

The Employment Insurance Act: ***A SEXIST LAW IN NEED OF REFORM!***



FOR FAIR AND UNIVERSAL ACCESS
TO UNEMPLOYMENT INSURANCE

2018–2019 Edition

**ONLY 35.2%
OF UNEMPLOYED
WOMEN** *are eligible
for regular unemployment
benefits, compared to
52.5% of unemployed men.*

(Statistics Canada. "Unemployment Insurance Coverage Survey, 2016". The Daily, December 15, 2017, p. 5).

About the movement

At **MASSE** and **ACORN**, we believe that everyone has the right to full protection when they are unemployed. Employment Insurance (hereafter called "Unemployment Insurance") is far from being universal and treats women unfairly.

We use the term "**Unemployment Insurance**" because we are opposed to the ideology of the current system. Unemployment insurance is meant to protect against the risk of unemployment. It is not a way of regulating the workforce as the **Employment Insurance Act** is designed to do.

This pamphlet explains how the unemployment insurance system discriminates against women regarding eligibility for benefits, the duration of benefits, as well as the amount of benefits received and the systemic way in which the regime excludes women. This pamphlet deals only with regular benefits.



“For the same work effort, the same level of contributions, and the same experience of unemployment, women are less often eligible for unemployment insurance and receive fewer benefits than men do.”

— Ruth Rose, economist

Fighting for universal access to unemployment insurance, the MASSE has launched a campaign called **“WOMEN: FROM WORK TO UNEMPLOYMENT, THE SAME INJUSTICE, THE SAME BATTLE!”** This pamphlet is part of our campaign.



Get in touch with ACORN to fight for modernizing EI!
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To learn more, get involved and read about other discriminatory elements in unemployment insurance:



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Reducing Eligibility

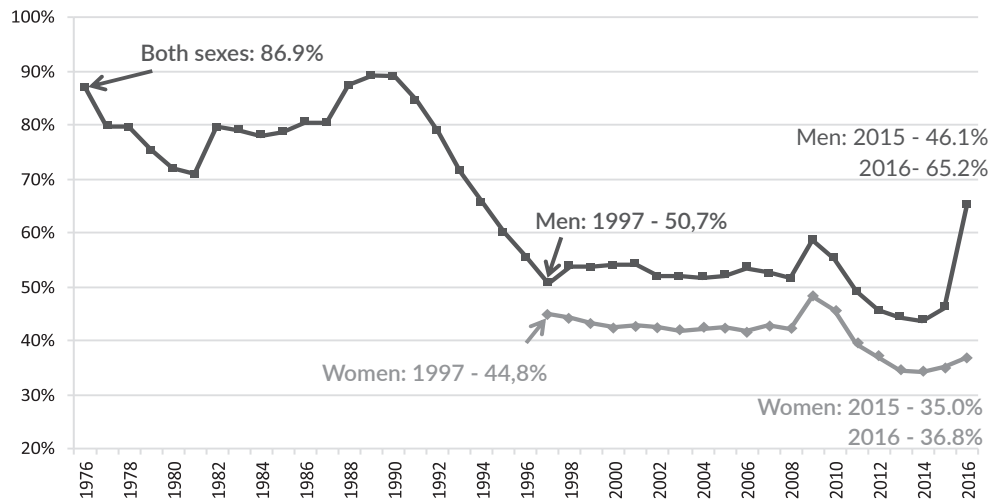
At the beginning of the 1990s, eligibility for unemployment insurance benefits was almost universal. Unemployed women and unemployed men had almost the same access to unemployment insurance. Since the Employment Insurance reform in 1996, women's eligibility for unemployment insurance has decreased drastically and the gap relative to men's eligibility has increased.

Ratio of persons receiving benefits for unemployment to the number of unemployed. Persons aged 15 years and older, by sex, Canada, 1976 to 2016

LEGEND:

- Men
- Women

Source: Statistics Canada. Beneficiaries CANSIM, table 276-0001 and table 14-10-0009-01. Unemployed: Table 14-10-0018-01. Benefits for unemployment include regular benefits, training benefits, job creation benefits, self-employment benefits, retirement benefits, fishing benefits and work-sharing benefits.



Thanks to Ruth Rose, associate professor of economics at UQAM, for compiling this data.

Why has eligibility for unemployment insurance decreased?

Prior to 1996, eligibility was based on weeks worked (a work-week had to be at least 15 hours). To qualify for unemployment insurance, the eligibility period was between 12 and 20 weeks of work– in other words, 180 to 300 hours of work. Today, eligibility depends on the number of hours worked and the unemployment rate in your region. In order to claim regular unemployment benefits, a person needs to have worked between 420 and 700 hours in the last year. This represents more than double the hours required before 1996.

Why do the eligibility criteria discriminate against women?

