

Fair Workplaces, Better Jobs Act, 2017

Submission to the Standing Committee on Finance and Economic Affairs

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Summary

The **Decent Work and Health Network** is a group of health workers advocating for improvements to employment and working conditions in Ontario, and is part of the province-wide \$15 and Fairness campaign. The Network has been active throughout the Changing Workplaces Review consultations, submitting a brief to the Special Advisors in 2015, and a response to the Interim Report in October, 2016.

There is a proven, established connection between employment and working conditions and health. When workers are employed in precarious jobs—those that are low-paid, insecure, and with few or no benefits—they experience worse health than workers in standard employment relationships (SER). Unfortunately, too many Ontario workers have precarious jobs, and are at risk of the negative mental, emotional and physical effects of this work. Many Ontario health providers have therefore been calling for improved employment legislation as a means to improve individual and population health. This is known as a Health in All Policies (HiAP) approach, one that Minister of Health and Long-Term Care Dr. Eric Hoskins has also called for, saying, “True health equity requires a ‘Health in All Policies’ approach. It requires breaking down the silos between health policy and social policy. It requires better integration not just within a system, but across government.”¹ **The right changes to employment and labour laws have the potential to improve health and health equity in Ontario.** They will advance the government’s stated goal for Ontario to “become the healthiest place to live, work and grow old.”²

The proposed changes in the *Fair Workplaces, Better Jobs Act, 2017* (Bill 148) are a welcome step forward to protect the health of Ontarians. In particular, the Decent Work and Health Network recommends the following changes as key mechanisms to improve health.

Endorsements and Recommendations

Minimum Wage: Bill 148 will raise the general minimum wage to \$15 an hour by January 1, 2019 with annual adjustments by the rate of inflation.

We support Bill 148’s amendment to embed the \$15 general minimum wage phased in through January 1, 2019 in the *Employment Standards Act* (ESA).

Paid Personal Emergency Leave: Bill 148 will extend 10 days of Personal Emergency Leave (PEL) to all workers. In addition, it provides that two of the PEL days will be paid, and that workers shall not be required to provide a medical note in support of their absence.

We support extending Personal Emergency Leave (PEL) to all workers.

We support paid PEL and recommend that Bill 148 be amended to provide for 7 paid PEL days.

We support the elimination of requiring a certificate of a qualified health practitioner as evidence for PEL taken.

In addition to these highlighted endorsements and recommendations, **we endorse all recommendations of the joint Workers' Action Centre, \$15 and Fairness and Parkdale Community Legal Services submission to the Standing Committee on Finance and Economic Affairs**, including those pertaining to:

- **Decent hours**
- **Rules that protect everyone**
 - **Definition of employee**
 - **Equal pay for equal work**
 - **Temporary agencies.**

We support these recommendations because only all-encompassing changes that promote decent work and basic fairness will achieve the desired outcome of better health for all Ontarians.

Discussion and Evidence

Minimum Wage

Bill 148 recognizes that workers need to earn wages above the poverty line. It will bring in a significant gain in minimum wage for Ontario workers. The new section 23.1 sets out the steps to bring the general minimum wage to \$15 an hour with annual adjustments by the rate of inflation (Consumer Price Index) on October 1st of each year thereafter.

Bringing the minimum wage to \$15 an hour by January 1, 2019 has been extensively supported by health, economics and business experts. It will reduce inequality and poverty among low-wage workers while generating economic spending power. Income is a key social determinant of health as it facilitates access to nutritious food, civic participation, physical activity and education. Increasing the minimum wage is therefore an essential policy through which to promote health in the province.

Recommendation 1: Accept this amendment to the general minimum wage.

Health evidence for the \$15 minimum wage

Of all the social determinants of health, poverty is the greatest predictor of poor health. With current *living* wages—the amount of money required to meet the most basic household expenses—ranging from \$15.42 in Waterloo Region, to \$17.65 in Peterborough, to \$18.52 in Toronto,³ it is clear that Ontario's current minimum wage of \$11.40 is wholly insufficient to support individuals and families, even those who work full time.

A common misconception is that minimum wage and low-wage workers are mainly teenagers; in fact, in 2016, 21.5% of employed adults aged 25 to 54, and 26.7% aged over 55 were employed in low-wage jobs.⁴ This means that rather than low-wage jobs being a stepping stone to better-paid employment, they are increasingly held by older workers, thus ensuring that people remain poor throughout their working lives.

