

[122] House of Commons, Standing Committee on the Status of Women "Towards Improving Access to EI Benefits for Women in Canada," 40th Parl, 2nd Sess, No 6 (June 2009) at p. 36-37.
[123] *Ibid* at p. 38.

During the pandemic, the government created two temporary measures impacting benefit duration. The first, for claims established between September 2020 and September 2021, provided a minimum entitlement of 26 weeks of regular benefits.[124] The second, for claims established between September 2021 and September 2022, set a minimum entitlement of 14 weeks.[125] Women were more likely to use these additional weeks of benefits than men.[126]

A meaningful minimum entitlement period of 26 weeks would therefore help ensure that all women who qualify for EI regular benefits receive a basic runway of support. Given the economic uncertainty caused by artificial intelligence, global tariffs, and climate change, a generous minimum benefit period is necessary to ensure that EI remains responsive to ongoing economic crises and enables workers to successfully reintegrate into the labour market. This would not eliminate the need to reform EI's eligibility rules, but it would reduce the extent to which women are penalized a third time for having fewer insurable hours.

Recommendation 19



Amend subsection 12(2) of the *Employment Insurance Act* and Schedule I to establish a minimum entitlement period of at least 26 weeks for all claimants who qualify for EI regular benefits.

[124] Employment Insurance Policy Directorate, Employment and Social Development Canada, "Impacts of temporary EI measures during the pandemic: update and new findings." (January 2024), at p. 9.
[125] *Ibid* at p. 11.
[126] *Ibid* at p. 20.

Part 2:

EI Special Benefits – Maternity and Parental Leave



Women, people who become pregnant, and primary caregivers across Canada deserve a maternity/parental benefit system that is robust and accessible. Better than nothing is a meagre bar against which to measure it.

ELIGIBILITY



THE HOURS-BASED ELIGIBILITY REQUIREMENT PENALIZES WOMEN

EI maternity and parental benefits are intended to provide income support to workers who are away from paid work because of pregnancy, childbirth, or caring for a newborn or newly adopted child.[127] Here, if nowhere else in the EI system, one would expect to see a regime that is responsive to the ways that women work. Since women establish a larger share of parental leave claims than men,[128] it may be tempting to think that this is because the eligibility criteria for maternity/parental benefits are more relaxed and gender-inclusive. Unfortunately, the higher proportion of women receiving these benefits is simply because more women than men apply for them, suggesting that women continue to perform most of the caregiving in a child's early life.

Eligibility for EI maternity and parental benefits is predicated on the same hours-based model that excludes women from EI regular benefits. To qualify for EI maternity or parental benefits, a claimant must generally show that their weekly earnings have decreased by more than 40% and that they accumulated 600 hours of insurable employment during the 52-week qualifying period.

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[127] *Employment Insurance Act*, SC, 1996, c 23 at s. 22 and 23; Government of Canada, "EI maternity and parental benefits: What these benefits offer," (2 June 2026).
[128] Canada Employment Insurance Commission, *Employment Insurance Monitoring and Assessment Report 2024-2025*, (31 March 2025), at p. 149.

The one notable difference between EI regular benefits and maternity/parental benefits is that the regional rate of unemployment is not factored in at the eligibility stage and a flat 600-hour threshold is used instead. This actually creates a perverse result where individuals in regions with high unemployment must accumulate more insurable hours to be eligible for maternity/parental benefits than for regular EI benefits.[129] That 600-hour threshold puts maternity and parental benefits out of reach for many families and lowering the entrance requirements for maternity and parental benefits would greatly benefit women living in Northern Ontario, Northern Saskatchewan, Northern British Columbia and most of the Territories.[130]



During the pandemic, the eligibility threshold for both regular EI and special benefits was decreased to 420 hours. Without that measure, 23,420 maternity/parental benefits claims established during that period would have been ineligible.[131] Following the pandemic, the threshold requirement reverted back to 600 hours, which meant returning to a system that routinely leaves thousands of new parents struggling to replace their income upon the arrival of their child.