At first glance, eligibility based on hours worked seems fair. However, those who work part-time must work much longer to have the number of hours required. The eligibility rate for EI benefits is 95% for a person who works full-time, versus 62% for someone who works part-time and the duration of benefits is shorter for part-time workers who have worked the same number of weeks as a full-time worker¹. In 2015, 75.8% of part-time workers were women, often because they needed to care for children².

SOLUTION 1

Lower the eligibility threshold to 350 hours or 13 weeks of work and adjust the benefit period appropriately.



Jeanne's story:

Jeanne lost her job as a saleswoman. In the 52 weeks before the store closed, she worked **15 hours a week for 45 weeks**, or **675 total hours**. The unemployment rate in her region is 6%. Before 1996, having worked at least twenty 15-hour weeks Jeanne would have received unemployment benefits. Today Jeanne has no right to unemployment insurance **because the law requires that she have worked at least 700 hours**.

¹Canada Employment Insurance Commission (CEIC). *Employment Insurance Monitoring and Assessment Report 2016-2017*, 2018, p.64. - ²MOYSER, Mélissa. *Women in Canada: A Gender-Based Statistical Report*, Statistics Canada, 2017, p.18.

Shorter benefit period

The duration of benefits varies from 14 to 45 weeks according to the unemployment rate in the region and the number of hours worked. More hours worked means an unemployed person has more benefit weeks. Women work an average of 35.5 hours per week while men work an average of 41.1 hours a week³. This means women have fewer weeks of benefits.

SOLUTION 2

Establish a minimum period of 35 weeks for everyone who claims unemployment benefits.



Eva and Victor's story - Unemployment rate at 6.3%

EVA

For 13 years, Eva worked in a community organization **28 hours a week**. In the last year, she accumulated **1456 hours** over **52 weeks**. She was laid off because funding for her position disappeared. **She can claim benefits for 27 weeks.**

VICTOR

Victor held an engineering contract for **45 weeks** and worked **40 hours per week** during that time. In the last year, he accumulated **1800 hours**. **He can claim benefits for 37 weeks.**

Eva is penalized because jobs typically held by women tend to offer fewer hours.

Comparison of unemployed workers before the 1996 reform and today

Steven and Mei's story - Unemployment rate in their region: 9.3% ⁴

MEI

Hours worked in the 52-week reference period:

40 weeks x 20 hours = 800 hours total

Salary

\$15 x 20 hours = \$300 per week

Maximum amount of unemployment insurance benefits:

Before 1996: \$165 x 32 weeks = \$5,280

After 1996: \$165 x 23 weeks = \$3,795 total

Mei lost \$1,485

Unemployment Insurance program contributions:

With 800 hours worked at \$15 an hour, **Mei and Steven have paid the same contributions.**

STEVEN

Hours worked in the 52-week reference period:

20 weeks x 40 hours = 800 hours total

Salary

\$15 x 40 hours = \$600 per week

Maximum amount of unemployment insurance benefits:

Before 1996: \$330 x 22 weeks = \$7,260

After 1996: \$330 x 23 weeks = \$7,590 total

Steven gained \$330

Mei can only receive half of the benefits that Steven will get, even though she worked twice as long at the same job and contributed the same amount to EI over the past year.



⁴ Inspired by: ROSE, Ruth. *Les femmes et l'assurance-emploi: une lutte pour la reconnaissance de L'ÉGALITÉ*, REMEST, vol. 10, n° 1, 2015, p. 82-107.

SOLUTION 3

Raise the benefit rate to 70% based on the 12 best weeks of work.



*In 2015, for every dollar contributed,
women received 73 cents
in regular unemployment benefits,
while **men received \$1.21**⁵.*

Lower Benefits For Women

Average amount of benefits (2016-2017)⁶:

Unemployed men: \$473 Unemployed women: \$416

In 1971, benefits were set at 66.7% of an insurable salary. This was gradually reduced to 55%, for a maximum of \$562 per week in 2019.

A majority of women still work in professions that draw on their traditional roles of wife and mother. Jobs that are seen as being “for women” (teaching, health care, office work, sales and work in the service industry) are less lucrative than jobs that are seen as being “for men”. Comparing men’s and women’s salaries, we see that women in the job market earn much less than men, which disadvantages women when they apply for unemployment benefits.

In Canada, “in 2014, women earned an average of \$25.38 an hour, while men earned an average of \$28.92 an hour”⁷. Women not only work fewer hours; they earn less money per hour worked.

Family Supplements: Too Small to Make a Difference

Claimants receiving the family supplement⁸

2002: 187,320 2017: 79,400

The Employment Insurance program provides a “top-up” for some families with children. The amount of this family supplement is based on the household income, the number of dependent children and their ages. The supplement provides some recipients up to 80% of their salary, rather than 55%. However, eligibility for that top-up is limited to households that earn less than \$25,921, an eligibility requirement that has not changed since 1997 in spite of inflation.

