

**NOTICE OF CERTIFICATION, OBJECTION PROCESS AND SETTLEMENT APPROVAL
HEARING**

LONG FORM NOTICE

PROPOSED SETTLEMENT OF THE
EI SICKNESS BENEFITS CLASS ACTION

Did you apply for, and were denied, a conversion of parental benefits to sickness benefits under the *Employment Insurance Act*?

A proposed settlement may affect you. Please read this notice carefully.

The Federal Court authorized this notice. This is not a solicitation from a lawyer.

Jennifer McCrea (the "**Representative Plaintiff**") sued the Federal Government of Canada ("**Canada**"), alleging negligence in the denial of sickness benefits to individuals who were in receipt of parental leave benefits under the *Employment Insurance Act* ("**EI Act**") and were ill, injured, or in quarantine during their parental leave.

The Federal Court certified this class action on May 7, 2015, meaning that it is permitted to proceed to trial as a class action. This case has not yet gone to trial and there has been no judicial decision made on the merits of this lawsuit. The Representative Plaintiff and Canada have now reached a proposed settlement that provides compensation to certain individuals, however only upon approval of the settlement by the Federal Court.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS PROPOSED SETTLEMENT:

PARTICIPATE: To support or object to the proposed settlement, you may:

- (1) **Write** to express your views if you support or object to the proposed settlement; or
- (2) **Attend a hearing** and ask to speak in the Federal Court about the proposed settlement.

DO NOTHING: Give up any right you might have to object to the proposed settlement.

Your legal rights and options, including the deadlines to exercise them, are explained in this notice.

Your legal rights are affected even if you do nothing. Please read this notice carefully.

The Federal Court is required to determine whether the proposed settlement is fair and reasonable.

The Court will hear submissions about the approval of the proposed settlement in Toronto, Ontario on **December 3, 2018 at 9:30 a.m.**, and about the proposed legal fees, in Toronto, Ontario on **December 4, 2018 at 9:30 a.m.** Money will only be made available if the Federal Court approves the proposed settlement and after any appeals are resolved. Please be patient.

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BASIC INFORMATION

1. Why did I get this notice?

The Federal Court authorized this notice to let you know about a proposed settlement and about your options before the Court decides whether to approve the proposed settlement. This notice explains the lawsuit, the proposed settlement, and your legal rights.

2. What is a class action?

In a class action, one or more people called the “representative plaintiff(s)” sue on behalf of people who have similar claims. All of the people with a similar claim are called a “class” or “class members”. The court resolves the similar claims for all class members, except for those who clearly exclude themselves from the class action lawsuit.

3. What does this class action lawsuit complain about?

Jennifer McCrea, of Calgary, Alberta (“**Representative Plaintiff**”), commenced the lawsuit and is represented by Cavalluzzo LLP (“**Class Counsel**”). The Federal Government of Canada (“**Canada**”) is defending the case.

During the class period from March 3, 2002 to March 23, 2013, the *EI Act* provided for 15 weeks of maternity leave benefits for biological mothers, including surrogate mothers, who cannot work because they are pregnant or have recently given birth, and 35 weeks of parental leave benefits for parents who are caring for a newborn or newly adopted child or children. Sick leave benefits are for people unable to work because of sickness, injury, or quarantine. This lawsuit alleges that during the period from March 3, 2002 to March 23, 2013, officials with Service Canada and the Canada Employment Insurance Commission were negligent in denying sickness benefits to individuals who were in receipt of parental leave benefits under the *EI Act* and were ill, injured, or in quarantine during their parental leave.

4. Has there been a trial?

The Federal Court certified this class action on May 7, 2015, which means that it is permitted to proceed to trial as a class action. This case has not yet gone to trial and there has been no judicial decision made on the merits of this lawsuit.

The certified class action seeks a declaration that the *EI Act* was administered negligently and damages.

5. Why is there a proposed settlement?

The Representative Plaintiff and Canada have agreed to a proposed settlement. By agreeing to the proposed settlement, the parties avoid the costs and uncertainty of a trial and potential delays in obtaining judgment, and Class Members receive the compensation described in this notice and in the proposed settlement agreement. In this case, it also means that the Class Members will not need to testify in court. The Representative Plaintiff and Class Counsel think the proposed settlement is in the best interests of all Class Members.

WHO IS INCLUDED IN THE PROPOSED SETTLEMENT?

6. Who is included in the proposed settlement?

The Class Members included in the proposed settlement include:

All persons who, during the period from March 3, 2002 to, and including, March 23, 2013:

- i) Applied for and were paid **parental benefits** under the EI Act or corresponding types of benefits under Quebec's An Act Respecting Parental Insurance;
- ii) Suffered from an illness, injury or quarantine while in receipt of **parental benefits**;
- iii) Applied for **sickness benefits** in respect of the illness, injury or quarantine referred to in ii; and
- iv) Were denied a conversion of parental benefits to sickness benefits because:
 - a) the person was not otherwise available for work; or
 - b) the person had not previously received at least one week of sickness benefits during the benefit period in which the parental benefits were received.

