



Disability Handbook

Salary insurance, CNESST, SAAQ, IVAC, QPP and Beneva

**For unions in the public and private sectors
of the Fédération de la santé et des services sociaux – CSN**

June 2024

Comrades,

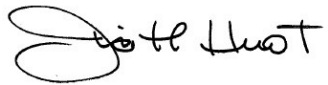
This handbook is an update of the one originally prepared by the FSSS-CSN team in 2012. As was the case at that time, today's disability cases are complex and of vital importance to our members.

Handling disability cases often involves interactions between several laws, social plans and provisions of collective agreements. We have updated the sections and provisions specific to each of them while keeping the succinct, user-friendly format of the first handbook.

The handbook provides you with essential information on the various salary insurance plans linked to the collective agreement, Beneva group insurance, the CNESST, the IVAC, the SAAQ and the QPP. Our goal is to make it easier for you to analyze your disability files by presenting the most recent, up-to-date version of the FSSS-CSN Disability Handbook. In this way, our handbook will remain an indispensable reference as you process your disability files.

In closing, I would like to acknowledge the contributions made by the union consultants and the office employee who helped produce this updated handbook:

- Union consultants: Mohammed Boussaïd, Stéphane Côté, Xavier M. Milton, David Santos
- Office employee: Pascale Castonguay.



Judith Huot
Senior Vice-President

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INTRODUCTION

This handbook will help you follow each step in the collective agreement when a worker comes to you with a salary insurance case. The document covers various situations in which workers may be covered by salary insurance:

1. Worker's compensation (CNESST – Commission des normes, de l'équité, de la santé et de la sécurité du travail) and salary insurance ;
2. Auto insurance (SAAQ – Société de l'assurance automobile du Québec) and salary insurance;
3. Compensation for victims of criminal acts (IVAC – Indemnisation des victimes d'actes criminels), for victims of or witnesses to a criminal act;
4. Beneva — long-term insurance (public sector);
5. Beneva — short- or long-term insurance (private sector);
6. QPP (Québec Pension Plan) before and after 60 years of age.

The investigation checklist or “Disability Claim File” (Appendix 1) and the “Authorization to Disclose Personal Medical Information” (Appendix 2) are essential tools that will make your work easier. As well, for cases covered by Beneva, the union should have the worker sign the “Authorization to Act on My Behalf” (see Appendix 3). Lastly, Appendix 4 provides some information about employment insurance sickness benefits.

The union has to take various time limits and deadlines into account. It must also prepare the case and transfer it to the union staff representative responsible for the file.

References:

- Employment Insurance (EI) Canada: <https://www.canada.ca/en/employment-social-development/programs/ei.html>
- Beneva: <https://www.beneva.ca/en/claims/group/disability-insurance>
- 2023-2028 FSSS-CSN collective agreement (CCN): <https://fsss.qc.ca/grands-dossiers/negociations-du-secteur-public/#documents>
- CNESST (Commission des normes, de l'équité, de la santé et de la sécurité du travail): <https://www.cnesst.gouv.qc.ca/en>
- IRR (income replacement indemnity): <https://www.cnesst.gouv.qc.ca/en/procedures-and-forms/workers/compensation-and-reimbursements/compensation/income-replacement-indemnity>
- IVAC (Indemnisation des victimes d'actes criminels): www.ivac.qc.ca
- QPP (Québec Pension Plan): https://www.rrq.gouv.qc.ca/en/programmes/regime_rentes/Pages/regime_rentes.aspx
- SAAQ (Société de l'assurance automobile du Québec): <https://saaq.gouv.qc.ca/en/>