The eligibility requirements are particularly detrimental to women with closely spaced pregnancies. Claimants do not accrue insurable hours while in receipt of EI regular or special benefits, which means the only way to qualify again is to either return to work and accrue 600 hours or use the hours accumulated before the first maternity/parental benefit claim. Unfortunately, the qualifying period is only a year and the *Employment Insurance Act* does not consider receipt of maternity or parental benefits to be a reason to extend it.[132] Since the qualifying period can't be extended beyond the start of the claimant's previous benefit period,[133] women cannot rely on the hours used for their first claim to establish their second one, leaving them with no choice but to return to work and race against time to re-accrue the additional 600 hours.[134]

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[129] Evaluation Directorate, Strategic and Service Policy Branch, "Evaluation of the Employment Insurance Maternity and Parental Benefits," (18 November 2022), at p. 14.
[130] *Ibid* at p. 14.
[131] Employment Insurance Policy Directorate, Employment and Social Development Canada, "Impacts of temporary EI measures during the pandemic: update and new findings." (January 2024), at p. 39.
[132] *Employment Insurance Act*, SC, 1996, c 23 at s. 8(2) and s. 8(5).
[133] *Ibid* at s. 8(1)(b).
[134] Several women have brought legal claims arguing that the *EIA* discriminates against women with closely spaced pregnancies but, as of the drafting of this report, none have been successful. See *J. D. v. Canada Employment Insurance Commission*, 2019 SST 1056 and *KR v. Canada Employment Insurance Commission*, 2025 SST 1240.

Quebec provides an example of what a more realistic and accessible eligibility criterion could look like. Individuals residing in Quebec fall under a different regime for maternity and parental benefits called the Quebec Parental Insurance Plan (QPIP) rather than EI. Under the QPIP, a claimant must earn at least $2,000 in insurable earnings during the qualifying period (generally one year), regardless of the number of hours worked.[135] This design choice has a significant impact on eligibility rates: the eligibility rate for women accessing QPIP is significantly higher than the rate for women accessing EI.[136] This is particularly true for women with low income and those working part-time.[137] ESDC expressly attributes the higher Quebec share to the province's lower earnings-based eligibility requirement.[138] In cases of closely spaced pregnancies, QPIP allows for the qualifying period to be extended and even allows claimants to request permission to re-use the qualifying period from their first pregnancy where they were unable to have insurable earnings because they were receiving benefits in relation to the previous child.[139]

Women, people who become pregnant, and primary caregivers across Canada deserve a maternity/parental benefit system that is robust and accessible. Better than nothing is a meagre bar against which to measure it. Instead, the federal government can, and should, use the QPIP as a model to decrease barriers to access to EI by removing the 600-hour requirement, instituting an earnings-based threshold of $2,000, and allowing the qualifying period to be extended. This will ensure that maternity/parental benefits are accessible to everyone rather than just individuals who are fortunate enough to reside in Quebec.



[135] Government of Quebec, "Quebec Parental Insurance Plan Eligibility Conditions for a Pregnancy or Birth."
[136] Evaluation Directorate, Strategic and Service Policy Branch, "Evaluation of the Employment Insurance Maternity and Parental Benefits," (18 November 2022), at p. 13.
[137] *Ibid* at p. 13.
[138] Canada Employment Insurance Commission, *Employment Insurance Monitoring and Assessment Report 2024-2025*, (31 March 2025), at p. 148.
[139] *Regulation Under the Act respecting parental insurance*, a-29.011, r.2, at s. 31.1.

Recommendation 20



Amend subsections 6(1), 22(1) and 23(1) of the *Employment Insurance Act* and subsection 93(1) of the *Employment Insurance Regulations* to replace the 600-hour eligibility requirement for maternity and parental benefits with an indexed earnings-based threshold. Claimants should be eligible for maternity and parental benefits where they have accumulated at least $2,000 in insurable earnings during the qualifying period.

Recommendation 21



Amend section 8 of the *Employment Insurance Act* to allow the qualifying period for maternity and parental benefits to be extended, up to a maximum of 104 weeks, for periods during which a claimant was receiving maternity or parental benefits in relation to a previous child. Where a claimant is still unable to accumulate sufficient insurable earnings because they were receiving benefits in relation to a previous child, permit them to rely on the qualifying period that established their entitlement to maternity or parental benefits for that previous child.

AMOUNT



EI MATERNITY AND PARENTAL BENEFITS KEEP WOMEN POOR

As with regular EI benefits, individuals receiving maternity and parental benefits do not see 100% of their pre-claim income replaced. The same calculation is used to determine the weekly amount of maternity and parental benefits as is used for regular EI; the weekly earnings from the claimant's best weeks (dependent on the regional unemployment rate) are added together, divided by that same number of weeks, and then multiplied by 55% for maternity and standard parental benefits and 33% for extended benefits.[140] The maximum weekly benefit rate is $729 for maternity and standard parental benefits, and $437 for extended parental benefits.[141]

These low benefit rates again reproduce the gender pay gap and provide only nominal support for the most economically vulnerable parents. This is evidenced by the fact that men receive a higher weekly parental benefit rate for both standard and extended parental benefits,[142] and are much more likely to receive the maximum weekly benefit amount for both types.[143] As with regular EI, there is no minimum amount, which means there is nothing to ensure that the weekly amount received is adequate.

