

Canadian Laws Surrounding Disability Accommodations

At Work Places and Education Institutions*
*Schools, Universities, Colleges



Short and Long-Term Disability Insurance Benefits for Headaches

Many employers offer group disability benefits to their employees.

Short-Term Disability: Typically lasts between 15-26 weeks, depending on the policy. Usually paid for by the employer.

Long-Term Disability: Depending on the policy selected by you and/or your employer, these benefits can last for either two years, or up until age 65. Premiums may be paid solely by you or your employer, or shared. The taxability of any benefits paid out depends on which party was paying the premiums.

Contact your employer to ask about group disability benefits.



The 2017 Canadian Survey on Disability identified ten types of disabilities: vision, hearing, mobility, flexibility, dexterity, pain-related, learning, developmental, mental health-related and memory.



Common pain-related disabilities include arthritis, dorsopathy (back pain), sickle cell disease, traumatic injuries and migraine.



Migraine is a pain-related disability characterized by strong or intense headaches that frequently include nausea, vomiting and sensitivity to light. Many pain-related disabilities, including migraine, are invisible or hidden.

It is important to remember that the frequency and severity of pain vary among individuals. Individuals might experience constant pain, while others experience episodic pain (fluctuates over time and sometimes unpredictable).

Some disabilities and pains are visible, whereas others are hidden, and their symptoms range from mild to severe. The pain might not always be treatable, which can disrupt people's daily activities. Therefore, individuals must be given the necessary accommodations.



The Accessible Canada Act (ACA) defines disability as

"any impairment, including a physical, mental, intellectual, cognitive, learning, communication or sensory impairment or a functional limitation, whether permanent, temporary or episodic in nature or evident or not, that, in interaction with a barrier, hinders a person's full and equal participation in society."



In addition, the ACA requires that while preparing accessibility plans and progress reports, persons with disabilities must be consulted.



Living with the constant fear of having pain is very stressful, and as migraine pain can be triggered at random, it is vital to provide comfort for those living with migraine. This is why the Canadian government recognized migraine pain as a disability to allow access to disability programs and benefits.

Canadians who cannot work due to a headache disorder can seek benefits from various sources:

- CPP Disability Benefits
- Short-Term and/or Long-Term Disability benefits via employer
- Employment Insurance Sickness Benefits



The Canadian Pension Plan (CPP) Disability Benefits for Headaches

CPP is a federal government program designed to replace earnings lost due to death, disability and retirement. This plan is available in all provinces except Quebec, as Quebec Pension Plan (QPP) offers a similar program. Out of their earnings, all workers over 18 in Canada contribute to the CPP. To qualify for these disability benefits, patients **must fulfill three criteria:**

1 The disability must be severe and prolonged. Severe means it should prevent a person from engaging in sustained paid work, and prolonged means it is a long-term disability which either will result in death or is unlikely to be resolved.

2 The patient must be under the age of 65.

3 The patient must have contributed to the fund four of the last six years, or three of the last six years if you've contributed for 25+ years.

Employment Insurance

Employment Insurance (EI) in Canada offers temporary financial aid to eligible workers who lose their job through no fault of their own (e.g., layoffs) or are unable to work due to illness. Funded by employer and employee contributions, EI sickness benefits provide up to 26 weeks of assistance, covering 55% of earnings up to \$695/week.

A medical certificate signed by your healthcare provider must confirm your inability to work for medical reasons and specify the duration. You will need to demonstrate that:

- you're unable to work for medical reasons
- your regular weekly earnings from work have decreased by more than 40% for at least 1 week
- you accumulated 600 insured hours of work in the 52 weeks before the start of your claim or since the start of your last claim, whichever is shorter

Canadian Human Rights Act (CHRA)



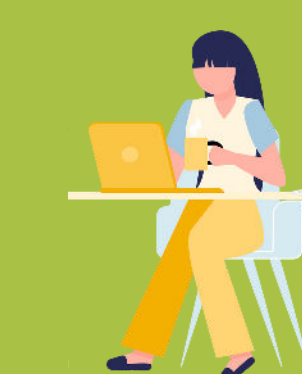
Under the **CHRA**, employers must accommodate employees to prevent disability discrimination, but the process should be equitable to both the employer and the employee. In Canada, an obligation is set outlining human rights legislation (Canadian Human Rights Law) in every Canadian jurisdiction in which employers have a legal duty to accommodate employees with limitations due to a medical condition or disability in other forms.

