

EI Benefits of Employees Earning Commissions while on Maternity Leave



QUESTION:

I have a salesperson who's going on maternity leave who intends to do some follow-up with clients from home. What about her commission? Does paying out the commission impact her EI entitlements?

ANSWER:

Commissions do, in fact, affect EI maternity or parental benefits depending on the situation.

EXPLANATION:

There are 2 possible impacts:

Need to Report Hours Worked: First, you must report any time the salesperson actually spends on client follow-ups to Service Canada as hours worked. If these hours aren't reported, the salesperson could face serious consequences including penalties and jeopardy to future eligibility for EI. The EI Commission is also quite aggressive about cracking down on reporting failures. So there should be no doubt about the need to report any time worked while on EI.

Impact of Commissions Paid on EI Benefits: The impact of commissions actually paid to an employee receiving EI maternity benefits is a bit more complicated. The main factor is whether the commissions are payable because of a transaction, e.g., a customer signing a contract, or attributable to services performed over a longer period of time. These factors determine which EI weeks will be affected by any commissions paid. Regardless of how commissions are allocated to weeks, any benefits payable for those weeks will be reduced or eliminated. This may result in the salesperson's not being able to receive the full amount of maternity or parental benefits otherwise payable (unless those entitlements can be split with a spouse). Where such benefits are shared with a spouse, it still may be possible for the salesperson and spouse together to receive the maximum EI maternity and parental benefits.

It's also important to understand that delaying the actual payment of commissions until the salesperson returns from her maternity or parental leaves doesn't achieve anything. Commissions aren't allocated based on the actual date paid. Commissions

paid after an employee returns to work may still be allocated by the Commission back to weeks during these leaves based either on a transaction or services performed.

[Pregnancy leave rights by province.](#)

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