[140] *Employment Insurance Act*, SC, 1996, c 23 at s. 14; Government of Canada, "EI maternity and parental benefits: How much you could receive."
[141] Government of Canada, "Employment Insurance - Important notice about maximum insurable earnings for 2026."
[142] Canada Employment Insurance Commission, *Employment Insurance Monitoring and Assessment Report 2024-2025*, (31 March 2025), at p. 150 and 151.
[143] *Ibid* at p. 150-151.

Employer top-ups do not solve this problem. While some workers receive supplemental benefits from their employers, ESDC reported that only half of parents outside Quebec with a child aged 18 months or younger received employer top-ups to their EI maternity or parental benefits in 2024, leaving the rest to rely on statutory EI benefits alone.[144] The workers least likely to have access to generous employer top-ups are often the very workers most harmed by the low statutory replacement rate: low-wage, precarious, part-time, non-unionized and temporary workers.

The Quebec model provides an example of an alternative way of calculating the weekly benefit amount. QPIP generally calculates the weekly benefit amount as an average of insurable earnings from the last 26 weeks of the individual's qualifying period.[145] However, where an individual was unable to work, or where their income decreased during the qualifying period, they are able to apply for an extension or a new qualifying period provided their situation falls into a list of scenarios. One of the scenarios that can result in extending the qualifying period is where they have received benefits under the QPIP, which means that women who take back-to-back maternity/parental leaves are not financially penalized for having too few insurable hours.[146]

The amount that the person will receive is also dependent on whether they select the long-term or short-term plan. However, regardless of which type of plan claimants in Quebec select, the percentage of income replaced is higher than that offered by EI.



For example, QPIP maternity benefits are offered at an income replacement rate of 70% (for 18 weeks) or 75% (for 15 weeks).[147] This is in stark contrast to EI maternity benefits where the rate is 55% for a maximum of 15 weeks.

[144] *Ibid* at p. 148.
[145] Government of Quebec, "How is the benefit amount determined for a pregnancy or birth."
[146] *Ibid*, "Inability to work or decrease in insurable earnings."
[147] Government of Quebec, "Choice of Plan and Types of Benefits for a Pregnancy or a Birth."

QPIP also provides a minimum benefit amount. If an individual's average weekly earnings are lower than the minimum wage in Quebec during the qualifying period, the recipient is granted an automatic increase in benefits without the need for an additional application.[148] This can also be contrasted against EI which offers no such safety net for low-income parents. Although EI has the Family Supplement, which can be applied to both regular and special benefits, recall that the amount of the Family Supplement is too low to be meaningful and its income threshold is not indexed to inflation. Improving the Family Supplement would help some low-income parents, but it would not address the underlying inadequacy of a maternity and parental leave system that offers most claimants only 55% of their earnings.

The recommendations for improving the adequacy of EI maternity and parental benefits are therefore similar to the recommendations for improving the adequacy of EI regular benefits. The weekly benefit amount should be decoupled from the regional unemployment rate; the basic replacement rate should be increased; claimants with lower levels of insurable earnings should receive progressively higher replacement rates; and the *Act* should establish a meaningful minimum weekly benefit. Together, these reforms would help ensure that new parents are not pushed into poverty while receiving maternity or parental benefits.

Recommendation 22

Amend subsection 14(1) and section 23 of the *Employment Insurance Act* to establish a progressive benefit formula for standard and extended maternity and parental benefits that provides a baseline replacement rate of 75% and progressively higher replacement rates for claimants with lower levels of insurable earnings. Benefits should remain subject to the minimum and maximum weekly benefit rates.

[148] *Regulation Under the Act respecting parental insurance*, a-29.011, r.2, at s. 44.

Recommendation 23

Amend subsections 14(2) and 14(4) of the *Employment Insurance Act* to replace the variable best-weeks divisor with a uniform best-14-weeks calculation. Weekly maternity and parental benefits should be calculated using the claimant's highest 14 weeks of insurable earnings during the qualifying period, regardless of the regional unemployment rate.

