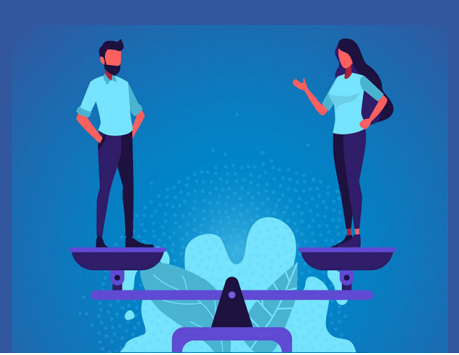




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Pay equity

Number 22, September 2022



FSSS-CSN taking action to end QPIP discrimination after retroactive salary adjustments

Introduction

In the past few months, tens of thousands of employees in the health and social services and education systems have received retroactive pay under the settlements of the 2010 and 2015 pay equity complaints.

The FSSS has noted that many employees who received Quebec Parental Insurance Plan (QPIP) benefits during the period covered by the settlements have not had their benefits adjusted retroactively. The QPIP's administrative position appears to be that the amounts paid to beneficiaries whose files are inactive will not be reviewed.

The FSSS believes the QPIP's approach is potentially discriminatory, since the salary adjustments being paid today arise from settlements of complaints about gender-based wage discrimination. Consequently, when the QPIP responds to applications for review by refusing to retroactively adjust benefits, it is refusing to recognize predominantly female jobs at their fair value, in addition to violating the Act Respecting Parental Insurance.

In our view, a person who received QPIP benefits and whose salary has recently been adjusted retroactively on pay equity grounds should be entitled to have their benefits recalculated. **We therefore suggest that you follow the procedure below if you are personally affected by this issue.**

Who does this apply to? You could follow the recommended process if:

- The salary for your job title has been adjusted under the settlement of a 2010 or 2015 pay equity complaint;
- Your salary has been adjusted retroactively because of the settlement;
- You received QPIP benefits for maternity, paternity, adoption or parental leave during the period for which your salary has been adjusted.



The process

First, you must obtain a Record of Employment (ROE) from your employer for the period(s) you wish to have reassessed. If you run into any trouble getting the ROE, please contact your union local for assistance.

Then go to the QPIP and submit the *Application for Review form* available here: fss.qc.ca/equite-rqap

We suggest that you fill it out as follows:

- In Section 3 (Reason for application for review), check the following boxes:
 - Amount of benefits granted
 - Amount of claim
 - Other reason (specify) and enter "Retroactive salary adjustment"
- In Section 4 (Comments regarding application for review) write "See Appendix A," which is a letter you will write. You could use the attached model.

Model letter

You can use the attached model letter (also available on our website at fsss.qc.ca/equite-rqap), fill in the blanks, and send it to the QPIP with your documents. The letter explains why you are requesting a reassessment of your benefits.

Note that this is a model and you may have to add to it, depending on your circumstances.

The documents you need to submit

Attach the following documents to the Application for Review form:

- The settlement that applies to you. All the settlements are on the fsss.qc.ca/equite-rqap website.
- Amended T4 slips for the periods for which you have received retroactive pay;
- Your amended Records of Employment or pay slips for the periods covered by the retroactive pay.

After receiving your application

The QPIP will make a decision.

- If it accepts your application, the matter is settled satisfactorily.
- If the QPIP rejects your application, you can contest the decision. You could contact your union local for assistance. If you do want the union's support, it will be important to contact them promptly.
- You could discuss with the union the possibility of authorizing it to represent you so that it can fully support you throughout the process, or you could decide to contest the decision on your own.
- Note that you have a maximum of 90 days after receiving the QPIP's decision to contest it before the Administrative Labour Tribunal (ALT). We encourage you to contact your union local if you wish to do so.

A word of caution

As a rule, applications to review QPIP benefits do not fall within a union's duties, since they are not included in the obligations stipulated in the Labour Code (sections 47.2 et seq.). But even though QPIP benefits are an individual matter, the FSSS is supporting its members if their case meets the criteria for an application for review. Make sure you have your supporting documents and plan ahead when you contact your union local. You should also know that this type of appeal can take months or even years. It is not uncommon for the AL to take more than a year to hear a case. So you will have to be patient, but rest assured that we will be able to support you and keep you informed throughout this process.

The union stands behind you

Alongside this administrative and legal process, we are talking to the political authorities responsible for the QPIP to point out the irregular and potentially discriminatory nature of the QPIP's handling of the cases of employees with inactive files who are receiving retroactive pay. If you have any questions about this issue, please contact your union.

IMPORTANT

The information in this newsletter is for information only. It does not constitute legal advice and should not be construed as such. No employee should make or not make decisions based solely on this information. No employee should disregard professional legal advice or delay seeking professional advice based on the information in this newsletter.

List of job titles covered by pay equity settlements

- Senior pharmacy technical assistant
- Health and social services aide
- Beneficiary attendant
- Attendant in a northern institution
- Physiotherapy or occupational therapy attendant
- Housekeeping attendant (light work)
- Administrative technician
- Librarian
- Audiologist / Speech therapist
- Dietician / Nutritionist
- Assistant head of archives
- Medical records archivist (team leader)
- Dental hygienist / Dental hygiene technician
- Medical device reprocessing attendant