Most employers in Canada are subject to human rights legislation in the provinces in which their employees work. In contrast, fewer employers (banks, airlines, and railways) are subject only to federal employment legislation, including the Canadian Human Rights Act. Failure to meet this obligation by the employers can lead to liability for failure to accommodate and discrimination. Human rights statutes in some jurisdictions refer to reasonable accommodation. Despite the difference in wording, reasonable accommodation imposes the same requirements as an accommodation to the point of undue hardship.



Under this law, the accommodation process is the shared responsibility of the employer, university/school and the people and students seeking accommodations. Everyone is fully involved and cooperates by sharing information and working towards potential accommodation solutions. However, it remains the responsibility of the employers at the workplace and administration/management staff at the university/school to find and ensure the establishment of adequate accommodations considering the information and medical documentation provided.

Workplace and Education Institution



Workplace accommodations include changes to organizational policies and practices, changes to a physical workspace, adaptations to the equipment, tools, or uniform used, flexible schedule, work hours or job sharing, relocation of the workspace within the workplace, the ability to work from home, reallocation or exchange of some non-essential tasks for others, time off for medical appointments, possibility to work part-time and not requiring a doctor's note for every disabling migraine attack.

Accommodations in education institutions can improve the learning of students with migraine, including modified school days, extended periods for tests, flexibility in terms of deadlines, access to lesson plans and assignments that were missed due to absences, access to a dark and quiet space during an attack in school. Other types of accommodations include taking tests on paper instead of the computer due to migraine-related light sensitivity, time for breaks during tests to rest eyes, stretch, and use the restroom to hydrate yourself without restraint and access to a guidance counsellor or social worker to help with stress management, helping students re-integrate back to school if a significant number of school days have been missed due to headaches.

Conclusion: There are various laws surrounding accommodating people with disabilities in Canada. Employers, school administrators and governments must take appropriate steps to establish and enforce the laws.



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HUMAN RIGHTS CODES - BY PROVINCE

Ontario Human Rights Code

Under the Ontario Human Rights Code (OHRC), there is a comprehensive policy on accessible education for students with disabilities. Under the OHRC, the organizations are required to prevent and remove barriers and provide accommodation to the point of undue hardship. Failure to fully explore accommodation options and to fulfill the duty to accommodate is a violation of the OHRC policy as regards the students and the employees/workers. OHRC recognizes the importance of creating a climate of understanding and mutual respect for the dignity and worth of each person so that everyone can contribute fully to the development and well-being of the community and the province. The OHRC Code guarantees equal treatment in education, without discrimination on the disability ground, as part of the protection for equal treatment in services. This protection applies to public and private elementary and secondary schools, colleges, and universities

Alberta Human Rights Act

Under the Alberta Human Rights Act, employers and service providers are required to accommodate individuals with disabilities to the point of undue hardship. The Act mandates that organizations prevent and remove barriers that hinder the full participation of people with disabilities in society. Failure to fulfill the duty to accommodate can lead to liability for discrimination. Alberta's legislation emphasizes the importance of equality and inclusion, ensuring that all individuals can contribute to the community's development and well-being. This protection applies to both public and private sectors, including workplaces, schools, and service providers.

Prince Edward Island Human Rights Act

Under the Prince Edward Island Human Rights Act, organizations are obligated to accommodate individuals with disabilities up to the point of undue hardship. The Act focuses on preventing discrimination and ensuring equal access to opportunities. Employers and service providers must remove barriers and explore accommodation options to comply with the Act. Prince Edward Island's legislation stresses the importance of equality, dignity, and respect, allowing all individuals to participate fully in the community. This protection applies across various sectors, including workplaces and educational institutions.

British Columbia Human Rights Code

The British Columbia Human Rights Code requires employers and service providers to accommodate individuals with disabilities up to the point of undue hardship. This legislation aims to eliminate barriers that prevent people from participating fully in society. The Code protects against discrimination in various areas, including employment, education, and services, ensuring equal treatment and accessibility. Failure to accommodate or explore accommodation options is considered a violation of the Code. British Columbia emphasizes creating an inclusive environment where everyone can contribute to the community's prosperity.

