

# CLC Bargaining For Mental Health Resource

## Bargaining for Mental Health

Many collective agreements have existing language and health benefit plan provisions that can help members with mental illness.

Local officers & stewards should review their collective agreement and health benefit plans to see what clauses would be useful for members with mental illness, and what could be added or improved.

Some people with mental illness require significant care and support from family members – just like people with cancer and other serious medical conditions do. So unions must also consider the needs of workers who have family members with a mental illness.

Being clear on what's available is important. When members need help, you want to be able to let them know exactly what options they have. It's also important to examine your current collective agreements and health benefits so you can see any gaps that should be addressed in future bargaining.

There are a number of bargaining demands you can make to improve the lives of members with mental health issues, as well as family members caring for someone with mental illness. Unions preparing for bargaining can review the questions in each section when developing their bargaining demands.

Employee Assistance Programs or Employee & Family Assistance Programs - EAP or EFAP

Health benefits

Types of leave

Duty to Accommodate

Return to work

Sick leave, short-term and long-term disability

EI Sick leave and Compassionate Care top up

Training and standards

## Employee and Family Assistance Programs (EAP or EFAP)

Employee Assistance Programs can be an accessible way for members to get short-term help, but are not a replacement for separate counselling benefits under your health plan. Most EAP programs only offer 4 to 6 visits which would not be enough for more serious longer term mental health issues. While some unions leave supervision of EAPs to the employer, there are advantages to being more proactive and bargaining better EAP services.

Key provisions to consider are who is covered, the amount of coverage, who provides the service, and how it is provided.

- Who is covered by the EAP? Many programs cover family members as well as workers – including university students at school in other provinces.
- How many appointments are members entitled to? What is the maximum per issue? Is there a yearly maximum? Can this be increased if needed? Try to bargain more visits, and for members to be able to exceed the maximum in some circumstances.
- What kind of counsellors are available and what are their credentials? Psychologists? Social workers? Therapists with a Masters of Counselling? All of these providers may offer different

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kinds and levels of treatment and support. Unions should check what types of counsellors are available, what kinds of support they can provide, and if that support is the most helpful to members.

- A related issue is the expertise of the EAP counsellors. Are they equipped to deal with specific needs and conditions, such as eating disorders and anxiety disorders? Do they offer culturally appropriate perspectives? Do they have training in mental health for children and seniors, and in family mental health dynamics? What happens if the member needs more specific help than the EAP counsellor can provide?
- Some EAPs offer online or phone sessions. In-person appointments are generally preferable for members with mental illness. They will also need paid time off to attend appointments.
- Unions need to insure the EAP process is completely confidential and run by an experienced outside third party.
- EAPs are confidential. But confidentiality can be compromised if there is only a very limited number of counsellors available for a workplace or site. Make sure members have access to a range of counsellors.

Unions and employers should get regular generic statistics about EAP usage in order to improve the service over time. Generic statistics would include things like number of visits, without identifying individuals who took advantage of the program.

### Health Benefits

#### Counselling coverage

Counselling is an essential part of mental health treatment. Many benefit plans include it, but at completely inadequate rates. With counselling sessions costing \$80 to \$250 an hour, many plans don't cover enough sessions or enough of the fees to be truly helpful.

Given the cost, and how critically important counselling is for mental health treatment and recovery, unions should negotiate this as a separate benefit. A member facing a long term mental health issue will need far more support than the small number of sessions covered by an EAP.

There are a few key points to bargain when it comes to mental health coverage:

- Are members entitled to a certain number of appointments, regardless of cost per appointment?
- Is the full fee per appointment covered, or a percentage?
- Or is there simply a maximum annual dollar amount?
- Try to increase the total number of appointments covered. And if your plan covers a percentage of fees or a total maximum, can you bargain an increase to those benefits?
- Can the member choose their own counsellor? Finding the right counsellor to work with is quite critical to getting well and something that usually can't easily be done with an EAP program.

It's also important to look at what kinds of counsellors are covered. Psychologists usually are, but there is a wide range of other kinds of counsellors too. Having a range of accredited counsellors covered by your health plan can provide the widest choice and range of support for your members.