Recommendation 24

Amend section 14 of the *Employment Insurance Act* to establish a minimum weekly benefit rate of at least $500 per week for maternity benefits and both standard and extended parental benefits, indexed annually.[149]

[149] The $500 minimum should be understood as the value of the minimum weekly benefit introduced in September 2020, adjusted using the same annual indexation mechanism that applies to the Maximum Yearly Insurable Earnings under the *Employment Insurance Act*. The minimum benefit should continue to be adjusted annually using that mechanism.

DURATION



FATHERS AND SECOND PARENTS OUTSIDE OF QUEBEC ARE DISINCENTIVIZED FROM TAKING PARENTAL LEAVE

The EI parental benefit regime creates a financial incentive for the lower-earning parent to take most of the parental leave. Since women continue to earn less than men on average, families often experience a smaller income loss when the mother takes the leave and the father or higher-earning parent remains in paid work. This is not simply a private family choice; it is a policy outcome produced by a benefit formula that replaces only 55% of earnings (33% under the extended option), imposes a relatively low maximum weekly benefit, and provides only limited dedicated leave for parents who did not give birth.

Unlike regular EI benefits, the number of weeks of parental benefits available does not vary based on a claimant's insurable hours or the regional unemployment rate once they qualify. The *Employment Insurance Act* instead establishes a fixed number of maternity and parental benefit weeks. A claimant who gives birth can receive up to 15 weeks of maternity benefits.[150] For parental benefits, the number of weeks available depends on whether the claimant chooses to take the standard or extended option. An individual claimant may receive a maximum of 35 weeks under the standard option or a maximum of 61 weeks under the extended option.[151]

[150] *Employment Insurance Act*, SC, 1996, c 23 at s.12(3)(a).
[151] *Ibid* at s. 12(3)(b).

The federal Parental Sharing Benefit has slightly improved parental benefit uptake by men. Since March 2019, individuals who share parental benefits can access an additional five weeks under the standard option or eight weeks under the extended option. The Parental Sharing Benefit does not specify how many weeks each parent must take in order to unlock the additional weeks. Effectively, this means that, under the standard option, one parent could take 35 weeks, while the other takes only five.[152] ESDC's data suggests that this is exactly what is happening. The Parental Sharing Benefit has resulted in men establishing 32% of new EI parental claims in 2024-25, almost double their share in 2017-18.[153] Despite this increase, men continue to take significantly fewer weeks than women.[154] Even when weeks of benefits are shared, women receive on average 31.5 weeks, compared to just 8.3 weeks for men.[155]

Families are therefore formally able to divide leave, but the design of the benefit still encourages the lower-earning parent to take the longer absence from paid work, which reinforces women's disproportionate caregiving responsibilities, lengthens women's interruptions from the labour market, and limits the ability of fathers and second parents to participate meaningfully in early caregiving. These early decisions then constrain women's labour prospects, economic prosperity, and the division of labour for decades.[156]

Quebec again illustrates how a different design choice can produce wildly different outcomes. QPIP is divided into exclusive and shareable benefits. Some benefits are either exclusive to the person who gave birth (maternity benefits) or exclusive to the person who did not give birth. These benefits are not transferable and, in order for the parent who did not give birth to access them, they must ensure a regular presence with the child to care for them.[157]

[152] No individual claimant can take more than 35 weeks of standard or 61 weeks of extended parental benefits. Therefore, in order to utilize the additional unlocked weeks, the second parent must at least take five under the standard plan or eight under the extended. See Government of Canada, "Backgrounder: Parental Sharing Benefit", (18 February 2019).
[153] Canada Employment Insurance Commission, *Employment Insurance Monitoring and Assessment Report 2024-2025*, (31 March 2025), at p. 149.
[154] *Ibid* at p. 150.
[155] *Ibid* at p. 151.
[156] Marie Connolly, Marie Mélanie Fontaine, and Catherine Haeck, "Child Penalties in Canada," *Canadian Public Policy*, Vol 49, No 4, (21 November 2023).
[157] *Act respecting parental insurance*, A-29.011, at s. 14.

