

F.A.Q. sheet

Q. Can my employer ask for vaccination status?

A. Your employer may ask if you are vaccinated, however, you may choose not to disclose your status. Employers that are collecting this type of information must treat this information as private and confidential, and follow *Personal Information Protection and Electronic Documents Act*. This legislation sets the bar on the protection of private and confidential information.

Q. If my employer puts me on an unpaid leave of absence for failing to provide proof of vaccination, am I eligible for EI?

A. Unpaid leaves of absences are not covered by EI, so a person on an unpaid LOA wouldn't be eligible. You may be eligible for the Canada Recovery Benefit, and for provincial programs, such as, Ontario Works, or the equivalent in your province. Make sure to check eligibility for both programs.

Q. How long can my employer keep me on an unpaid leave of absence?

A. There is no specific rule or guideline as to how long an employer may put a worker on an unpaid leave of absence. This depends on the employer, the workplace, availability of workers, operational demands, among other factors.

Q. Can people who are terminated for not getting vaccinated apply for EI?

A. In cases where a person who lost their job through no fault of their own may apply for EI. However, EI regulations outline that;

“Misconduct occurs when an employee's behaviour is in violation of the obligations set out in his contract of employment and when, under normal circumstances, the employee should have known that the actions, omissions or faults could result in a dismissal.”

It is not necessary that the alleged action, omission or fault happen during work, at the workplace or even while carrying out duties for the employer. This means that an offence committed outside the workplace could be misconduct, when the infraction results in no longer meeting the condition for employment and leading to the dismissal. For example, a bank teller convicted of shop lifting and for this reason is fired. Even though the infraction did not happen during work, we consider that he lost his employment due to his own misconduct, as he no longer meets the integrity condition, an essential condition of the employment.”

A member may submit a claim to EI, but it is not guaranteed that it will be approved. More information is available here;

<https://www.canada.ca/en/employment-social-development/programs/ei/ei-list/fired-misconduct.html>

Q. My employer mandated vaccination in the workplace, if I develop a severe reaction, can I apply to WSIB?

A. If you received a vaccine as a **compulsory part of your employment** and experienced an **adverse reaction**, you may be eligible for benefits.

Expected reactions to a COVID-19 vaccine, per public health guidance, may include fever, chills, pain at the injection site, fatigue and headaches which should resolve on their own in a few days. These do **not** generally constitute an **adverse reaction** for the purposes of entitlement to WSIB benefits. An adverse reaction is a serious, unexpected reaction to a vaccine.

When determining whether a reaction to a COVID-19 vaccination is work-related, the WSIB considers:

1. Whether the **vaccination was a compulsory part of your employment**

- A vaccination will generally be a compulsory part of your employment if your employer has a rule or policy that requires employees to be vaccinated or if your employer uses some element of coercion for vaccination (e.g. threat of termination of employment, job changes or penalties).

2. Whether the **reaction is adverse, e.g. serious and unexpected**, such as the **types of events that should be reported to a local public health unit**

- If the reaction requires medical treatment beyond first aid and/or requires your absence from work for more than a few days, this indicates that the reaction – in its severity or duration – has likely gone beyond the expected reaction from vaccination.

If you received a COVID-19 vaccine as a **compulsory part of your employment** and experienced an **adverse reaction**, you should report this to your employer and file a claim so the WSIB can determine if you are eligible for benefits.

Q. What does the WSIB consider a severe reaction to COVID-19 immunization?

A. The WSIB defines a severe reaction as one that requires medical treatment beyond first aid and/or requires absence from work for more than a few days. This indicates the reaction – in its severity and/or duration – has gone beyond the common mild expected reactions from immunization (fever, chills, pain at the injection site, fatigue and headaches which should resolve on their own in a few days).

Q. If I'm not eligible for WSIB as a result of an adverse reaction, are there any other programs I could apply to?

A. Yes, the federal government launched their Vaccination Injury Support program. The program is meant to ensure that all people in Canada who have experienced a serious and permanent injury as a result of receiving a Health Canada authorized vaccine, administered in Canada on or after December 8, 2020, have fair and timely access to financial support.

<https://www.quebec.ca/en/health/advice-and-prevention/vaccination/vaccine-injury-compensation-program>

The pan-Canadian VISP will serve all people vaccinated in Canada, with the exception of people vaccinated in Québec who will receive coverage from the longstanding Québec program.

Quebec Residents

The province of Quebec has a Vaccine Injury Compensation program that launched in 1985, and covers several vaccines, including approved COVID-19 vaccines. The principle is that Québec's Minister of Health and Social Services must compensate any victim of bodily injury caused by a voluntary

vaccination by inoculation with a vaccine or immunoglobulins against a disease or infection identified in the Regulation, or a compulsory or imposed vaccination. Vaccination must have taken place in Québec.

<https://www.quebec.ca/en/health/advice-and-prevention/vaccination/vaccine-injury-compensation-program>