A person is a Class Member where they applied to convert to sickness benefits while in receipt of maternity benefits if the illness, injury or quarantine continued into the parental portion of their benefit period.

Estates of Class Members may be eligible. A claim must be filed by the Estate Executor for deceased class members.

If the settlement is approved, all Class Members, except those who validly Opt Out of the settlement, will be bound by the proposed settlement and will be covered by the releases in the proposed settlement.

7. What if I am not sure whether I am included in the proposed settlement?

If you are not sure whether you are included in the proposed settlement, you may call toll free 1-844-964-5559 (toll free in Canada) or 416-964-5559 or visit www.cavalluzzo.com or <https://www.facebook.com/M.O.M.lawsuit/>

PROPOSED SETTLEMENT

8. What does the proposed settlement provide?

If approved, the settlement provides:

- (a) Class Members who establish that they applied for sickness benefits for an illness, injury, or quarantine during their parental leave, and were denied, are eligible for compensation.
- (b) ESDC will determine the amount of your payment. Canada has agreed to make payments to eligible Class Members in an amount that is equivalent to the amount of sickness benefits that they would otherwise have received.

9. What am I giving up in the proposed settlement?

Once the proposed settlement becomes final, you will give up your right to sue Canada for the claims being resolved by this proposed settlement. You will be "releasing" Canada, which means you cannot sue Canada for anything in respect of a denied conversion of parental benefits to sickness benefits from March 3, 2002 to March 23, 2013.

The proposed Settlement Agreement describes the released claims with specific descriptions, so please read it carefully. If you have any questions about what this means, you may contact Class Counsel or your own lawyer. You are responsible for paying your own lawyer's fees.

A copy of the proposed Settlement Agreement is available at: www.cavalluzzo.com

10. May I remove myself from the proposed settlement?

Yes. If the proposed settlement is approved, a notice will be sent out describing the process for removing yourself from the proposed settlement, called "Opting Out".

If you do not wish to be a part of the class action you must Opt Out before the Opt Out Deadline which means you will not be bound by any order made in this class action and will not be eligible for compensation. You may hire and pay for your own lawyer and commence your own lawsuit. If you want to commence your own lawsuit, you must Opt Out. If you Opt Out, you must abide by all applicable limitation periods and should consult a lawyer.

Further information on how to Opt Out will be available if the proposed settlement agreement is approved.

HOW TO RECEIVE A PAYMENT IF THE PROPOSED SETTLEMENT IS APPROVED

11. How will I receive a payment?

To ask for a payment, all Class Members must complete and submit a Claim Form. All claims will be assessed by the ESDC. Eligible Class Members will not need to testify in court. Once the claim is verified by the Claim Administrator, Class Members will receive full compensation as soon as reasonably possible.

More information about the claims process, including the Claim Form, will be provided in a further notice if the settlement is approved.

Before anyone can file a Claim Form or be assessed, the Federal Court must decide whether to grant final approval of the proposed settlement and any appeals must be resolved (see "**The Approval Hearing**" below). If there are appeals, resolving them could take time. Please be patient.

12. How will payments be calculated?

The ESDC will review your Claim Form and determine if you qualify for a payment. If you do, the ESDC will determine the amount of your payment based on the process described in the Settlement Agreement.

13. What if I disagree with the decision?

If you wish to dispute the decision, you may seek a review before a Prothonotary of the Federal Court.

14. What if my claim is denied?

If your claim is denied, you will receive a notice of the decision. There will be a process to seek a review of the denial decision, with more information to be provided in a further notice if the settlement is approved.

THE LAWYERS REPRESENTING YOU

15. Who is Class Counsel?

The lawyers representing the Plaintiff and the class are: Cavalluzzo LLP. If you want to be represented by or receive advice from another lawyer, you may hire one at your own expense.

16. Do I have to pay Class Counsel anything?

No. Class Counsel is asking for the approval of fees and disbursements in the amount of \$2,212,389, together with applicable taxes thereon. This amount will be paid directly by the Government of Canada and separately from the compensation paid to class members. Class Counsel will not be paid unless the Federal Court declares that the proposed legal fees are fair and reasonable.

You will not need to pay any legal fees out of your own pocket for services from Class Counsel relating to the claims process. If a Class Member retains other lawyers or a representative, the Class Member must pay the fees, disbursements and taxes for their services on whatever basis they privately agree.

PARTICIPATING IN THE PROPOSED SETTLEMENT

You may participate in the hearing to voice your support for the proposed settlement, or, you may object to the proposed settlement if you do not like some part of it. The Court will consider your views.

