
CERB is over – Now What?

By: Jeremy Schwartz and Daniel Gaspar

On October 2, 2020, Federal Bill C-4, *An Act relating to certain measures in response to COVID-19*, received royal assent. Among other things, Bill C-4 introduces new COVID-19 relief benefits for Canadians as the effective replacements for the Canada Emergency Response Benefit (the “CERB”), which ended on September 26, 2020.

Bill C-4 introduces three new benefits:

- the **Canada Recovery Benefit** (the “**CRB**”), which is available to certain persons who are not eligible to receive employment insurance (“EI”) and, for reasons related to COVID-19, are unable to work or have had their income reduced by at least 50%;
- the **Canada Recovery Sickness Benefit** (the “**CRSB**”), which is available to certain persons who are unable to work for at least 50% of a week because they have (or may have) contracted COVID-19, have underlying conditions or circumstances that make them more susceptible to COVID-19 or have isolated themselves for reasons related to COVID-19; and
- the **Canada Recovery Caregiving Benefit** (the “**CRCB**”), which is available to certain persons who are unable to work for at least 50% of a week because they must care for a child under age 12 or a family member who requires supervised care as a result of either the closure of a school, program or other facility, the child or family member not being able to attend the school, program or other facility for reasons related to COVID-19 or the person who had usually cared for the child or family member not being available for reasons related to COVID-19.

Like the CERB, each new benefit provides an eligible person with \$500 weekly. To ensure no gap in benefits coverage following the conclusion of the CERB, these new benefits came into effect retroactively to September 27, 2020. Applications for the CRSB and CRCB have been open since October 5, 2020, while applications for the CRB have been open since October 12, 2020. Also, like the CERB, recipients must repay CRB, CRSB and CRCB overpayments, and benefits applied for erroneously.

Of course, eligibility and benefit levels under the new CRB, CRSB and CRCB do not necessarily overlap with leaves of absence pursuant to applicable employment standards legislation.

Below, we explore the three new benefits in greater detail (eligibility criteria are quite complex in the Bill, so we have endeavored to streamline for your convenience). You can learn more about government COVID programs, and other pressing HR-law issues, at our upcoming [34th Annual Employers’ Conference](#) on November 5 ~ complimentary webcast edition.

The CRB: the Canada Recovery Benefit

An eligible person will receive the CRB for a two-week period between September 27, 2020, and September 25, 2021, up to a current maximum of 13, two-week periods. The weekly payment is \$500, meaning the total CRB amount that a person can receive is currently \$13,000.

Notably, Bill C-4 imposes a “claw-back” obligation — if a person has an income over \$38,000 for 2020 or 2021, the person must repay an amount equal to \$0.50 for every \$1.00 of income earned in that year above \$38,000 up to the total amount of CRB payments that the person received in that year.

A person is eligible for the CRB if, for a given two-week period, the following conditions are satisfied:

- the person has a valid SIN number;
- the person was at least 15 years old on the first day of the week of the two-week period;
- the person was resident and present in Canada during the week;
- the person had a total income of at least \$5,000 in 2019 or 2020 (or in the 12-month period preceding the CRB application date) from either employment, self-employment, certain EI benefits or payments under a provincial plan because of pregnancy or new-born/adopted child care;
- during the two-week period, for reasons related to COVID-19, the person was not employed or self-employed, or the person had experienced at least a 50% reduction of his or her established average weekly employment income/self-employment income for the two-week period;
- the person was not eligible for EI benefits during the two-week period;
- the person did not receive income during the two-week period from the CRSB or CRCB, nor under a provincial plan because of pregnancy or new-born/adopted child care; or
- the person sought work during the two-week period and did not place undue restrictions on his or her availability for work;
- if the person has not previously received CRB benefits, the person must not have:
 - on or after September 27, 2020, quit employment (if employed) or voluntarily ceased work (if self-employed) (unless it was reasonable to do so); and
 - in the relevant two-week period, nor in any of the preceding four two-week periods:
 - failed to return to his or her employment when reasonable to do so after being requested to return by the employer;
 - failed to resume self-employment when reasonable to do so; or
 - declined a reasonable offer to work during the two-week period; and
- if the person has previously received CRB benefits, the person must not have:
 - on or after the first day of the first two-week period for which CRB benefits were paid, quit employment (if employed) or voluntarily ceased to work (if self-employed) (unless it was reasonable to do so); and
 - in the relevant two-week period, nor in any of the preceding four two-week periods:
 - failed to return to his or her employment when reasonable to do so after being requested to return by the employer;
 - failed to resume self-employment when reasonable to do so; or
 - declined a reasonable offer to work.

