

Sick leave in the *Employment Standards Act*

Submission to the Department of Post-Secondary Education, Training
and Labour

About the New Brunswick Women's Council

The New Brunswick Women's Council is an independent advisory body for study and consultation on matters of importance, interest, and concern to women and their substantive equality. Its objectives are:

- a) to be an independent body that provides advice to the Minister on matters of importance to women and their substantive equality;
- b) to bring to the attention of government and the public issues of interest and concern to women and their substantive equality;
- c) to include and engage women of diverse identities, experiences and communities, women's groups and society in general;
- d) to be strategic and provide advice on emerging and future issues; and
- e) to represent New Brunswick women.

In delivering on these objectives, the Women's Council may conduct or commission research and publish reports, studies, and recommendations. The Women's Council is directed by an appointed volunteer membership that includes both organizations and individuals. The work is executed by a small staff team.

The council is pleased that government is consulting on amendments to the sick leave provision in the *Employment Standards Act*. These amendments would ensure that all workers covered by the Act are entitled to a minimum number of paid sick days and extend the amount of unpaid job-protected sick leave that is available for longer-term illness or injury.

The council recommends that the Act be amended to include 10 days of paid sick time and to increase unpaid sick leave for longer-term illness or injury from five days to 26 weeks to match the length of time covered by the federal Employment Insurance sickness benefit.

Access to paid sick days

According to a 2023 Statistics Canada study,¹ 64 per cent of Canadian workers (excluding students) self-report having paid sick time. This time, however, is not evenly distributed among these workers.

The higher a worker's wages are, the more likely they are to have paid sick time; the lower the wages, the less likely. Only 22.6 per cent of workers in the bottom hourly wage decile report having paid sick time versus 87 per cent in the top decile.

Full-time workers are more likely than part-time workers to have sick time, as are permanent workers compared to temporary workers. Workers with more job tenure have a higher rate of paid sick leave than those with less. Unionized workers are also more likely to have paid sick time than those who are non-unionized.

This means that it is workers who are already among the lowest paid and most precariously employed who are also most likely to lose income when they get sick.

Paid sick time is also not evenly distributed by industries. In some, only 23 per cent of workers report having paid sick time (accommodation and food services) while in others the rates are as high as 87 per cent (finance and insurance).

¹ Statistics Canada, [Employee paid sick leave coverage in Canada, 1995 to 2022](#) (*Economic and Social Reports* 3, 10, 2023).

Distribution of access to paid sick leave is fairly equal between men and women. Thanks to gains over recent decades, women now report slightly better access to paid sick leave than men with rates of 65.1 and 63.4 per cent respectively.²

This largely holds true across age and job type (exceptions are the 15-24 age range with students included, the 55 to 64 age range, non-unionized workers, and workers with tenure of one year or less in their jobs). Women do see bigger jumps in access to paid sick leave than men do when comparing part-time temporary jobs to full-time temporary jobs and when comparing workers with 5 to 10 years of tenure to those with 10 to 20 years.

Rates of access to paid leave among women also vary based on race. The largest variance is between white women and West Asian women (68.8 and 55.6 per cent, respectively). Further data disaggregated by both gender and race isn't included in the Statistics Canada study, so the Council does not have data on whether access to paid sick time is distributed differently among women by race based on age, job status, or industry.

Use of sick days

While women may have access to paid sick time at rates similar to men, the use of sick time (paid or unpaid) for caregiving reasons is gendered.

Women are more likely to lose days of work to care for sick children as they are still often³ the default caregiver.⁴ Women are also significantly more likely than men to be the heads of lone-parent households and thus be the only parental caregiver.

In a 2023 Canadian study⁵ among parents with children under 5 years of age, women were found to have lost more than twice as many days of work as men did⁶ due to family responsibilities such as caring for sick children. Women also made up 61 per cent of the applicants to the Canada Recovery Care Giving Benefit,⁷ a

² Until data collection consistently includes both sex and gender, the Council's approach is to treat disaggregated data from external sources on female persons as data that can be interpreted as also applying to women, given that most women are also female. This is an imperfect solution, but the Council hopes that by highlighting the challenge of sex and gender in data collection and providing a rationale for its own approach to navigating the issue, the Council is not contributing to the conflation of sex and gender or the erasure of gender minorities (people who are not cisgender).

³ Vasilena Stefanova, Lynn Farrell and Ioana Latu, "[Gender and the pandemic : Associations between caregiving, working from home, personal and career outcomes for women and men](#)" (*Current Psychology* 42, 2023).

⁴ Jessica McCrory Calarco, Emily Meanwell, Elizabeth M. Anderson, and Amelia S. Knopf, "[By Default, How Mothers in Different-Sex Dual-Earner Couples Account for Inequalities in Pandemic Parenting](#)" (*Socius : Sociological Research for a Dynamic World* 7, 2021).

⁵ Statistics Canada, [Census Profile, 2021 Census of Population](#) [data table] (2023).

⁶ Statistics Canada, [Work absence of full-time employees by sex and presence of children, annual](#) [data table] (2024).

⁷ Canada Revenue Agency, Government of Canada, [Detailed data about CRCB applications](#) (2022).

federal income support program for people who could not work because of child or family caregiving responsibilities. While this was a COVID benefit, it illustrates how caregiving disproportionately impacts women in terms of lost wages due to missed work.