In addition to the exclusive benefits, QPIP has shareable parental benefits that can be divided between the parents. Once each parent has taken a minimum number of shareable weeks (eight under the basic plan or six under the special plan), they unlock additional shareable weeks (four under the basic plan or three under the special plan).[158]



This policy has resulted in more fathers and partners of the person giving birth taking parental leave. In 2024, 85.5% of spouses or partners of the person giving birth in Quebec received parental benefits or intended to receive them, compared with 42.1% outside Quebec.[159]

Quebec's lower eligibility threshold and higher income replacement rate intersect to reduce the financial penalty associated with the higher-earning parent taking leave, and its exclusive entitlement rules create a powerful incentive for the parent who has not given birth to take their entitled weeks or else risk losing them. While QPIP is stronger than the current EI system, it is more modest than parental benefit regimes in countries like Iceland, where each parent has an individual entitlement of six months and only six weeks are transferable to the other parent. Icelandic research suggests that this kind of individual, non-transferable leave has helped normalize fathers' active involvement in early caregiving.[160]

Reducing women's disproportionate responsibility for early childcare therefore requires a meaningful individual entitlement to parental benefits for parents who did not give birth and a minimum sharing threshold before additional weeks are unlocked under the Parental Sharing Benefit. Exclusive, non-transferable weeks ensure that each parent has a meaningful opportunity to participate in early caregiving, while a minimum sharing threshold reinforces the fact that caregiving is a shared responsibility rather than simply rewarding minimal participation by another parent. However, a use-it-or-lose-it model must not reduce the total support available to families where there is no other parent realistically available to exercise that entitlement. In those circumstances, an equivalent additional entitlement should be available to the parent caring for the child.

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[158] Ibid at s. 10.3.

[159] Canada Employment Insurance Commission, *Employment Insurance Monitoring and Assessment Report 2024-2025*, (31 March 2025), at p. 148.

[160] Ingólfur V Gíslason, "Fathers on Leave Alone in Iceland: Normal Paternal Behaviour?" in Margaret O'Brien & Karin Wall, eds, Comparative Perspectives on Work-Life Balance and Gender Equality: Fathers on Leave Alone, Life Course Research and Social Policies, vol 6 (Cham: Springer, 2017) 147 at 155.

Recommendation 25

Amend subsections 12(3), 12(4) and section 23 of the *Employment Insurance Act* to create an individual, non-transferable entitlement to 12 weeks of parental benefits under the standard option or 20 weeks under the extended option for the parent (or parents) who did not give birth. Where there is no parent available to exercise that entitlement, equivalent additional weeks should be available to the parent caring for the child. Amend sections 10 and 12 accordingly to adjust the individual and family maximums, benefit periods, and parental benefit payment windows to accommodate these additional entitlements.

Recommendation 26

Amend paragraph 12(4)(b) and subsection 23(4) of the *Employment Insurance Act* to strengthen the Parental Sharing Benefit by requiring each eligible parent to take at least eight weeks of shareable parental benefits under the standard option, or 14 weeks under the extended option, before the additional five or eight weeks become available. Where there is only one parent available to care for the child, that parent should remain entitled to the equivalent additional weeks.

INFLEXIBLE PARENTAL BENEFITS MAY WEAKEN WOMEN'S LABOUR-MARKET ATTACHMENT

While parental benefits are intended to provide parents with greater flexibility to stay home with their children, their inflexible design may entrench income inequality and push women out of the workforce altogether. These concerns apply to parental benefits generally, but they are especially acute under the extended parental benefit option, which stretches benefits over a longer period at a much lower weekly rate.

Standard parental benefits provide up to 40 weeks of benefits at a rate of 55% of the claimant's insurable earnings. In contrast, extended parental benefits provide up to 69 weeks of benefits at a rate of 33% of the claimant's insurable earnings. At the start of their claim, parents must select whether they want the standard or extended benefits. Both parents must select the same option and are unable to change that selection once a week of benefits has been paid out.[161]



Families often make return-to-work decisions by comparing the lower-earning parent's expected income with the cost of childcare and other work-related expenses. Because women continue to earn less than men on average, this calculation can reinforce the idea that it is more economically rational for the mother to remain home providing unpaid care.

When parental benefits are low, difficult to combine with paid work, and administratively rigid, the benefit can push women further from the labour market rather than supporting their return to it. ESDC found that the longer that someone is in receipt of parental benefits, the lower their likelihood of having higher future employment income,[162] and that women in particular were more likely to leave the labour force than men following an EI claim.[163]

[161] Canada Employment Insurance Commission, *Employment Insurance Monitoring and Assessment Report 2024-2025*, (31 March 2025), at p. 147.

[162] Evaluation Directorate, Strategic and Service Policy Branch, "Evaluation of the Employment Insurance Maternity and Parental Benefits," (18 November 2022), at p. 28.