- Consider bargaining coverage for psychologists, social workers, masters of counselling and any other kind of recognized counsellors that your members may need.
- Are in-person counselling appointments – not just phone or online counselling – covered?

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## Drug Coverage

- Are drugs for mental illness like depression or anxiety medications covered?

## Hospital coverage

Most mental health care is on an outpatient basis, but sometimes members will find themselves needing in-patient treatment.

- What coverage does your plan provide for the costs associated with hospitalization?

## Types of Leave

Treatment and support for mental health often involves needing leave for members and their families. Taking care of our mental health involves appointments with doctors, therapists, and other professionals. During a critical period, a member may need to see a doctor or counsellor every few days. At other times, appointments may be less frequent.

It's important to have time off for these and other kinds of appointments built into the collective agreement.

- Does your agreement have paid or unpaid leave for health appointments?
- Is this leave available to people who require care only? Are members caring for someone in their family able to take leave to help them get to appointments?
- How much sick leave are members entitled to?
- Do they need a doctor's note? If they do, who pays for the note?

## Duty to Accommodate

The employer has a duty to accommodate members with disabilities, including mental illness. Laws related to accommodation say a worker needs to be able to perform the essential duties of their job, and the accommodations must be reasonable and not cause undue hardship to the employer.

While accommodation is the law, it is helpful to have clear language in the collective agreement as well.

Some of the provisions to bargain include:

- Language that defines disability broadly, and includes mental illness.
- The procedure for accommodation, including the roles of employer, worker, and union.
- Appropriate training for the worker being accommodated and for co-workers.
- An assessment of the accommodation after a certain amount of time, with leeway for further accommodation, if needed.
- A return to work process for workers who require accommodation after leave for mental health reasons.

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## **Sick leave, short-term and long-term disability**

Mental illness is often episodic. People can cycle through periods of being well, followed by episodes in which they may need care or time off. Sick-leave, short-term and long term disability are essential provisions for members with mental illness.

Look at your collective agreement's provisions for sick leave, short-term and long-term disability, and consider what you can improve in bargaining:

- How much sick leave do you have? Can you bargain for more?
- Is short-term disability easily accessible for mental health reasons?
- Does your contract include long-term disability coverage? If you take long-term leave, what percentage of your earnings do you maintain? Can you bargain an increase?

Long-term disability plans often change their definition of disability after two years. With most plans in the first 2 years, in order to receive LTD benefits, a worker must be disabled from doing their own job,. After two years, most LTD plans often use a broader definition of disability, and a member would have to be disabled from doing any job in order to continue receiving benefits, not just their own job. Sometimes as a result of this change in definition of disability, members are cut off LTD before they are ready to return to their own job.

- Does your long-term disability coverage guarantee any wage level for any other job your members might be able to do, to move to or be retrained for?

## **EI Sickness Benefits / EI Compassionate Care Benefits Top-up**

For unions that don't have sick leave or short or long term disability, EI sick benefits may be needed if a member needs to take time off for their illness. Under EI, workers can take maternity or parental leave, for a percentage of their salary. Many collective agreements top up this amount.

Members with family members with a mental illness may need to take time off to help care for them. Unions need to think about negotiating paid time off for this care beyond what little EI compassionate care benefits are available.

- Does your contract provide a top-up for members on EI sickness benefits?
- Does your agreement having any provisions for paid time off for family emergencies or compassionate care? Could you negotiate these provisions?
- Does it top up the salaries of workers taking compassionate care leave for a family member with mental illness?

## **Training and standards**

Mental health training for workers benefits union members by creating a better environment for people with mental health challenges, and an awareness of how to create healthy workplaces that minimize the stresses that can initiate some mental illnesses.

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Some unions have negotiated a variety of mandatory joint human rights or health and safety training programs in their contracts. In addition, the National Standard for Psychological Health and Safety in the Workplace offers a systematic approach to mentally healthy workplaces, and the Mental Injury Toolkit has a focus on preventing harm to members by surveying health effects caused by workplace stressors.

- Does your contract include mandatory joint training or union training for mental health?
- Can you negotiate all or part of the national standard into your collective agreement?
- Can you bargain for joint training or union training on the Mental Injury Toolkit?

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