Impacts of living on a low income include having a much greater chance of having chronic diseases such as diabetes, increased risk of low birth weight for children borne, worse mental health and low rates of dental insurance. In Toronto, life expectancy is years lower for those in the lowest 20% of income earners versus the highest: 4.5 years lower for men, and 2.0 years lower for women.⁵

Children are particularly affected by living in poverty. Children from lower-income families have higher rates of asthma, obesity, injuries and poor mental health. When they grow up, children from lower-income families also experience poorer adult health; for example, they have higher rates of physical disability and premature death.⁶

This disturbing evidence points to the necessity of raising the minimum wage to relieve the emotional and physical stress of poverty and to promote the health and wellbeing of the lowest-paid workers in Ontario. The introduction of a \$15 minimum wage by January 1, 2019 will improve workers' financial security, and thus health.

Paid Personal Emergency Leave

Workers need both the ability to take time off when sick and for this time to be paid to make it a viable option. For most Ontario workers, taking a sick day means sacrificing wages, but few people can afford to lose a day's pay. In fact, most Ontario workers do not have access to employer-based paid sick leave, and this lack of coverage especially affects low-wage, precariously-employed workers. Bill 148 takes a small step in addressing that gap.

Remove exemption

Personal Emergency Leave provides 10 days of job-protected leave that can be used by a worker for their own personal illness, injury or medical emergency or for the death, illness, injury, medical emergency or urgent matter concerning the worker's family. Bill 148 rightly amends the ESA to remove the exemption for workplaces with fewer than 50 employees. If passed, this amendment will extend leave to over 1.7 million Ontario workers who do not currently have access to this job-protected leave.⁷

Recommendation 2: Accept this amendment to remove the PEL exemption for workplaces with fewer than 50 employees.

Provide paid Personal Emergency Leave

If passed, Bill 148 would require an employer to pay for the first two days of Personal Emergency Leave [ss. 50(5), (7)]. Providing paid leave speeds up recovery, protects against worsening illness and reduces health care costs. It enables workers to address health needs without putting their finances, their coworkers or the public at risk. Paid leave helps prevent the spread of contagious illnesses to coworkers and customers, and curbs expensive hospital visits by allowing workers to see a family doctor when needed. However, the provision of two paid days per year is inadequate as even a single illness may require more than two days for recovery. Increasing the amount of paid PEL days from 2 to 7 would enable workers to take time to recover and address personal and family emergencies without fear of losing their livelihoods.

Recommendation 3: Accept the establishment of paid PEL days, but increase to 7 paid days.

Amend subsections 50 (5) of the ESA to reflect the following:

(5) An employee is entitled to take a total of seven days of paid leave and three days of unpaid leave under this section in each calendar year.

Health evidence for paid Personal Emergency Leave

Workers will largely use Personal Emergency Leave for absences due to personal or family illness. The Ontario government's move to grant two paid PEL days to all workers means that for the first time, many more workers will be able to take time off work without fear of job loss or lost income. However, the provision of two paid days is at the low end of the standard set by other regions with paid sick leave policies in North America and internationally.

Jurisdiction	Employer-paid leave
Connecticut	Up to 5 days ⁸
California	Up to 6 days ⁸
Iceland	Up to 12 days ⁹
Germany	Up to 6 weeks ⁹

Although a step in the right direction, Bill 148's proposed two paid PEL days are too limited to have the desired widespread positive health and economic impacts. **We recommend that instead of providing two paid days, Bill 148 provide seven paid PEL days to all workers.**

Why do workers need paid days?

Paid sick leave policies are being adopted around the world as a way to protect public health and the economy. In fact, of the 35 Organisation for Economic Co-operation and Development (OECD) countries, Canada is among the only three (with Japan and the U.S.) that do not have a national policy requiring employers to provide paid sick leave.⁹ However, this policy gap puts workers in an impossible bind. As the writers of a 2010 World Health Organization report put it: "the absence of paid sick days forces ill workers to decide between caring for their health or losing jobs and income, choosing between deteriorating health and risking to impoverish themselves and often their families."¹⁰ Workers will only have a meaningful choice to use Personal Emergency Leave days if they are paid.

Promote the health of individuals and families

The immediate obvious financial impact for those without paid sick leave is the loss of wages and potential job loss should they take a day off. The workers who are most affected are often those who are already barely making ends meet, so lack of paid PEL further increases their financial strain. For example, one analysis of the U.S. National Health Interview Survey found that 40% of mothers were solely responsible for caring for a sick child, compared with 3% of fathers.¹¹ But women are also more likely to have low-paid jobs than men: in Ontario, 27% of working men have low-paid jobs compared to nearly 36% of working women.⁴ Many

households simply cannot afford to lose wages to take days off work for illness or family emergencies.

The lack of paid sick days also means that many workers cannot seek timely health care. Adults without paid sick leave are less likely to obtain preventive health measures, including general practitioner visits, pap smears and flu shots, as well as blood pressure, blood sugar and cholesterol checks.¹² Worryingly, they are also 3 times more likely to forgo medical care for themselves and 1.6 times more likely to forgo care for family members than those who have this benefit.¹³ This may lead to more complex, life-altering and resource-intensive illnesses over time.