[163] EI Policy Directorate, Skills and Employment Branch, "Comparison of pre-claim and post-claim income levels - EI Regular and Special Benefits," (February 2021) at p. 20.

Looking to the QPIP, it is clear that other options are available. Both EI and QPIP allow parents to earn a limited amount of income while on leave. QPIP does not begin to deduct parental benefits unless the combined total of the individual's employment earnings and benefit exceeds the average weekly earnings used to establish their claim.[164] This is not the case for EI claimants where the benefit amount is reduced by 50 cents for every dollar earned from work while on claim. Once their earnings reach 90% of the average weekly earnings used to calculate their EI claim, every additional dollar earned reduces their EI benefits dollar-for-dollar.[165] This is significant as women who want to maintain or re-establish their labour-market attachment by working during their leave find themselves penalized under the EI system by seeing their benefits immediately reduced.

In addition to being more generous with the amount of income that individuals can retain while receiving parental benefits, QPIP also allows claimants to easily change their benefit weeks to avoid the benefit amount being reduced at all by employment income, provided that the claimant takes their benefit weeks within the maximum period for that type.[166] Under the EI system, individuals are also permitted to take non-consecutive weeks of parental benefits; however, they are required to submit an application each time, which is more onerous than under QPIP.[167]

Parental benefits should provide women with the flexibility to maintain their attachment to the labour market and retain more of their earnings while on claim. Without these reforms, the extended benefit option risks reinforcing the very inequalities that maternity and parental benefits should help mitigate: income inequality between families, and gender inequality within families.

[164] *Regulation Under the Act respecting parental insurance*, a-29.011, r.2, at s. 41.

[165] *Employment Insurance Act*, SC, 1996, c 23 at s. 19(2).

[166] For example, someone receiving thirty-two weeks of shareable benefits under the basic plan is able to start and stop those weeks provided that all weeks of benefits end no later than 18 months after the child's arrival.

[167] Government of Canada, "EI maternity and parental benefits: special circumstances."

Recommendation 27



Amend subsection 19(2) of the *Employment Insurance Act* to create a specific earnings exemption for maternity and parental benefit claimants. Claimants should be permitted to retain up to 25% of the average weekly insurable earnings used to establish their claim without any reduction in benefits. Earnings above that amount should be subject to the applicable Working While on Claim deduction rate.

Recommendation 28



Create a simple mechanism for parental benefit claimants to suspend, resume, and schedule non-consecutive parental benefit weeks within the applicable benefit window without having to submit a new application or reactivate their existing one each time.

CONCLUSION



Can a system like the employment insurance regime be both complex and transparent? Can administrative necessity coexist with gender equality? Can it be better than it is by moving back towards what it once was? This report shows that the answer to the above is yes.

As we've seen, the EI program discriminates against women in obvious and subtle ways. Women are less likely to qualify for both EI Regular and Special Benefits because the system measures labour-market attachment through hours of paid work. They receive lower amounts and fewer weeks of benefits because EI reproduces the gender wage gap and ties duration to accumulated hours. They are penalized when harassment, disability, exposure to violence, discrimination, pregnancy, childbirth, or caregiving shapes their relationship to paid employment. Most starkly, the cap on combining benefits limits their ability to access EI when their job loss coincides with parental leave.

These are not isolated defects. They are the direct result of a system designed around an imagined male breadwinner who works full-time, and is continuously employed, able-bodied, highly paid, and unencumbered by unpaid caregiving. The solution is not to ask women to fit themselves into the existing EI system. The solution is to intentionally reform EI so that it reflects the realities of women's work. The gendered barriers to EI have been documented for decades. What has been missing is action.

The recommendations in this report are concrete: expand eligibility for both EI Regular and Special Benefits, ensure that the amount of those benefits is adequate and does not push women deeper into poverty, create an EI minimum floor below which no one can fall, and ensure that the duration of benefits is long enough to get women to their next job. A more equitable EI system is not only possible, it has already been created. QPIP and the temporary pandemic measures offer us a glimpse of what a better system could look like. Women deserve more than just a glimpse.

Gender discrimination in the EI system is not inevitable. It is built through policy choices, and it can be eradicated via policy choices. The time for study without reform has passed. It is time to open the black box, confront the discrimination within it, and rebuild EI so that it provides meaningful income security for all workers.

RECOMMENDATIONS

Return to the tripartite system

Recommendation 1: That Employment and Social Development Canada collaborate with the Department of Finance to assess the costs and benefits of returning to a tripartite (employer, employee and government) financing arrangement for the Employment Insurance program.

