

Strengthening employment legislation in Ontario: Submission on personal emergency leave

Submission from the Association of Ontario Health Centres to the Changing
Workplaces Review

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Working Conditions: A Social Determinant of Health

The Association of Ontario Health Centres (AOHC) is the voice of community-governed primary health care in Ontario. AOHC's vision is the best possible health and wellbeing for everyone living in Ontario. We know that good, secure jobs with fair wages, extended benefits and healthy working conditions all contribute to health and wellbeing for people and communities. Strong and effective legislation is essential to govern workplaces and ensure good wages and working conditions with rules that protect everyone.

AOHC members include 108 Community Health Centres (CHCs), Aboriginal Health Access Centres (AHACs), Community Family Health Teams (CFHTs), and Nurse Practitioner-led Clinics (NPLCs) across the province. CHCs and AHACs have a mandate to serve people with barriers accessing health services, including low income people, Aboriginal People, people with disabilities, newcomers and refugees, people who are LGBT, Francophones and people in rural or remote communities.

About 54% of people served by CHCs are low income – many of these people are in precarious jobs where they work for low wages in part-time, temporary or contract positions without employment benefits or workplace protection. So health service providers in CHCs see firsthand the impact of precarious work on the physical health, mental health and overall wellbeing of the people we serve. But we can only go so far in addressing the determinants of health – we need upstream interventions with public policies that promote good jobs and healthy working conditions.

AOHC supports the intent of the Changing Workplaces Review to amend the Employment Standards Act and Labour Relations Act to better protect workers while supporting businesses in our changing economy. We provided input to the consultations in 2015 and have read the Interim Report prepared by the Special Advisors. This submission responds to the request for feedback before August 31st on the options identified in Chapter Five regarding personal emergency leave.

Personal Emergency Leave

The findings of the Interim Report are that only 74% of all Ontario employees are estimated to be covered by the current personal emergency leave provisions of the Employment Standards Act whereby they are entitled to 10 days of unpaid personal emergency leave per year for personal illness, or for the illness or death of a specified list of family members. Approximately 19% of workers (971,000 employees) have no legislated personal emergency leave because they work in small firms of 50 or fewer employees.

The report also found that Ontario is the only Canadian jurisdiction which has an employer size eligibility threshold (i.e. must work in a firm of 50 or more employees to be eligible).

This information indicates that a large number of Ontario employees do not have job-protected emergency and sick leave. They have no recourse but to go to work if they or a close family member is sick - they risk losing pay and their job if they stay home to recover or take care of a sick family member. The findings also show that Ontario is an outlier within Canadian jurisdictions through the failure of the personal emergency leave provisions of the Employment Standards Act to cover employees in small and medium sized businesses.

A review of the literature regarding sick leave policies in other countries indicates that most developed countries have job-protected short term sick leave. Of 22 developed countries, only 3 (Canada, US, Japan) have no national policy requiring employers to provide paid sick days for workers who need to miss 5 days of work due to illness. [note a] At the global level, 145 countries provide some form of paid sick leave. [note b]

Furthermore a review of the international literature indicates the benefits of providing job protected paid sick leave for all employees. For example, a study from the US found that where employers provide it, paid sick leave is associated with decreased hospital emergency department utilization. [note c]

Recommendations

The Association of Ontario Health Centres believes that all Ontarians deserve decent work with fair wages, sufficient hours, paid sick days, and rules that respect and protect everyone. We know that the conditions in which people work affect their mental and physical health as well as their overall sense of wellbeing.

Regarding the options presented in the Interim Report for personal emergency leave we recommend the following:

Ensure paid sick days for all employees

- Remove the 50 employee threshold for personal emergency leave/sick days.
- Furthermore, allow all employees to accrue a minimum of one hour of paid sick time for every 35 hours worked, pro-rated for part time workers, with no more than 52 hours of paid sick time per year (unless the employer selects a higher limit). For a full-time 35-hour per week employee, this works out to approximately 7 paid sick days per year.
- Repeal Section 50(7) and amend the ESA to prohibit employers from requiring evidence (e.g. medical notes) to entitle workers to personal emergency leave or paid sick days.

Notes:

- (a) Heymann J, Rho HJ, Schmitt J, Earle A. Ensuring a Healthy and Productive Workforce: Comparing the Generosity of Paid Sick Day and Sick Leave Policies in 22 Countries. *International Journal of Health Services*. 2010; 40(1):1-22.
- (b) Scheil-Adlung X SL. The case for paid sick leave. *World Health Report 2010*; Background Paper, 9.
- (c) Bhuyan SS, Wang Y, Bhatt J, Dismuke SE, Carlton EL, Gentry D, et al. Paid sick leave is associated with fewer ED visits among US private sector working adults. *The American journal of emergency medicine*. 2016; 34(5):784-9.