Chart 1: Salary Insurance in the Public Sector

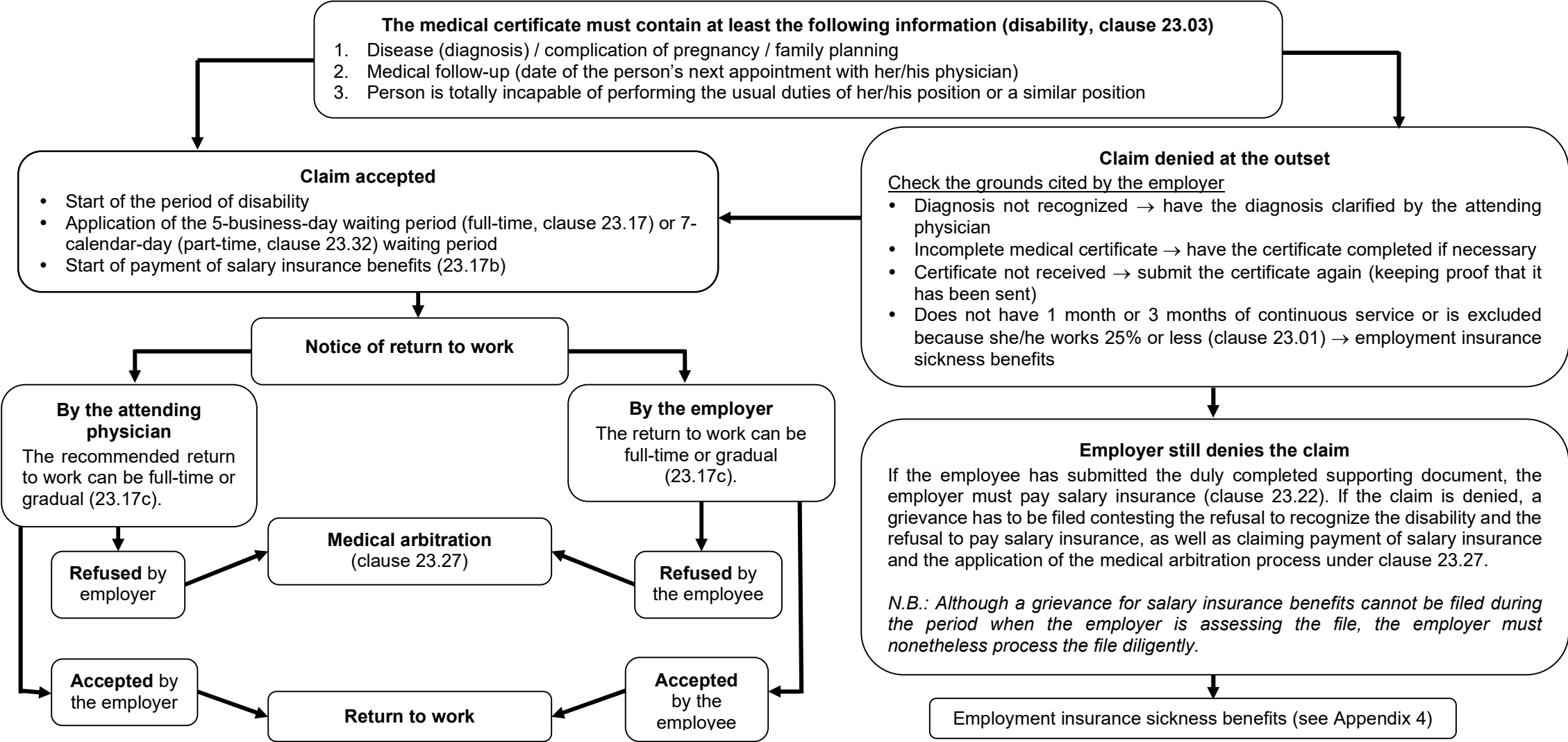


Chart 2: CNESST (Workers' Compensation) / Salary Insurance

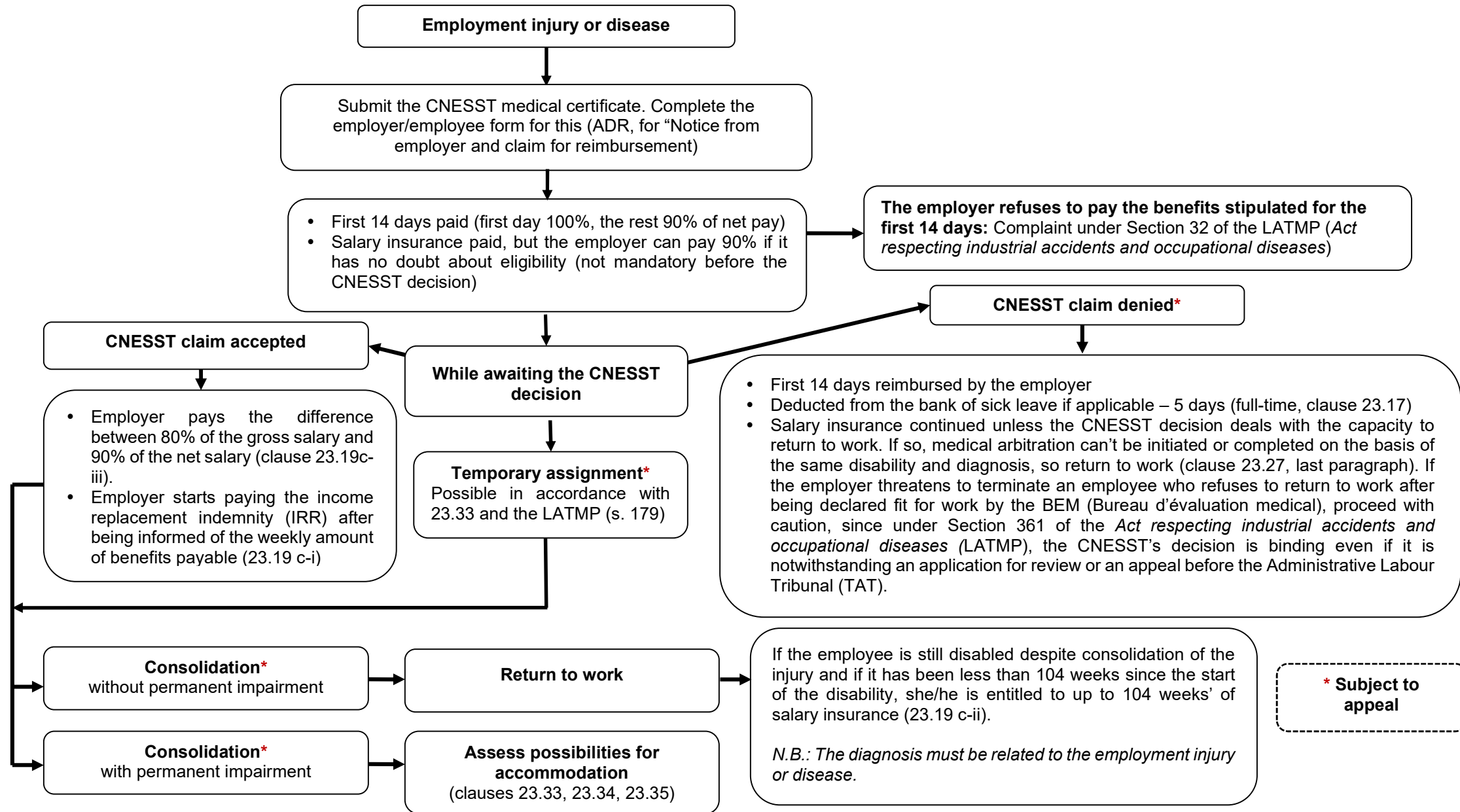


Chart 3: SAAQ (Auto