Make it easier for women to qualify and remain eligible for EI Regular Benefits

Recommendation 2: Amend paragraph 7(2)(b) of the *Employment Insurance Act* to replace the variable regional hours requirement with a uniform national entrance requirement for EI regular benefits based on the lesser of 360 hours of insurable employment or 12 weeks of insurable employment during the qualifying period. A week would be considered insurable if it involves at least 15 hours or weekly earnings equal to at least 20% of the maximum weekly insurable earnings.

Recommendation 3: Amend section 29 of the *Employment Insurance Act* to create a rebuttable presumption of just cause where intimate partner violence, sexual harassment, harassment, discrimination, caregiving responsibilities, or a failure to accommodate materially contributed to a claimant's decision to leave their employment.

Recommendation 4: Amend subsections 30(1), 30(5), 30(6), and 30(7) of the *Employment Insurance Act* to ensure that claimants who voluntarily leave their employment without just cause are able to use those hours to qualify for benefits, determine the maximum number of weeks of benefits, and set the weekly benefit rate, provided that the last job separation in the qualifying period was valid. At minimum, paragraph 30(5)(a) should be amended to remove the phrase “or any other employment before the employment was lost or left” to ensure that hours accumulated in unrelated employment prior to an invalid job separation remain available to establish eligibility, benefit duration, and the weekly benefit rate.

Recommendation 5: Amend the Digest of Benefit Entitlement Principles to expressly state that claimants who voluntarily leave their employment due to intimate partner violence are not required to provide a police report or protection order to establish just cause, and that the absence of formal reporting or corroborating documentation must not, on its own, give rise to an adverse inference.

Recommendation 6: Amend paragraph 18(1)(a) of the *Employment Insurance Act* to create a rebuttable presumption that claimants with caregiving responsibilities, claimants with disabilities, and/or claimants experiencing intimate partner violence, are capable of and available for suitable employment compatible with their family obligations, disability-related needs, and safety needs.

Recommendation 7: Revise the Digest of Benefit Entitlement Principles to ensure that caregiving responsibilities, disability-related needs, and/or work limitations related to intimate partner violence are not treated as voluntary restrictions on availability.

Recommendation 8: Amend section 9.002(1) of the *Employment Insurance Regulations* to require that the determination of what constitutes suitable employment include a contextual assessment of the claimant's established work patterns, work capacity, and individual circumstances.

Recommendation 9: Revise Chapter 10 of the Digest of Benefit Entitlement Principles to state: 1) there is no presumption in favour of full-time employment, 2) pre-claim work patterns must be assessed before a determination on availability to work is made, and 3) assessments regarding availability to work must be in keeping with s. 9.002(1) of the Regulations and the contextual approach to suitable employment recognized in the jurisprudence.

Protect women when job losses coincide with maternity and parental leave

Recommendation 10: Amend sections 12 and 23 of the *Employment Insurance Act* to eliminate the 50-week cap on combining EI regular benefits and special benefits.

Recommendation 11: Amend sections 10 and 23 of the *Employment Insurance Act* to ensure that the benefit period may be extended where necessary to allow claimants to receive the full regular, maternity, and parental benefits for which they qualify, whether unemployment occurs before, during, or after maternity or parental leave.

Prevent women from sliding into poverty while on EI

Recommendation 12: Amend subsections 14(2) and 14(4) of the *Employment Insurance Act* to replace the variable best-weeks rule with a uniform best-14-weeks calculation. Weekly EI benefits should be calculated using the claimant's highest 14 weeks of insurable earnings during the qualifying period, regardless of the regional unemployment rate.

Recommendation 13: Amend section 14 of the *Employment Insurance Act* to establish a progressive benefit formula that provides a baseline replacement rate of 75% and progressively higher replacement rates for claimants with lower levels of insurable earnings subject to a minimum and maximum weekly benefit rate.

Recommendation 14: Amend section 14 of the *Employment Insurance Act* to establish a minimum weekly benefit rate of at least $500 per week for EI Regular Benefits, indexed annually.

Recommendation 15: Amend subsections 34(4) and 34(5) of the *Employment Insurance Regulations* to make the Family Supplement an individual entitlement. Eligibility for the Family Supplement and the amount payable should be determined based on the claimant's individual income rather than family income, and each eligible claimant should be entitled to receive the Family Supplement regardless of whether their cohabitating spouse or common-law partner is also receiving EI benefits or the Family Supplement.