In the past 20 years, even the minimum wage has gone up! As a result, fewer persons can claim this supplement even though they live in poverty. Women are the first to be affected by this discrepancy because they receive 79.2% of family supplement benefits, which average \$44 per week⁹.

SOLUTION 4

Index annually the income levels for the family supplement (with a retroactive adjustment starting in 1997), based on individual rather than family income.

Amount of family supplement for selected family income ranges by number and age of children, Canada

Source: *Employment Insurance Regulation*, section 34.
Reference: Canada Employment Insurance Commission (CEIC). *Employment Insurance Monitoring and Assessment Report 2016-2017*, 2018, p. 37

	Selected family income range			
	Less than \$20,921	\$21,751 to \$22,000	\$23,751 to \$24,000	\$25,751 to \$25,921
Number of children				
One	\$31.30	\$24.45	\$10.70	\$0.70
Two	\$58.70	\$46.25	\$20.70	\$1.40
Three	\$86.10	\$68.20	\$31.05	\$2.10
Each additional child	\$27.45	\$22.85	\$11.90	\$0.95
Age of children				
Supplement for each child under 7 years old	\$4.15	\$3.45	\$1.80	\$0.15

⁸ CAEC. *op. cit.*, p.41-42.

⁹ *Ibid.*, p.42.

SOLUTION 5

Get rid of exclusions for voluntary departure or misconduct.



*In 2016, **24.1% of women** who had contributed to unemployment insurance were ineligible for benefits because the program considered they had quit improperly or had been fired for misconduct, compared to **15.3% of men**¹⁰.*

Unfair Exclusions

Since 1993, anyone who does not have a legitimate reason for no longer working is excluded from the EI system. These are workers who “voluntarily” left their jobs without an acceptable reason or were fired for “misconduct”.

Misconduct

According to the law, misconduct is a deliberate or negligent act that leads to being fired, such as absence from work, frequent tardiness, insubordination, theft, or violence. However, reality is subject to different interpretations and the Canada Employment Insurance Commission (CEIC) is often prejudiced in favour of employers’ versions of events.

Leaving a job voluntarily

The law recognizes a number of acceptable reasons for leaving a job including family obligations and health or security issues. However, leaving the job needs to be the only reasonable solution. According to the CEIC, it is necessary to distinguish “necessity” from “personal choice”. The unemployed person needs to prove that she has tried everything possible before leaving her job.

Why are more women than men disqualified from receiving unemployment benefits because they left their jobs without “just cause”?

The main reason more women than men leave their jobs is to care for children and fulfill family responsibilities. More than 80% of people who have left their jobs to care for family members are women ¹¹. Absences and tardiness for family-related reasons may also lead an employer to fire a woman. In addition, 43% of women say they have been harassed at work, compared to 12% of men ¹². As a result, many women may quit their jobs without denouncing the employer or explaining the reasons for their departure.

Abuse and discrimination in the workforce are real; they often result in prejudice against the working women who are the victims.



Keziah's story

Keziah doesn't speak English or French fluently and works in a garment factory for **\$13 an hour**. Her employer refuses to pay her overtime wages. One day, the boss fired Keziah because she left earlier than scheduled to care for her sick child. **Keziah's application for unemployment insurance was denied** on the grounds that she was fired for misconduct. **It was easier for the Service Canada agent** to trust the employer's word because it was so difficult to understand Keziah's English.

¹¹ MAC DE MONTRÉAL AND THE CCEM. « Le travail invisible, parlons-en », *Nos droits, nos luttes*, No. 3 (automne 2017), p.10. - ¹² KORZINSKI, David. « Three-in-ten Canadians say they've been sexually harassed at work, but very few have reported this to their employers », *Angus Reid Institute*, 5 December 2014, [<http://angusreid.org/sexual-harassment/>] (16 September 2018).

Being unemployed after parental leave

In order to bring maternity and parental benefits paid by Employment Insurance up to the level already paid in Quebec and to international standards, many changes need to be made¹³. Here, we discuss only the rule that excludes most women who have taken maternity and parental benefits, whether in Quebec or in the rest of Canada, from receiving regular benefits if they are unemployed afterwards.

SOLUTION 6

Access to regular EI benefits for anyone who has lost their job, regardless of whether or not they have already received maternity or parental benefits.