Insurance) / Salary Insurance

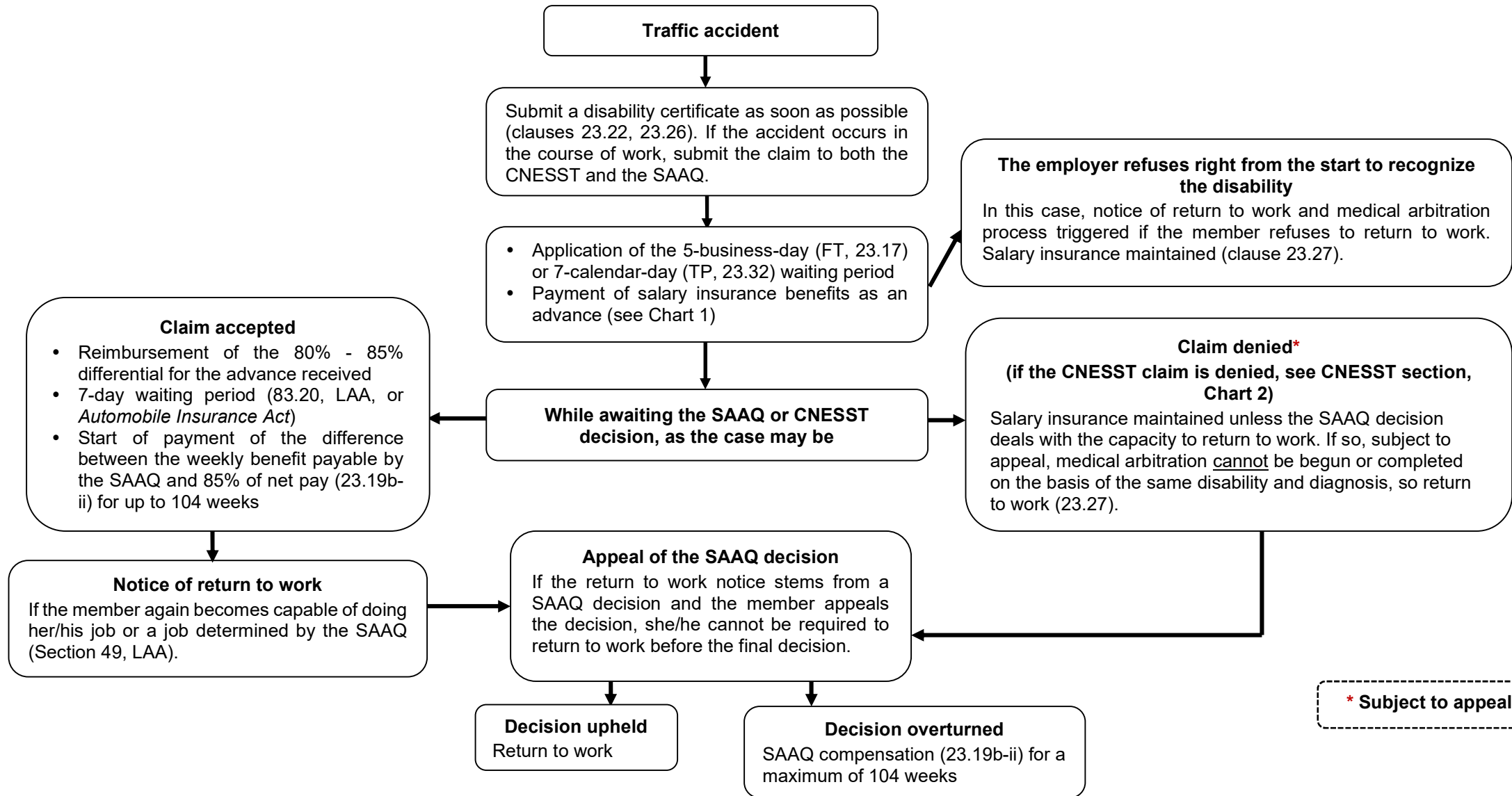
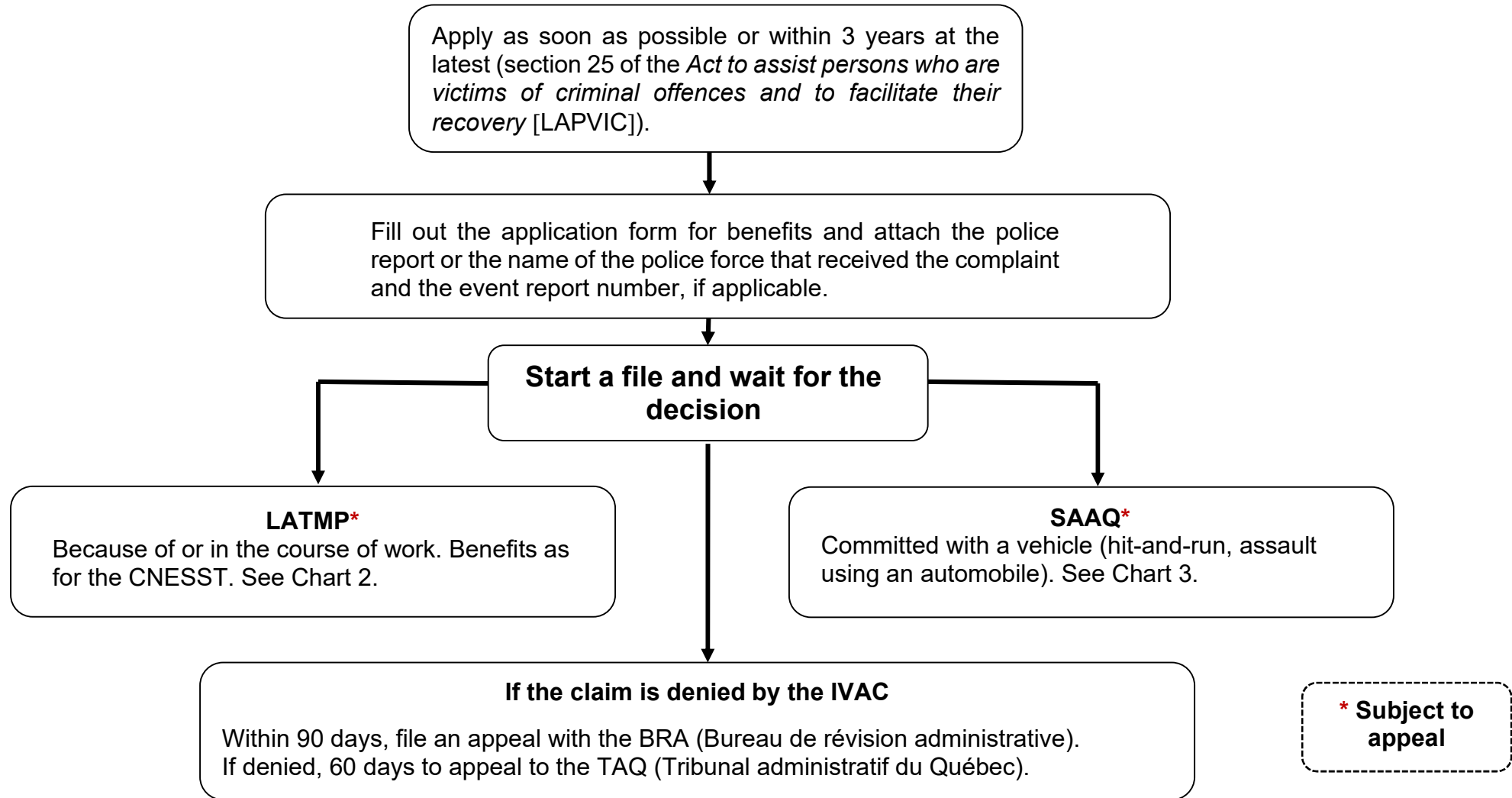