Impact of unpaid sick days on workers

The incidence and severity of economic precarity among workers in New Brunswick is increasing due to the current cost of living crisis. For the lowest-earning workers in New Brunswick, losing just one day's wages can mean that they can't pay their rent or afford enough groceries.

In New Brunswick, rent has increased 28.7 per cent since October 2020—the largest increase of any province or territory in Canada.⁸ New Brunswick is tied with Alberta as the second most food-insecure province in the country⁹ and food bank usage in the province increased by 24.7 per cent from March 2022 to March 2023.¹⁰

Economic precarity also impacts women in specific or heightened ways. Across the country, lone-parent women are the group most likely to experience food insecurity; 48 per cent of these women are living below the poverty line.¹¹ Racialized women in New Brunswick are disproportionately employed in lower-paying jobs, making them particularly vulnerable to economic precarity.¹²

Economic precarity also plays a role in gender-based violence. As per a report from the Standing Committee on the Status of Women in the House of Commons: "...financial barriers are among the primary factors that prevent women from escaping situations of [intimate partner violence] and family violence..."¹³

⁸ Robert Jones, "[Rent in New Brunswick surges another 9 per cent in past year](#)" (Canadian Broadcasting Corporation, November 22, 2023).

⁹ Statistics Canada, [Food insecurity among Canadian families: Which families are the most vulnerable?](#) [infographic] (2023).

¹⁰ Jennifer Sweet, "[New report shows 'frightening picture' of food insecurity](#)" (Canadian Broadcasting Corporation, November 13, 2023).

¹¹ Statistics Canada, [Food insecurity among Canadian families: Which families are the most vulnerable?](#) [infographic] (2023).

¹² Statistics Canada, [Employment income statistics by Indigenous identity and highest level of education: Canada, provinces and territories, census divisions and census subdivisions](#) [data table] (2023).

Statistics Canada, [Employment income statistics by visible minority, highest level of education, immigrant status and income year: Canada, provinces and territories, census metropolitan areas and census agglomerations with parts](#) [data table] (2023).

¹³ Canada, Parliament, House of Commons, [FEWO committee report, Towards a violence-free Canada, addressing and eliminating intimate partner and family violence](#), 44th Parliament, 1st Session (June 2022).

Impact of unpaid sick days at the community and societal level

When workers have to choose between sick time and earning money to meet their basic needs, the impact isn't only at the level of the worker or their family.

When people go to work sick because they cannot afford to lose wages, they may place their coworkers, customers, service users, and the broader community at risk of illness. This is particularly important in sectors where workers are caring for vulnerable populations, such as: homecare, residential care, child care, etc.¹⁴ The importance of sick workers staying home to protect vulnerable people became undeniable to government leaders and the general public during the COVID-19 pandemic—as did the necessity of financially supporting them to do so.¹⁵

Paid sick leave may also help protect the health and safety of populations who require caregiving labour beyond limiting the spread of illness. There is currently a crisis of burnout and turnover in the caregiving workforce.¹⁶ Improving the conditions of work—including increasing access to paid sick time, increasing wages, addressing unsustainable work loads, etc.—may help address this issue and ensure that quality caregiving is available to those who need it. This, in turn, helps to support our healthcare system by diverting individuals from hospitals. It also reduces the number of people (disproportionately women) that are forced to drop out of the workforce to provide care to family members.

Extending unpaid sick leave

The Act currently includes multi-week unpaid job-protected leaves for: providing compassionate care to a person in a close family relationship who is critically ill and has a significant risk of dying (up to 28 weeks); providing care for a critically ill child under age 18 (up to 37 weeks) or a critically ill adult family member (up to 16 weeks); the death or disappearance of a child (up to 37 weeks); and domestic, intimate partner, or sexual violence (up to 16 weeks). It only, however, provides five days for employees who are themselves sick.

A multi-week sick leave should be available to workers, particularly given the availability of a federal Employment Insurance sickness benefit. For many workers, accessing this benefit is simply not a viable option unless they also have access to a leave that protects their job.

This may be particularly true for women given the challenges they are navigating as workers. Women face a variety of systemic issues in the workplace, including pay inequity and challenges to upward mobility.¹⁷

¹⁴ Workers in nursing and residential care facilities and child care facilities [report having paid sick time](#) at rates that are, respectively, near and below the median rate of industry-based access to paid sick leave.

¹⁵ Canada Revenue Agency, Government of Canada, [COVID-19 benefits from the CRA Canada Recovery Sickness Benefit \(CRSB\)](#) (2022).

¹⁶ Canadian Centre for Caregiving Excellence, [“Giving Care”](#) (2022).

¹⁷ Emily Field, Alexis Krivkovich, Sandra Kügele, Nicole Robinson, and Lareina Yee, [“Women in the Workplace 2023”](#) (McKinsey & Company report, 2023).

Many face a “motherhood penalty”¹⁸ in which their lifetime earnings drop due to time away from the workforce after birth or pursuing jobs with fewer hours or with more flexibility but lower pay in order to meet caregiving obligations. Because these conditions contribute to instability and precarity, women may be particularly hesitant to access a longer-term sick leave for themselves if it isn’t job-protected.

¹⁸ Statistics Canada, [Earnings of women with and without children](#) (*Perspectives*, 75-001-X, 2009).