17. How do I tell the Court if I support the proposed settlement?

To express your support for the proposed settlement, you may write a letter that includes the following:

- Your name, address, and telephone number;
- A statement saying that you support the EI Sickness Benefits Class Action proposed settlement;
- The reasons you support the proposed settlement, along with any supporting materials; and
- Your signature.

You may mail or email your letter to:

EI Sickness Benefits Class Action
c/o Cavalluzzo LLP, 474 Bathurst Street, Suite 300, Toronto, Ontario, M5T 2S6
Email: ElSicknesscase@cavalluzzo.com

18. How do I tell the Court if I do not like the proposed settlement?

To object to the proposed settlement, you may either:

- (a) **Make a written objection:** Write a letter or fill out an Objection Form that includes the following information:
 - Your name, address, and telephone number;
 - A statement saying that you object to the EI Sickness Benefits Class Action proposed settlement;
 - The reasons you object to the proposed settlement, along with any supporting materials; and
 - Your signature.
- (b) **Make an oral objection at the approval hearing:** You must fill out an Objection Form indicating that you intend to appear at the hearing to object. The approval hearing before the Federal Court is scheduled to be heard in Toronto, Ontario on December 3, 2018 at 9:30 a.m.

All objecting letters and Objection Forms must be sent on or before **November 15, 2018** to:

EI Sickness Benefits Class Action
c/o Cavalluzzo LLP, 474 Bathurst Street, Suite 300
Toronto, Ontario, M5T 2S6
Email: Elsicknesscase@cavalluzzo.com

THE APPROVAL HEARING

The Federal Court will hold a hearing in Toronto, Ontario on **December 3, 2018 at 9:30 a.m.** to decide whether to approve the proposed settlement, and in Toronto, Ontario on **December 4, 2018 at 9:30 a.m.** to decide whether to approve Class Counsel's request for legal fees and taxes. You may attend and you may ask to speak, but you do not have to.

19. When/where will the Court decide whether to approve the proposed settlement?

The Federal Court will hold an Approval Hearing in Toronto, Ontario on **December 3, 2018 at 9:30 a.m.**, and **December 4, 2018 at 9:30 a.m.**

The hearing date could be moved to a different date or time without additional notice. If you plan to attend the hearing, it is recommended in advance of the hearing date to check www.cavalluzzo.com or <https://www.facebook.com/M.O.M.lawsuit/> or call 1-844-964-5559 (toll free in Canada) or 416-964-5559.

At the hearing, the Federal Court will consider whether the proposed settlement is fair, reasonable, and in the best interests of the Class. The Court will also decide whether the amount of fees and disbursements requested by Class Counsel are reasonable and fair. If there are objections, the Court will listen to those people who submitted an Objection Form asking to speak at the hearing, and the Court will consider those objections along with those submitted in writing.

After the hearing, the Court will decide whether to approve the proposed settlement. It is not known how long these decisions will take.

20. Do I have to attend the hearing?

No. Class Counsel will answer any questions the Court may have on behalf of the Class.

You and/or your own lawyer are welcome to attend at your own expense to participate in the hearing – either to show your support for, or to object to, the proposed settlement. If you send a written objection, you do not need to attend the hearing to talk about it. Your written objection will be considered by the Court as long as you send it on time.

21. May I speak at the hearing?

Yes. If you wish to speak at the hearing, you must submit an Objection Form and indicate that you wish to speak at an approval hearing.

22. What if I do nothing?

If you do nothing, you are deemed to accept the proposed settlement. The approval hearing will proceed and the Court will consider whether the proposed settlement is fair, reasonable, and in the best interests of the Class. This will occur without your views on the matter, and you will have no further opportunity to make objections to the Court.

GETTING MORE INFORMATION

23. How do I get more information?

This notice summarizes the proposed settlement. For full details, a copy of the proposed Settlement Agreement is available at: www.cavalluzzo.com

If you have any questions, you may send them to: El Sickness Benefits Class Action, Cavalluzzo LLP, 474 Bathurst Street, Suite 300, Toronto, Ontario M5T 2S6, or email ElSicknesscase@cavalluzzo.com, or call 1-844-964-5559 (toll free in Canada) or 416-964-5559.

GOOGLE/FACEBOOK/TWITTER NOTICE

EI Sickness Benefits Class Action

Did you receive parental benefits under the *Employment Insurance Act* from March 3, 2002 to March 23, 2013, and did you apply to convert those benefits to sickness benefits? If your request to convert parental benefits to sickness benefits was denied, a proposed settlement may affect your rights.

Website: www.cavalluzzo.com

Facebook: <https://www.facebook.com/M.O.M.lawsuit/>

Email: Esicknesscase@cavaluzzo.com

Telephone: 1-844-964-5559 (toll free in Canada) or 416-964-5559.