The CRSB: the Canada Recovery Sickness Benefit

An eligible person will receive the CRSB for any week between September 27, 2020, and September 25, 2021, up to a current maximum of two weeks. The weekly payment is \$500, meaning the total CRSB amount that a person can receive is currently \$1,000.

A person is eligible for the CRSB for a given week if the following conditions are satisfied:

- the person has a valid SIN number;
- the person was at least 15 years old on the first day of the week;
- the person was resident and present in Canada during the week;
- the person had a total income of at least \$5,000 in 2019 or 2020 (or in the 12-month period preceding the CRSB application date) from either employment, self-employment, certain EI benefits or payments under a provincial plan because of pregnancy or new-born/adopted child care;
- as an employee or self-employed person, the person was unable to work for at least 50% of the time that he or she would have otherwise worked in the week because either:
 - the person contracted or might have contracted COVID-19;
 - the person has underlying conditions, are undergoing treatments or have contracted other sicknesses that, in the opinion of a medical practitioner, nurse practitioner, person in authority, government or public health authority, would make the person more susceptible to COVID-19; or
 - the person has isolated him or herself on the advice of his or her employer, a medical practitioner, nurse practitioner, person in authority, government or public health authority for reasons related to COVID-19;
- in respect of the week, the person did not receive certain EI benefits, CRB or CRCB payments or payments under a provincial plan because of pregnancy or new-born/adopted child care; and
- in respect of the week, the person was not granted paid leave or was paid under a sickness benefit plan.

The CRCB: the Canada Recovery Caregiving Benefit

An eligible person will receive the CRCB for any week between September 27, 2020, and September 25, 2021, up to a current maximum of 26 weeks (including for all persons residing in the same household). If two or more persons reside in the same household, only one of them may receive the CRCB for any particular week. The weekly payment is \$500, meaning the total CRCB amount that a person can receive is currently \$13,000.

A person is eligible for the CRCB for a given week if the following conditions are satisfied:

- the person has a valid SIN number;
- the person was at least 15 years old on the first day of the week;
- the person was resident and present in Canada during the week;

- the person had a total income of at least \$5,000 in 2019 or 2020 (or in the 12-month period preceding the CRCB application date) from either employment, self-employment, certain EI benefits or payments under a provincial plan because of pregnancy or new-born/adopted child care;
- as an employee or self-employed person, the person was unable to work for at least 50% of the time that he or she would have otherwise worked in the week because either:
 - the person cared for a child who was under age 12 on the first day of the week because either:
 - the school or other facility that the child normally attended was, for reasons related to COVID-19, closed, open only at certain times or open only for certain children;
 - the child could not attend the school or other facility because either:
 - the child contracted or might have contracted COVID-19;
 - the child was in isolation on the advice of a medical practitioner, nurse practitioner, person in authority, government or public health authority for reasons related to COVID-19; or
 - the child would, in the opinion of a medical practitioner or nurse practitioner, be at risk of having serious health complications if the child contracted COVID-19; or
 - the person who usually cared for the child was not available for reasons related to COVID-19; or
 - the person cared for a family member who requires supervised medical care because either:
 - the day program or facility that the family member normally attended was, for reasons related to COVID-19, unavailable or closed, available or open only at certain times or available or open only for certain persons;
 - the family member could not attend the day program or facility because:
 - the family member contracted or might have contracted COVID-19;
 - the family member was in isolation on the advice of their employer, a medical practitioner, nurse practitioner, person in authority, government or public health authority for reasons related to COVID-19; or
 - the family member would, in the opinion of a medical practitioner or nurse practitioner, be at risk of having serious health complications if the family member contracted COVID-19; or
 - the care services that are normally provided to the family member at their place of residence were not available for reasons related to COVID-19;
- in respect of the week, the person did not receive certain EI benefits, CRB or CRCB payments or payments under a provincial plan because of pregnancy or new-born/adopted child care; and
- in respect of the week, the person was not granted paid leave or was paid under a plan that provides for payment for the care or support of another person.

A “family member” is non-exhaustively defined as including “anyone whom the person considers to be like a close relative or who considers the person to be like a close relative”.

For more information, **please contact:**

Jeremy Schwartz at jschwartz@stringerllp.com or 416-862-7011

Daniel Gaspar at dgaspar@stringerllp.com or 416-849-2552

UPDATE is an electronic publication of Stringer LLP
390 Bay Street, Suite 800, Toronto, Ontario M5H 2Y2
T: 416-862-1616 Toll Free: 1-866-821-7306
E: info@stringerllp.com I: www.stringerllp.com

The information contained herein is general information only and should not be relied upon as a substitute for legal advice or opinion.