



CUSTOMER SERVICE **June 19, 2020**

20-25

Update on temporary layoffs in Ontario

On May 29, 2020 the Ontario government enacted a new regulation under the *Employment Standards Act, 2000* (ESA), Ontario Regulation 228/20 - Infectious Disease Emergency Leave (the "Regulation"). Under the Regulation, a non-unionized employee whose job is regulated by the ESA and whose employer has temporarily reduced or eliminated their hours of work because of COVID-19 are job-protected due to the Infectious Disease Emergency Leave (I.D.E.L.) for the "COVID-19 Period".

The COVID-19 Period started on March 1, 2020 and will end six weeks after the declared emergency ends. The Regulation can be found here: [O. Reg. 228/20](#).

The Regulation affects how the termination, severance and constructive dismissal rules under the ESA apply during the COVID-19 period.

Termination and severance

Normally (under the ESA) if an employee is laid off for a period longer than a temporary layoff, the employer is considered to have terminated the employee's employment and they would generally be entitled to termination pay (and in certain cases, severance pay).

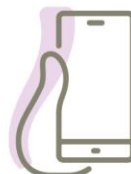
Under the new Regulation, an employee is not considered to be laid off if their employer temporarily reduces or eliminates their hours of work for COVID-related reasons. This means the layoff clock stops ticking towards becoming a termination of employment.

Constructive dismissal

Also, under the ESA, a constructive dismissal may occur when an employer makes a significant change to a fundamental term or condition of an employee's employment without the employee's consent. The employee would have to resign in response to the change within a reasonable period of time in order for the employer's actions to be considered a termination of employment for purposes of the ESA.

Under the new Regulation, an employee is not considered to be constructively dismissed under the ESA if their employer temporarily reduces or eliminates their hours of work or wages for COVID-related reasons.

The above information was taken from [here](#).



1. What are the impacts to Canada Life Group Plan benefit coverage?

Standard Canada Life contracts extend coverage on a premium-paying basis for employees who have been temporarily laid off or are on a leave of absence. The extension is currently 60 days for disability and 6 months for all other coverages. The contract also provides that if the employer is required by law to extend coverage, Canada Life will do that. This will occur when the employee is on a “protected leave” such as maternity leave, parental leave or infectious disease emergency leave (I.D.E.L).

Because the I.D.E.L. is a protected leave, *benefit* coverage must continue, on a premium-paying basis, until the end of the leave, provided the employee has not given notice that they do not intend to pay their part of the premiums.

2. Are employees temporarily laid off now considered to be on an I.D.E.L?

Yes, anyone on temporary lay-off because of COVID-19 will now be deemed on an I.D.E.L. If the employee is still within the extension period of 60 days (for disability) or 6 months (for all other coverages), the extension of coverage will be extended for the period of the leave.

3. Does the Regulation apply to employees who took a leave due to childcare issues or only for those employees who were laid off?

While there are other reasons an employee may take I.D.E.L., this Regulation [O. Reg. 228/20](#) applies only to those employees who have been temporarily laid off.

4. Some employees had stopped participating in certain benefit plans as of May 29, 2020: are we now required to reinstate the coverage and extend it to end of the leave?

No. The employee will remain uninsured until the end of the leave and may then be eligible for reinstatement under the reinstatement provision of the group contract.

For those employees who continued to participate, the obligations to maintain coverage and contributions will continue to apply while the employees remain on I.D.E.L.

5. What if the employer stopped making contributions to certain benefit plans as of May 29, 2020?

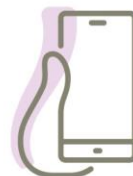
The employer is not required to make contributions to that benefit plan during the COVID-19 period and the employee will remain uninsured until the end of the leave when the employee may be eligible for reinstatement of coverage.

For those employers who continued to make their portion of the benefit plan contributions, the obligations to maintain those contributions continue to apply while the employees remain on I.D.E.L.

There are two key exceptions to the deemed I.D.E.L. provided for in the Regulation. Employees will remain subject to the ESA’s usual layoff rules:

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1. If an employee is or was laid off as part of a complete closure of a business at an employer's establishment, they will be treated as having been terminated and severed under the ESA's usual rules.
2. If, before May 29, 2020, the employee's employment had already been deemed terminated or severed under the ESA as a result of an earlier layoff.

It is important employers review the I.D.E.L. regulations with their legal advisors to determine how they may be affected by the Regulation.

If you have any questions, feel free to reach out to your advisor or Canada Life representative.

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