



COVID-19 Employment FAQs

Provided by Harris & Co

APRIL 6, 2020 | P1

Q: Can employees who qualified for EI on or before March 15, 2020, terminate their EI to get the CERB and then reapply for EI once the CERB runs out?

A: No. March 15 is an important date for CERB eligibility. If an employee became eligible to receive EI prior to March 15, the employee's claim will be processed under the pre-existing EI rules. Employees should continue EI until the end of their benefit period. If those benefits end before October 3, 2020, and the employee meets the CERB eligibility requirements, they may then apply for the CERB.

Q: If an employee was laid off before March 15, do they have the option to wait and apply for the CERB, rather than apply for EI?

A: No. If an employee became eligible for EI regular or sickness benefits prior to March 15, their claim will be processed under the pre-existing EI rules, rather than CERB.

Q: If an employee received EI on the basis of self-isolation, rather than convert to regular EI benefits, can they apply for the CERB instead?

A: No. If an employee is already receiving EI, they will continue to receive EI to the end of their benefits period.

Q: Is an employee ineligible for CERB if they earn wages during the benefit period (e.g. treatment of dental emergencies)?

A: To be eligible for the CERB, an employee must have stopped working due to COVID-19 and be without any employment income for at least 14 consecutive days within the initial four-week period. For subsequent periods, the employee must expect to have no employment income. Unfortunately, it appears that income from emergency work will prevent an employee from being eligible for the CERB, if it means they don't have a period of 14 consecutive days without income during the qualifying period. We expect to have more information about the administration of the CERB in the coming weeks.

Q: If vacation pay is paid out to an employee during a period in which the employee is receiving EI benefits, will this be treated the same as wages and be clawed back from benefits?

A: Yes. Vacation pay is considered "earnings" and may result in a delay or claw back of EI benefits.

Q: Does the government expect employers to re-hire staff in order to be eligible for the Canada Emergency Wage Subsidy (CEWS)?

A: Yes. The message from the Prime Minister and Finance Minister was clear: the federal government has created the CEWS for the purpose of providing employers with an incentive to keep their staff, or to rehire staff who were laid off temporarily.

Q: Can you rehire staff if they won't actually be doing any work (e.g. hygienists)?

A: Yes. The availability of work is not a requirement for the CEWS. However, it is clear that the employer must actually pay salary or wages to the employee in order to be eligible for the subsidy.

Q: If you decide to apply for the CEWS, are you obligated to do so for all staff? Is it fair if some employees are required to work and others are not?

A: Currently, we are not aware of any obligation to apply for a wage subsidy for all staff. We won't know until the legislation is introduced. Assuming there is no CEWS obligation to apply in respect of all staff, employers will still need to ensure that prohibited grounds of discrimination under the BC Human Rights Code play no part in these decisions.



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Q: Are employers obligated to pay the full remaining 25% if they receive the CEWS? If an employee earns more than the \$58,700 the subsidy is based on (e.g. \$70,000), is a dentist expected to pay the balance up to \$58,700 or \$70,000 (which ends up being more than 25%)?

A: Employers are expected to make their best effort to top-up employees' salaries to bring them up to pre-COVID-19 levels. The employer must attest that they are doing everything they can to pay the remaining 25%. Although we do not yet know exactly how this will work, employers would be expected to at least make best efforts to top up salaries to 100% of the maximum wages covered.

Q: What is eligible for statutory deductions of EI, CPP, income tax?

A: As far as we are currently aware, employers will be required to remit EI, CPP and income tax from the wages paid to employees.