When sick days are provided, families benefit: children of parents with paid sick days visit the ER 11% fewer times and are more likely to receive annual check-ups and flu shots than children without parental paid sick leave.¹⁴ Families without this benefit are therefore more vulnerable to health complications because of inconsistent care. Conversely, those who do have paid sick leave access lower-cost health services and experience better health. Workers with paid sick leave are less likely to visit the emergency department, as they can seek appropriate care at early stages of their illness by visiting their family doctor, which is less costly to the health system.¹⁵

Promote public health

Evidence suggests that many workers without paid sick leave will not take time off work when they are sick even if it poses a risk to their own health or public health. For example, workers in high-risk settings such as food handling have gone to work while sick with gastrointestinal illness “because they could not afford to take the time off,” which poses obvious threats to public health.¹⁶ Even workers in highly sensitive settings such as nursing homes may be forced to work while sick: one study found that the risk of outbreaks of gastrointestinal and respiratory diseases was lower in facilities with paid sick leave.¹⁷ The importance of PEL that covers family illness is revealing here, too: San Francisco parents with paid sick leave were found to be 20% less likely to send a child with a contagious disease to school than those without paid sick leave.¹⁸

Decrease the risk of occupational injury and worsened health

Workers with paid sick leave are less likely to experience a range of adverse incidents related to working while sick. For example, construction workers without paid sick leave were found to have a 21% greater risk of experiencing a nonfatal occupational injury than those with paid sick leave.¹⁹ Among civil service employees in another study, unhealthy workers who took no time off were found to have two times as many serious coronary incidents as unhealthy workers with moderate levels of sickness absenteeism.²⁰ In addition, providing paid sick days may help prevent high rates of long-term sickness leave after people repeatedly work while sick.²¹

Why should there be more than two paid days?

Health agency recommendations

Research shows that even *one* incident of illness in an individual or a dependent can cost a worker two or more days of work. Without paid leave, workers may be forced to send their children to school sick or to show up to work sick because they cannot afford to take unpaid time off. This results in children and adults transmitting infections at school and work, exacerbating the problem. Health agencies often recommend taking more time off for a single illness than would be provided by a two-day paid PEL. For example, the median length of influenza-like illness in health care providers in the U.S. was found to be 3 days, and the Centers for Disease Control (CDC) advises providers to wait an additional day without fever symptoms before returning to work—a total of four days.²² For workers in food service, the CDC recommends that they stay away from work for at least 2 days *after* diarrhea or vomiting symptoms resolve.²³ However, food service workers are typically low-paid, and we have already seen that many of them will disregard this advice because of financial pressures.

Public health and economic consequences

The public health consequences of insufficient paid sick days are typified in the prevalence of one common infectious disease, influenza. A study on the 2009 H1N1 pandemic found that those unable to stay home for the recommended 7 to 10 days contributed to the spread of infection to up to 5 million additional people.²⁴ Infectious disease outbreaks are not only costly for the health system, but they cost the economy in lost productivity. One U.S. study predicted that universal paid leave in that country would result in 63,800 fewer workdays missed due to influenza, or \$10.3 million in wage income. It also predicted 18,200 fewer influenza-related healthcare visits, translating to millions of dollars saved.²⁵ In a literature review, researchers found that across studies that measured workdays lost due to influenza, the mean number of days per episode ranged from 2.8 to 4.9 in adults, and from a mean of about 1 day to a median of 4 days for those caring for a sick child.²⁶ The evidence shows that paid sick days are a vital measure to decrease the spread of illness and ensure proper recovery, but two paid days will not be enough to have a meaningful impact.

Possibility of abuse

A common concern is that if workers are given more than the very lowest threshold of paid days—for example, two paid days—they will abuse this entitlement. But according to one study, 45 percent of workers with paid sick leave did not take a single paid day off work in the prior year,¹¹ so there is little reason to worry that providing more paid days will lead to abuse of the policy. Workers need paid PEL days as insurance against unpredictable circumstances such as illness and emergencies that would otherwise cause financial hardship and stress. The new paid Personal Emergency Leave entitlement in Bill 148 should be expanded to seven days to ensure that those who must take more than two days in a given year are able to do so.

Eliminate required sick notes

Employers are entitled to require an employee who takes a leave under PEL to give reasonable evidence about why the leave is being taken. Bill 148 clarifies, however, that employers cannot require employees to provide a certificate from a qualified health practitioner as evidence [50(9)]. This step reduces the barriers workers face taking sick days (cost of medical notes, time and transit to a doctor) and reduces costs to the Ontario health system.

Recommendation 4: Accept the amendment to eliminate the requirement of a certificate from a qualified health practitioner as evidence of illness.

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