



**NATIONAL OFFICE MEMORANDUM
NO-08-2020**

DATE	June 16, 2020	PRIORITY	For your information/Action
TO	National Board of Directors		
RE	6990 Leave and Family-Related Responsibilities		

Sisters and Brothers,

Background

CBSA is using the 6990 leave code to cover employees who are unable to work for various Covid-related reasons including the closure of schools and daycares (Note: "Other Leave with Pay" is coded as 699 within the core Treasury Board units).

Where telework is available, parents with young children at home have not been expected to put in the same number of working hours as members who do not have childcare responsibilities. Some parents have been putting in a few hours a day and some haven't been working at all. Generally speaking, the availability of 6990 to cover non-working hours has been assessed on a case-by-case basis and, for the most part, our members haven't had too many problems accessing this leave with pay.

In May, some provinces and territories began to talk about re-opening schools and daycares. The decision on what, when and how to reopen has varied widely across the country. Some provinces have chosen to not to reopen until the Fall, while others have limited childcare spaces to parents who work in essential services. Even where schools have reopened, many parents have chosen not to send their children back because of safety concerns.

On May 10, 2020 Treasury Board sent an email to all of its Heads of Human Resources regarding 699 leave and childcare. It contained the following:

As schools and daycares are re-opened, we expect that employees who could not work due to childcare obligations will be able to return to work. We recognize, however, that there will be some instances where employees may be unable to work their full hours if their children are unable to return to school or daycare due to health reasons, limited availability of spaces or other restrictions put in place by provincial or territorial authorities. In these cases, employees may use 'Other Leave With Pay (699)' for hours not worked, if they are unable to make alternate childcare arrangements.

The email goes on to encourage managers to "have a conversation" with employees on 699 about the possibility of taking on flexible working arrangements as an alternative to staying on leave.

Policy Grievance

On 13 May 2020, the PSAC filed a policy grievance regarding the employer's email. The union is concerned that parents who choose not to return their children to school or daycare will be involuntarily taken off the 699 leave with pay. Some children live in households with vulnerable family members, and many parents do not feel comfortable sending their children back to school or daycare with inadequate social distancing measures in place. Whatever the reason, we need to ensure that members with childcare obligations are not forced to choose between a pay cheque and the wellbeing of their families.

We expect to receive the employer's final level reply on this policy grievance within the next few weeks.

Individual Grievances

In the event that we are unsuccessful in resolving the problem with a policy grievance, we need to be prepared to file individual grievances for any members who are forced off 6990 but still have childcare responsibilities. These are members who:

- Currently care for children at home
- Are currently on 6990 Leave with Pay
- Live in a province/territory where childcare facilities have not reopened OR cannot get a childcare space due to limited reopening OR have safety concerns for their children or other vulnerable family members
- Have been advised by the employer that they are no longer eligible for 6990 Leave with Pay

The grievance language is as follows:

Details:

I grieve the Employer's refusal to grant me "6990 leave" with pay, requested on _____ (**request date**) and denied on _____ (**refusal date**), when I was unable to work regular hours due to childcare responsibilities related to COVID-19.

(If you are under the Program and Administrative Services (PA) collective agreement, insert:)

This is a violation of Article 53.01 - leave with or without pay for other reasons and Article 19 - no discrimination of the collective agreement; section 7 of the *Canadian Human Rights Act*; and all other relevant articles.

(If you are under the Border Services (FB) collective agreement, insert:)

This is a violation of Article 52.01 - leave with or without pay for other reasons and Article 19 - no discrimination of the collective agreement; section 7 of the *Canadian Human Rights Act*; and all other relevant articles.

(If you are under the Operational Services (SV) collective agreement, insert:)

This is a violation of Article 56.01 - leave with or without pay for other reasons and Article 19 - no discrimination of the collective agreement; section 7 of the *Canadian Human Rights Act*; and all other relevant articles.

(If you are under the Technical Services (TC) collective agreement, insert:)

This is a violation of Article 55.01 - leave with or without pay for other reasons and Article 19 - no discrimination of the collective agreement; section 7 of the *Canadian Human Rights Act*, and all other relevant articles.

Corrective Action Requested:

A declaration that the Employer has breached the collective agreement;

That I be granted leave with pay when I am unable to work regular hours due to childcare responsibilities related to COVID-19;

That I be compensated for all losses, including lost wages and benefits, that resulted from the Employer's refusal to grant me paid leave;

That the Employer ceases this discriminatory refusal and take measures to redress the practice and/or to prevent the same or similar refusal from occurring in the future;

That the Employer makes available to me the rights, opportunities, and privileges that are being or were denied as a result of the refusal;

That I be compensated \$20,000 for pain and suffering experienced as a result of the discrimination;

That I be compensated \$20,000 for the Employer's willful and reckless engagement in the discriminatory practice;

That the filing of this grievance not prejudice me in any future dealings with the Employer;

That I be made whole;

Any other redress deemed appropriate.

Union representatives who receive a concern from a member with childcare responsibilities who has been refused 6990 leave are asked to assist the grievor in completing their grievance form as outlined above. **Do not submit the grievance to the employer until after the employer's final level reply to the policy grievance has been issued unless you need to protect the 25-day timeline.**

We will advise the NBoD of the decision as soon as it is available and (if necessary) give the green light for the submission of any grievances you have received to date.

General 6990 Issues

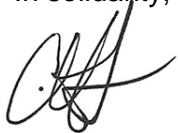
We expect that the employer will wait until a decision on the policy grievance is issued prior to attempting to remove some employees from 6990 leave. Members may be approached in the meantime, however, to "have a conversation" about their childcare needs. In particular, the employer may inquire as to whether these members are able to complete a certain number of hours a week rather than remain full-time on leave with pay (6990).

Our members have an obligation to answer the employer's questions truthfully and to the best of their ability. The bottom line, however, is that if a member can't work due to their childcare responsibilities they should be allowed to remain on leave with pay.

The transition back to work will not be an easy one, and it is still too early to know exactly what "normal" will look like. It will be easier to implement social distancing requirements for front-line workers, even though we don't anticipate that the borders will reopen for at least another month. There is still no clear indication of how social distancing will be accomplished for office workers. When Treasury Board refers to "returning to work", therefore, we believe that in most instances they are referring to employees formerly on 6990 starting to work from home, not returning to a physical work location.

To date, we do not have any indication that the employer intends to cut 6990 leave for members whose vulnerability makes them unable to work. The Treasury Board email deals solely with 6990 leave and childcare.

In solidarity,

A handwritten signature in black ink, appearing to be 'CR', written over a horizontal line.

Chantal Rajotte
2nd National Vice-President