Chart 4: IVAC – Victim of or Witness to a Criminal Act



Warning concerning the application of clause 23.27 of the collective agreement¹

If a body covered by clause 23.27 (CNESST administrative review, for example) decides that a person is fit for work, the person can appeal the decision to another body (Administrative Labour Tribunal, for example). Despite this, the employer may require that the employee return to work even before the final decision is rendered. In such a case, there is still disagreement on the disability, which is covered by clause 23.27. In our opinion, the employer cannot invoke the last paragraph of clause 23.27 for a decision that is not final. This said, the hearing on the grievance has to be suspended until the competent court or tribunal has ruled on the matter.

However, once the final decision is rendered on appeal, there may still be a disability that is not covered by the law, or a medical diagnosis that is different from the one considered by the tribunal. In such a case, the final paragraph of subsection 23.27 cannot be used to oppose the claim.

Since there have been very few decisions on this so far, it is hard to say that this interpretation will be widely followed. So caution is called for, especially if the employer threatens to terminate an employee who refuses to return to work after the BEM has ruled that she/he is fit for work. It should be recalled that under Section 361 of the LATMP, the CNESST's decision is binding notwithstanding any appeal. And Section 46 stipulates that a worker is deemed incapable of doing her/his job as long as an employment injury is not consolidated.

So it is important to carefully weigh the risk of a penalty if the employee defies an order to return to work.

¹ Taken from a legal opinion by Anne Pineau, CSN Legal Services Department, April 14, 2011

**Chart 5a: Beneva — Long-Term Salary Insurance After 104 Weeks
Public Sector — Definition of Disability**

Public Sector — Definition of Disability

From the 105th to the 208th week of a period of disability, a state of incapacity resulting from an accident or an illness, including a complication of pregnancy, a tubal ligation, a vasectomy or similar cases related to family planning, or an organ or bone marrow donation, that is being monitored medically and that renders the employee totally incapable of performing the usual tasks of her/his position, or any other similar position with similar remuneration offered to her/him by the employer.

Subsequently, “total disability” means a state of incapacity resulting from an illness or accident, including a complication of pregnancy or organ donation, that is being monitored medically and that renders the employee totally incapable of doing any paid work for which she/he is reasonably prepared in light of her/his education, training and experience, regardless of the availability of employment.

Chart 5b: Beneva — Long-Term Salary Insurance After 104 Weeks Public Sector — Eligibility

To receive Beneva salary insurance benefits*:

* The employer must send the member's medical file to the insurer 3 months before the end of the 104 weeks of disability.

1st definition of disability
From the 105th to 208th
weeks of the same period
of disability



On the basis of the same definition as the one given in the insurance contract and the one in clause 23.03 of the public-sector collective agreement

2nd definition of disability
From the 208th week of total
disability until age 65 (for
disabilities that began on or
after July 1, 2021).



On the basis of the definition given in the insurance contract, i.e., to be totally incapable of doing any paid work for which she/he is reasonably prepared in light of her/his education, training and experience.

Salary insurance options

Mandatory according to the bargaining unit.

The choice of the long-term salary insurance option is made by the bargaining unit in a general meeting by referendum. When the choice is mandatory participation for all members, it remains in effect for a period of 3 years.

Options O and O + : enrolment is mandatory if the bargaining unit has chosen this option.