Recommendation 16: If the government adopts a general progressive benefit formula, amend section 16 of the *Employment Insurance Act* and section 34 of the *Employment Insurance Regulations* so that the Family Supplement operates as an additional benefit for low-income claimants with dependent children, payable in addition to the claimant's weekly benefit calculated under the progressive replacement formula.

Recommendation 17: Regardless of whether the government adopts a general progressive benefit formula, amend the table at subsection 34(5) of the *Employment Insurance Regulations* to increase the Family Supplement income threshold and weekly amounts to the values they would have reached had they been indexed annually since their introduction, and index them annually thereafter.

Recommendation 18: Repeal subsection 16(4) of the *Employment Insurance Act* and subsection 34(6) of the *Employment Insurance Regulations* to remove the rule that limits the Family Supplement increase to 25% of the claimant's weekly insurable earnings.

Ensure that the duration of EI regular benefits is sufficient

Recommendation 19: Amend subsection 12(2) of the *Employment Insurance Act* and Schedule I to establish a minimum entitlement period of at least 26 weeks for all claimants who qualify for EI regular benefits.

Make it easier for women to qualify for maternity and parental benefits

Recommendation 20: Amend subsections 6(1), 22(1) and 23(1) of the *Employment Insurance Act* and subsection 93(1) of the *Employment Insurance Regulations* to replace the 600-hour eligibility requirement for maternity and parental benefits with an indexed earnings-based threshold. Claimants should be eligible for maternity and parental benefits where they have accumulated at least $2,000 in insurable earnings during the qualifying period.

Recommendation 21: Amend section 8 of the *Employment Insurance Act* to allow the qualifying period for maternity and parental benefits to be extended, up to a maximum of 104 weeks, for periods during which a claimant was receiving maternity or parental benefits in relation to a previous child. Where a claimant is still unable to accumulate sufficient insurable earnings because they were receiving benefits in relation to a previous child, permit them to rely on the qualifying period that established their entitlement to maternity or parental benefits for that previous child.

Protect new parents from poverty while on EI

Recommendation 22: Amend subsection 14(1) and section 23 of the *Employment Insurance Act* to establish a progressive benefit formula for standard and extended maternity and parental benefits that provides a baseline replacement rate of 75% and progressively higher replacement rates for claimants with lower levels of insurable earnings. Benefits should remain subject to the minimum and maximum weekly benefit rates.

Recommendation 23: Amend subsections 14(2) and 14(4) of the *Employment Insurance Act* to replace the variable best-weeks divisor with a uniform best-14-weeks calculation. Weekly maternity and parental benefits should be calculated using the claimant's highest 14 weeks of insurable earnings during the qualifying period, regardless of the regional unemployment rate.

Recommendation 24: Amend section 14 of the *Employment Insurance Act* to establish a minimum weekly benefit rate of at least $500 per week for maternity benefits and both standard and extended parental benefits, indexed annually.

Encourage parents who did not give birth to engage in early caregiving

Recommendation 25: Amend subsections 12(3), 12(4) and section 23 of the *Employment Insurance Act* to create an individual, non-transferable entitlement to 12 weeks of parental benefits under the standard option or 20 weeks under the extended option for the parent (or parents) who did not give birth. Where there is no parent available to exercise that entitlement, equivalent additional weeks should be available to the parent caring for the child. Amend sections 10 and 12 accordingly to adjust the individual and family maximums, benefit periods, and parental benefit payment windows to accommodate these additional entitlements.

Recommendation 26: Amend paragraph 12(4)(b) and subsection 23(4) of the *Employment Insurance Act* to strengthen the Parental Sharing Benefit by requiring each eligible parent to take at least eight weeks of shareable parental benefits under the standard option, or 14 weeks under the extended option, before the additional five or eight weeks become available. Where there is only one parent available to care for the child, that parent should remain entitled to the equivalent additional weeks.

Ensure that parental benefits do not weaken labour-market attachment

Recommendation 27: Amend subsection 19(2) of the *Employment Insurance Act* to create a specific earnings exemption for maternity and parental benefit claimants. Claimants should be permitted to retain up to 25% of the average weekly insurable earnings used to establish their claim without any reduction in benefits. Earnings above that amount should be subject to the applicable Working While on Claim deduction rate.

Recommendation 28: Create a simple mechanism for parental benefit claimants to suspend, resume, and schedule non-consecutive parental benefit weeks within the applicable benefit window without having to submit a new application or reactivate their existing one each time.


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