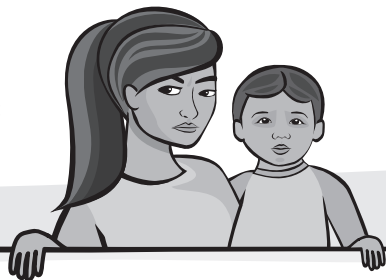
In Canada outside of Quebec, parents have access to the following benefits:

- » Maternity benefits are offered for a **maximum of 15 weeks**;
- » Parental benefits may be standard parental benefits: a **maximum of 35 weeks** of benefits based on **55% of your average weekly earnings** in and paid during the first 52 weeks after a child's birth; or extended parental benefits, **61 weeks of benefits based on 33% of your average weekly earnings**, paid during the first **78 weeks after a child's birth**¹⁴;
- » When applying for benefits, each applicant needs to have accumulated **at least 600 hours** of work during the qualifying period;
- » Most women who find themselves unemployed after their leave **do not have access to EI!**



¹³ If you live in Quebec, maternity and parental benefits are paid through the Quebec Parental Insurance Program (QPIP). While these benefits are still considered to be unemployment insurance, the eligibility criteria and the benefit periods are different. - ¹⁴ As of July 2019, there will be an additional 5 weeks of regular parental benefits or 8 weeks of extended benefits but only if the second parent takes these weeks. In Quebec, there are already five weeks of benefits reserved for fathers (or the female partner of the mother).

Jenny's story:



Jenny works at a catering company. When her baby is born, she takes **15 weeks of maternity leave** and **35 weeks of parental leave**. During her parental leave, the company goes out of business.

Following her leave, Jenny does not have a job and does not have access to EI. This is because Jenny has already claimed EI benefits for 50 weeks which is the maximum for combined regular and special benefits.

Women are more likely to take leave following the birth of a baby, which, in addition, often leads to lower salaries over time. Among Canadian fathers, 89% of those outside Quebec take two weeks or less of parental leave. Even in Quebec, where 5 weeks of benefits are reserved for fathers, men take far fewer weeks of leave than women¹⁵. This means that few men are affected by the rule limiting total benefits to 50 weeks.

¹⁵ "Leave practices of parents after the birth or adoption of young children", Leanne C. Findlay and Dafna E. Kohen. Canadian Social Trends, Winter 2012, no. 94. July 30, 2012.
<https://www150.statcan.gc.ca/n1/pub/11-008-x/2012002/article/11697-eng.htm>

Multiple and Simultaneous Discriminations

This campaign is called “Women: from work to unemployment, the same battle!” because unemployment insurance reproduces and amplifies the economic inequality experienced by women in the work world. This discrimination must end! Women are more likely than men to have a precarious, part-time or low-paid job, which means that they are also more vulnerable to poverty if they lose their job. In addition to sexism, many women must also deal with the impact of racism, transphobia, colonialism, heterosexism, ageism and ableism. These multiple sources of discrimination intersect with one another and intensify their effects. Here are some examples of how they may influence access to unemployment insurance.

Indigenous women, disabled women and women living in outlying regions with economies based on natural resources are also particularly disadvantaged in the labour market. They have higher rates of unemployment, especially if hidden unemployment is taken into account, and they earn lower wages for a given level of education than men or other women. For these women and their children, unemployment also means extreme poverty in most cases¹⁶.

Women and older workers more likely to exhaust benefits

Unemployment insurance claimants aged 55 years or older are more likely to use all of their benefit weeks because they have greater difficulty finding a new job by the end of their benefit period. In addition, in 2016-2017, 36.7% of women, compared to 33.2% of men exhausted their benefits, among other reasons, because their benefit periods are shorter¹⁷.



Insufficient benefits for newcomers

Newcomers have more difficulty finding well-paid work than people born in Canada in spite of the fact that they are better educated on average. Because immigrant women earn far less than men, immigrant or not, and less even than non-immigrant women, their wages are often insufficient to cover basic needs, especially if they are single mothers. Unemployment benefits at 55% of their previous wages mean even deeper poverty.

¹⁶ For example, see Melissa Moyser, *Aboriginal People Living Off-Reserve and the Labor Market*, Statistics Canada catalogue no. 71-588-X, 2017. For groups or in areas where few jobs are available, people often stop looking for work, even though they would like to work. This phenomenon is known as hidden unemployment. - ¹⁷ CEIC. *op. cit.*, pp. 83-84. This report does not provide data crossed by age and gender.

FOR UNIVERSAL ACCESS TO UNEMPLOYMENT INSURANCE

We demand:

- 1 Lower the eligibility threshold to **350 hours or 13 weeks** of work and adjust the benefit period appropriately;
- 2 Establish a **minimum benefit period of 35 weeks**;
- 3 Raise the **benefit rate to 70%** based on the 12 best weeks of work;
- 4 **Index annually the income levels for the family supplement** (with a retroactive adjustment starting in 1997), based on individual rather than family income;
- 5 **Get rid of exclusions** for voluntary departure or misconduct;
- 6 Access to regular EI benefits for anyone who has lost their job, **regardless of whether or not they have already received maternity or parental benefits.**



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