**Chart 5c: Beneva — Long-Term Salary Insurance After 104 Weeks
Public Sector — Appeals Process**

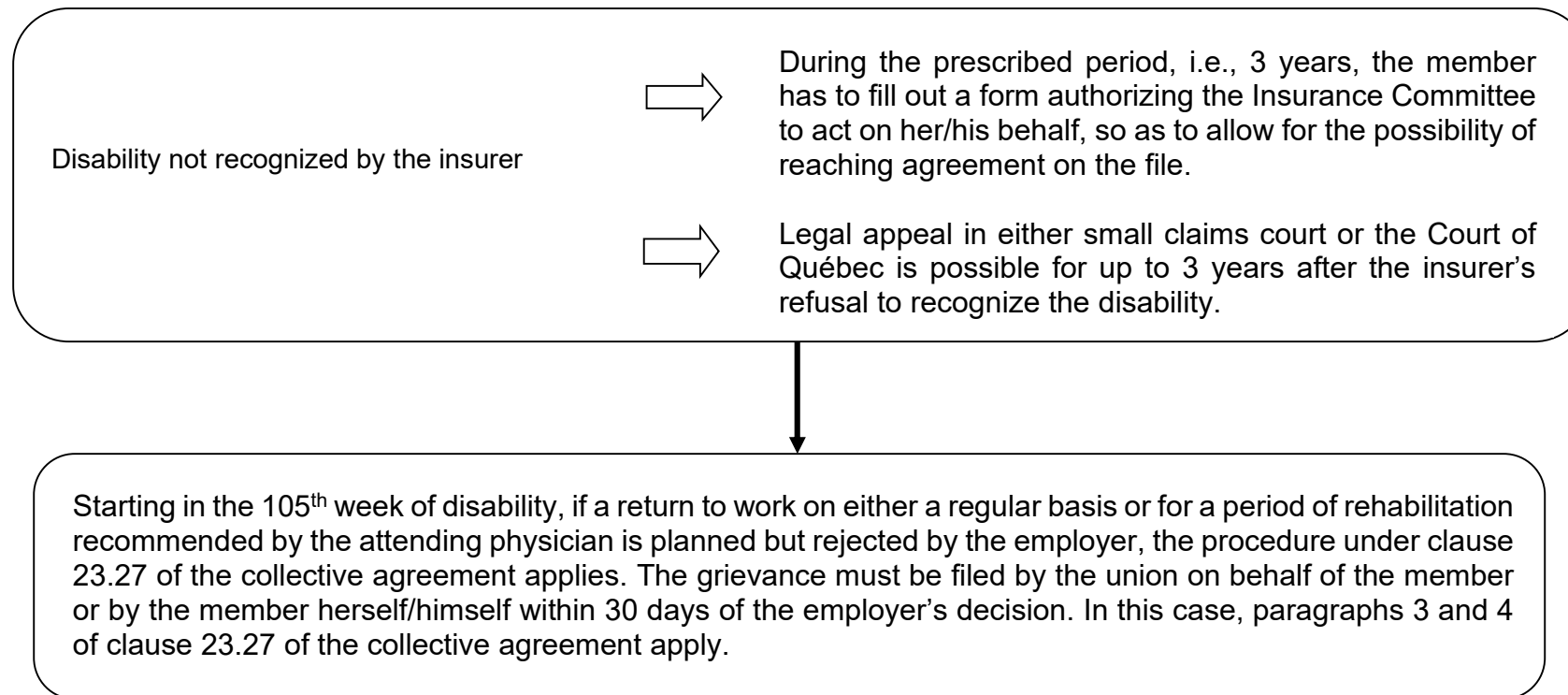


Chart 5d: Beneva — Long-Term Salary Insurance Public Sector — Payment of Premiums, Options O and O+

Premiums are paid regardless of the option held by the group, subject to the following conditions or the choice of the member:

- Termination of participation in long-term salary insurance occurs automatically on the full pay period coinciding with or immediately following the employee's 63rd birthday.
- On January 1 of each year, according to the choice of the employee who has worked 25% or less of full-time in accordance with the provisions of clause 23.01-3.
- Termination of participation occurs automatically when the gradual retirement deadline is 2 years or less.
- Upon retirement.
- Following the employee's decision to exercise her or his right to opt out, which is permitted by Beneva by virtue of one of the following criteria:
 - Be 53 years of age or older;
or
 - Provide Beneva with proof of participation in the pension plan establishing 33 years or more of service for purposes of eligibility for the RREGOP;
or
 - Already be covered by a salary insurance plan for members of a professional order, as long as the plan provides equivalent coverage.

**Chart 5e: Beneva — Long-Term Salary Insurance
Public Sector — “Without payment” and premium waiver, requalification period (relapse)**

Requalification period (relapse)

For the insurance plan, the relapse period for re-qualifying for salary insurance benefits is identical to the FSSS national collective agreement (23.04)

Premium waiver (see Beneva brochure, clause 5.11)

No premium is payable starting from the first day of the premium period coinciding with or following 3 months of total disability.

