

### LEGISLATED LEAVES OF ABSENCE

#### Benefits Continuation Guidelines

What happens to group benefits coverage when an employee is absent from work on a legislated leave of absence, such as pregnancy and parental leaves, family or personal medical and compassionate care leaves, or jury duty? The general rule of thumb is that employment is deemed “continuous” during such leaves, and benefit entitlements continue as they would normally when the employee was actively at work.

In Canada, seven (7) jurisdictions – federal, British Columbia, Saskatchewan, Manitoba, Ontario, Quebec and Nova Scotia – have specific employment legislation that requires the employer to maintain benefit coverage, including disability coverage, during a legislated leave of absence, unless the employee elects to “opt out” of coverage that requires employee paid premiums during the leave. However the employer must continue all benefits that are 100% employer paid. In addition, the employer is required to maintain their share of the premium for the continued benefits, except in Nova Scotia where the employer can require the employee to pay both the employee and employer share.

In other provincial and territorial jurisdictions, there is no employment legislation in place that requires continuation of benefits during a leave of absence.

#### When an Employee Opts Out

Employees can decide to “opt out” of benefits coverage during their leave of absence, however they must make that decision at the start of their leave. Once the employee makes the choice as to continue or opt out of coverage, the new benefits arrangements must be maintained for the duration of the leave.

Employers can take steps to ensure they will not be liable for any occurrence during the employee’s leave that is no longer covered, such as disability or death. They also need to be sure that the employee fully understands their choice if they select to discontinue benefits during their leave of absence.

#### THE JOHNSTONE'S ADVANTAGE

Our mission is simple:  
**Treat each client as if they were our only client.**

Our value is clear:  
**We are completely independent.** We work for you and offer total flexibility on insurers and plans.

We offer all your group insurance services including administration, brokerage, consulting, and communications.

We provide dedicated client support, customization and flexibility to meet all of your company’s benefits needs. And we make **solid group plans simple.**



## Disability Benefits Coverage

In jurisdictions where employers can choose to discontinue disability coverage, short and long term disability benefits need to be handled in the same way. These practices must also be consistent to how disability benefits are managed during other leaves.

If an employee becomes disabled during a legislated leave, time can accumulate to satisfy the waiting period. However, disability benefit payments will not begin until the planned return to work date and the waiting period has been fully satisfied. If the disability commences before a planned leave of absence (such as a pregnancy leave) starts, benefits are suspended during the leave and begin again once the leave is over.

## Good Processes

Employers are encouraged to consider their administrative processes, such as:

- How will you collect premiums from the absent employees if premiums are shared?
- What happens if the absent employee does not pay their share of premiums – will you terminate coverage? How will you notify the employee?
- What if an employee does NOT want to continue benefits during their leave of absence – perhaps due to the cost of premiums?

## Good Communication

Once you've developed your company policies and administrative processes to manage leaves of absences, clearly communicate the information to employees – it's important they understand what to expect and what to consider in choosing to continue or opt out of coverage.

## Waiver Form

We suggest that employers have employees sign a waiver of coverage form confirming they understand the implications of discontinuing benefits. We can help design this form!

Some specific points that should be included on the form that the employee is signing agreement to, when opting out of benefits:

- There is NO benefits coverage – so, for example, a death, or an illness or injury during the leave that prevents the employee from returning to work, will not be covered. In addition, benefits cannot be reinstated until an employee has returned to work.
- Once they return to work, the insurer may require the employee to re-serve a waiting period for benefits eligibility.
- Pre-existing conditions may re-commence and could limit coverage or delay the effective date of coverage.
- If the employee is opting out of benefits during their leave because their spouse's plan has coverage, this coverage is limited to health and dental benefits only – not life insurance or disability insurance.

## CONTACT US

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