Quebec Charter of Human Rights and Freedoms and Accessibility Act

The Quebec Charter of Human Rights and Freedoms, along with the Accessibility Act, requires organizations to accommodate individuals with disabilities to the point of undue hardship. The legislation mandates the removal of barriers that inhibit full participation in society. Failure to provide accommodation is considered a violation of Quebec's human rights laws. The province emphasizes equality, respect, and social inclusion, ensuring that everyone can contribute to the community's growth and development. This protection covers public and private sectors, including employment, education, and services.

The Human Rights Code (Manitoba)

Under the Manitoba Human Rights Code, organizations must accommodate individuals with disabilities to the point of undue hardship. This duty extends to preventing and removing barriers that inhibit full participation in society. Failure to accommodate is a violation of the Code, which protects against discrimination in employment, education, and services. Manitoba's legislation stresses the importance of dignity, respect, and equality, ensuring that all individuals can participate fully in the province's development. This protection covers both public and private sectors, including workplaces and educational institutions.

Saskatchewan Human Rights Code, 2018

Under the Saskatchewan Human Rights Code, 2018, employers and service providers are required to accommodate individuals with disabilities to the point of undue hardship. The Code focuses on preventing discrimination and removing barriers that limit full participation in society. Organizations must thoroughly explore accommodation options to comply with the Code. Saskatchewan's legislation promotes dignity, respect, and equality, ensuring that all individuals have the opportunity to contribute to the province's development. This protection extends to various sectors, including workplaces and educational institutions.

New Brunswick Human Rights Act

The New Brunswick Human Rights Act requires employers and service providers to accommodate individuals with disabilities to the point of undue hardship. The Act mandates the removal of barriers that prevent equal participation in society. Organizations must explore all accommodation options to avoid discrimination. New Brunswick's legislation highlights the importance of creating an inclusive and respectful environment, ensuring that everyone can contribute to the community's growth. This protection applies across various sectors, including education, employment, and services.

Northwest Territories Human Rights Act

The Northwest Territories Human Rights Act mandates that organizations accommodate individuals with disabilities to the point of undue hardship. The Act requires the removal of barriers that prevent equal participation in society. Employers and service providers must explore all accommodation options to avoid discrimination. The Northwest Territories emphasize creating an inclusive and respectful environment, ensuring that everyone can contribute to the community's well-being. This protection applies across various sectors, including education, employment, and services.

Newfoundland and Labrador Human Rights Act, 2010

Under the Newfoundland and Labrador Human Rights Act, 2010, organizations are required to accommodate individuals with disabilities to the point of undue hardship. The Act focuses on preventing discrimination and removing barriers that limit full participation in society. Employers and service providers must thoroughly explore accommodation options to comply with the Act. Newfoundland and Labrador emphasize equality and respect, ensuring that all individuals have the opportunity to contribute to the province's development. This protection extends to both public and private sectors, including workplaces and educational institutions.

Nunavut Human Rights Act

Under the Nunavut Human Rights Act, organizations must accommodate individuals with disabilities up to the point of undue hardship. The Act focuses on preventing discrimination and removing barriers that inhibit full participation in society. Failure to accommodate is considered a violation of the Act. Nunavut's legislation emphasizes equality, respect, and inclusion, ensuring that all individuals can participate fully in the community's growth. This protection covers both public and private sectors, including workplaces and educational institutions.

Nova Scotia Human Rights Act

The Nova Scotia Human Rights Act mandates that employers and service providers accommodate individuals with disabilities to the point of undue hardship. The Act requires organizations to remove barriers that prevent full participation in society and protect against discrimination. Failure to accommodate is considered a violation of the Act. Nova Scotia's legislation promotes dignity, respect, and inclusion, ensuring that everyone can contribute to the community's well-being. This protection applies to various sectors, including employment, education, and services.

Yukon Human Rights Act

The Yukon Human Rights Act requires employers and service providers to accommodate individuals with disabilities to the point of undue hardship. The Act mandates the removal of barriers that prevent full participation in society. Failure to provide accommodation is a violation of the Act, which protects against discrimination in employment, education, and services. Yukon's legislation promotes dignity, respect, and equality, ensuring that all individuals have the opportunity to contribute to the territory's development. This protection extends to both public and private sectors.

If there is a failure to accommodate, complaints can be escalated to Human Resources, the human rights tribunal in your province, and/or through legal measures with a lawyer. Keep a paper trail of all requests and communications.