Notwithstanding this premium waiver, the coverage will continue throughout the same total disability period, without exceeding the following dates, as applicable: 4 years after the date on which the disability began, but not beyond the date of the 71st birthday or the end of the group insurance plan, as long as the member maintains her/his employment relationship.

The provisions relating to the premium waiver do not apply to a pregnant member benefiting from a preventive leave related to pregnancy or breastfeeding approved by the CNESST. Similarly, they do not apply to a disabled member on a temporary work assignment who receives the equivalent of 100% of the salary paid before the disability began.

Termination: the earlier of the return to work (excluding periods of gradual return) and the 48th month of disability.

Chart 6: Beneva — Long-Term Salary Insurance After 104 Weeks Public Sector

The private sector is currently in a period of transition regarding short- and long-term salary insurance coverage. As part of an overhaul of the FSSS-CSN group insurance plan, effective July 1, 2021, new salary insurance options were adopted for private-sector groups enrolled in the FSSS-CSN plan. It was agreed with Beneva that the transfer to these new salary insurance options would take place upon renewal of the respective collective agreements of each of the unions, due to take place beginning in July 2021. As we are currently in a transition period, some unions have already migrated to the new options, while others have yet to do so.

If you have any questions about the plan applicable to your union, we suggest that you speak to your union advisors, who will be able to refer you to the FSSS insurance advisors. Once all the groups have migrated, we will be able to complete a definitive update of the present document.

For home childcare providers (RSGEs), employees pay the premiums directly to Beneva through pre-authorized payments from their financial institution. The salary insurance coverage offered has been revised as part of the overhaul of the FSSS-CSN plan, effective July 1, 2021. Please refer to the Beneva website for full details and applicable terms and conditions: <https://www.beneva.ca/en/group-insurance/fsss-rsge>

**Chart 7a: Quebec Pension Plan (QPP)
Disability pension — If you are under 60 years of age**

Serious and permanent disability

Your health status must render you incapable of performing any significant amount of paid work (gross income of less than \$20,746*) on a permanent basis.

You must submit the form *Application for Disability Benefits under the Québec Pension Plan* as soon as possible. Your attending physician must complete the *Medical Report* section. The decision is rendered in the following 150 days.

Disability accepted

Retroactive 12 months. The waiting period is 3 months. The disability pension payable monthly consists of the fixed amount of the disability pension (\$583.29*) + 75% basic QPP. Maximum of \$1,606.75 per month until age 60.** Note that the disability pension is indexed to the cost of living on January 1 of each year.

Recognition of disability **during** the 104 weeks. Coordination with the employer's benefit after the waiting period (clause 23.19 of the collective agreement).

Recognition of disability **after** the 104 weeks. Co-ordination with the Beneva insurer's benefit after the waiting period (see the Beneva brochure).

Disability denied

You have 90 days to apply for a review. If your application is refused, you have 60 days to appeal to the TAQ (Tribunal administratif du Québec).

* For 2024.

** From age 60, the amount of the disability pension will consist of the fixed amount of the disability pension (\$583.29*) + the retirement pension is reduced by 0.3% to 0.4% per month until age 65 (the maximum reduction (5 years of reduction – age 60 to age 65) is 18% to 21%).

**Chart 7b: Québec Pension Plan (QPP)
Disability pension — Ages 60 to 65 years**

Serious and permanent disability

You may be deemed disabled if your state of health prevents you from doing your usual work or forces you to reduce your working hours for at least 3 months. For each of these months, your work income must not exceed \$1,728 (in 2024).

You must submit the form *Application for Disability Benefits under the Québec Pension Plan* as soon as possible. Your attending physician must complete the *Medical Report* section. The decision is rendered in the following 150 days.

Disability accepted

Retroactive 12 months. The waiting period is 3 months. The disability pension is payable monthly and consists of the fixed amount of the disability pension (\$583.29 in 2024) + the retirement pension reduced by 0.3% to 0.4% per month until age 65 (the maximum reduction (5 years of reduction – age 60 to age 65) is 18% to 21%). Note that the disability pension is indexed to the cost of living on January 1 of each year.

Recognition of disability **during** the 104 weeks. Coordinated with the employer's benefit after the waiting period (clause 23.19 of the collective agreement).

Recognition of disability **after** the 104 weeks. Fully coordinated with the benefit paid by the Beneva insurer.

Appendix 1

Disability claim file

Employee's name: _____
Date of birth: _____
Job title: _____
Department: _____
Site: _____
Address: _____
Phone number: _____
Name of attending physician: _____
Phone number: _____

Start of disability: _____

Is the employee receiving benefits? _____ Since when? _____

Has the employer asked for an expert medical opinion, and if so, from which physician? _____

(If this is the case, you should ask for a copy of the expert opinion and include it in the file.)
Don't forget to include all expert opinions and counter-opinions in the file.

Main diagnosis: _____

Secondary diagnosis: _____

Disability: Physical
 Psychological
 Degenerative

	Yes	No	
Have there been previous disabilities?	<input type="checkbox"/>	<input type="checkbox"/>	Dates: _____

Is it the same diagnosis?	<input type="checkbox"/>	<input type="checkbox"/>	
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Was there medical arbitration?	<input type="checkbox"/>	<input type="checkbox"/>	Date: _____
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Name of the medical arbitrator: _____

Decision: _____

Don't forget to have the employee sign the authorization form to obtain a copy of the medical file, and to inform the employee of the union's policy on the protection of personal information.

Follow-up of the disability file

From: _____
(Employee's name)

Return to work

Projected date of return to work: _____

	Yes	No
Gradual return:	<input type="checkbox"/>	<input type="checkbox"/>
Return to her/his position:	<input type="checkbox"/>	<input type="checkbox"/>

Appendix 2



Union _____
_____ (CSN)

AUTHORIZATION TO DISCLOSE PERSONAL MEDICAL INFORMATION

I, the undersigned: _____
(name)

(address)

authorize: _____
(name of the attending physician or health office)

to send my union: _____
(union's name and address)

c/o: _____
(name of union representative)

the contents or a copy of my medical file pertaining to my current disability.*

Signature

Date

* *The employee is responsible for expenses incurred copying the file.*

Please refer to the union's privacy policy for more information on responsibilities and obligations regarding the collection, retention, use, disclosure and destruction of personal information.

- Original (health professional) Copy to keep on file Employee copy FSSS-CSN copy

Appendix 3



AUTHORIZATION TO ACT ON MY BEHALF

(To be returned to your union representative or advisor)

Applicant

Name (include the id number): _____

Address: _____

Telephone: _____

Email: _____

Union

Name: _____

Address: _____

Telephone: _____

Email: _____

Union staff representatives responsible for group insurance: Stéphane Côté and David Santos, Union Staff Representatives, **FSSS-CSN**.

I, _____, am the applicant, and I hereby authorize the Fédération de la santé et des services sociaux (**FSSS-CSN**), its staff and/or the person it designates to represent me vis-à-vis the insurer, Beneva Inc., to reach an agreement on my file (certificate number) _____ concerning my claim or complaint vis-à-vis the insurer.

I hereby authorize the **FSSS-CSN**, its staff and/or the person that it designates to gather, use, copy or save all medical or administrative documents useful to the management of my claim that are in the possession of my employers, therapists or physicians or any clinic, hospital, insurer or public or private agency holding such information.

Signed:

(Name)

(Date)

I have been informed and I understand that I must contribute actively to carrying out this mandate.

I have been informed that civil proceedings may be initiated in Superior Court or small claims court within three (3) years of the date of the insurer's refusal.

I have been informed that at the end of three (3) years from a final decision or transaction disposing of a dispute, I must take back my file, and should I fail to do so I authorize the **FSSS-CSN** to destroy the documents in its possession, without any further notice.

Appendix 4

Employment insurance and sickness benefits

Eligibility

- Accumulate 600 hours of insurable employment;
- Submit a medical certificate (onset of disability, diagnosis, prognosis and treatment, etc.);
- File the application within 4 weeks.²

Benefits

- For a maximum of 26 weeks;
- Cover 55% of your earnings based on your highest-paid weeks of work (based on pre-tax insurable earnings over the last 52 weeks or since your last claim, whichever is shorter) up to a maximum of \$668 per week³;
- 1-week waiting period unless there was a waiting period with the employer;
- If you are eligible and all the information has been provided, the first payment will be made approximately 28 days after you submit your application.

Extension

- Please contact your union staff representative.

Review

- The application for review must be submitted within 30 days of the date on which the decision was communicated to you;
- The decision rendered following the application for review may be appealed to the General Division of the Social Security Tribunal. You must submit your request for appeal within 30 days of the date on which the decision was communicated to you.

² Here is a link to the Service Canada website on the steps to follow to submit an application:
<https://www.canada.ca/en/services/benefits/ei/ei-sickness/apply.html>

³ In 2024, the maximum amount is \$668 per week.