

Parental Leave Assistance Program for Lawyers Guidelines Criteria for Eligibility Effective January 1, 2014

If the event as defined below occurred on or after January 1, 2014, the following criteria for eligibility apply.

Please note that all lawyers have access to the Law Society's Coach and Advisor Network (CAN). The Law Society's CAN provides lawyers and paralegals with access to shorter-term, outcome-oriented relationships with Coaches and Advisors drawn from the professions. Please consult the following website to find out more: <https://lso.ca/lawyers/enhancing-competence/coach-and-advisor-network>

1. The Law Society of Ontario's ("Law Society") Parental Leave Assistance Program ("PLAP") is a program for lawyers who meet specified eligibility criteria to receive payment of benefits during a parental leave of absence.¹
2. PLAP is available to sole practitioners and partners in firms of five lawyers or less, where the applying lawyer has an annual net practice income of less than \$50,000.
3. The purpose behind the PLAP is to reduce the financial hardship when a lawyer, woman or man, in a small firm or sole practice takes a parental leave. The funds are intended to defray some of the overhead costs associated with maintaining a lawyer's practice during the parental leave. The PLAP is not designed to be an income replacement program.
4. The following rules apply to the PLAP:

Definitions/Interpretation

5. In the guidelines
 - a. "EI Special Benefits Program" means the program created under the *Employment Insurance Act*, S.C. 1996, c. 23 to provide maternity, parental, sickness, compassionate care and parents of critically ill children benefits for self-employed persons and "EI Special Benefits" are maternity, parental, sickness, compassionate care and parents of critically ill children benefits paid under the program.

¹ Parental leave includes maternity leave, a parental leave (mother or father) and an adoption leave (mother or father).

- b. “Event” means the earliest of the following applicable events,
 - i. the date of the birth of the child;
 - ii. in the case of an adoption, the date upon which the child is placed with the lawyer;
 - iii. the date of a stillbirth or miscarriage after the 19th week of gestation; or
 - iv. the date upon which a birth mother on the advice of a physician or midwife because of complications caused by her pregnancy ceases to practise law.
- c. “Family member” means a spouse, a parent, step-parent or foster parent, a child, step-child or foster child, a sibling, a grandparent, a grandchild, an aunt or uncle, niece or nephew.
- d. “Fees earned” means amount earned, regardless of whether billed or not.
- e. “Member in good standing” is a member of the Law Society who holds a Class L1 license that is not suspended, who is not in default of the requirement to pay to the Law Society the annual fee or any insurance premium levy, who is not in default of any requirement to file any document with the Law Society and who is not in default of any requirement to file any document with the Lawyers’ Professional Indemnity Company.
- f. “Midwife” means a registered member of the College of Midwives of Ontario or a person authorized to practise midwifery in the jurisdiction in which the child is expected to be born.
- g. “Net Practice Income” means a lawyer’s net income from the operation of a law practice. A lawyer’s income from other sources and the value of the lawyer’s personal assets are not included in calculating the net practice income.
- h. “Operational/overhead expenses” means expenses from the operation of a law practice, such as rent or lease costs, telephone costs, hydro costs, etc. excluding any expenses incurred for personal benefit – for e.g. wages or salary paid to self.
- i. “Parent” is an individual who, under the laws of Ontario, has rights and responsibilities with respect to the custody, care and control of the child.
- j. “Physician” means a member of the College of Physicians and Surgeons of Ontario or a person who is authorized to practise medicine in the jurisdiction in which the child is expected to be born.
- k. “Spouse” means a person to whom a lawyer is married or with whom a lawyer is living in a conjugal relationship outside of marriage and includes both same-sex and opposite sex relationships.
- l. “Week” means a period of seven consecutive days beginning on and including Sunday.
- m. The birth of more than one child as a result of a single pregnancy and the adoption of more than one child simultaneously will be considered to be a single birth and single adoption.

Eligibility

6. To be eligible for benefits under the PLAP, the lawyer must satisfy all of the following requirements:
 - a. Be a parent of a child.
 - b. Be a member in good standing.
 - c. Be a sole practitioner or a partner in a firm of five lawyers or less.
 - d. Have had an active law practice and earned income from providing legal services, advice or opinions to clients for a period of at least six months immediately preceding the event.
 - e. Have an active law practice with a business address in Ontario that is not a Post Office (PO) box.
 - f. With respect to the law practice in Ontario, have insurance against professional liability.
 - g. Have no access to any other maternity/parental/adoption financial benefits under public or private plans.

Note: For the purpose of this subparagraph:

Lawyers who have entered into an agreement with the Canada Employment Insurance Commission and are eligible to receive EI Special Benefits are not eligible for the PLAP.

Lawyers who have entered into an agreement with the Canada Employment Insurance Commission but are in the one year waiting period to be eligible for EI Special Benefits are eligible for the PLAP.

Lawyers who have terminated their agreement with the Canada Employment Insurance Commission but remain eligible to claim EI Special Benefits are eligible for the PLAP if they sign an affidavit stating that they will forego all EI Special Benefits.

- h. Have a net practice income of less than \$50,000 for the period of twelve months immediately preceding the event.
 - i. Cease to engage in remunerative work and to practise law during the leave for which he or she is receiving payment of benefits under the PLAP.
7. The PLAP is not an income replacement program, but a program aimed at defraying some of the costs of overhead during the leave from practice.

8. The program is also not intended to replace existing public or private assistance programs. Without limiting the generality of paragraph 6 subparagraph g, to receive benefits under the PLAP, lawyers must not be eligible to receive any parental benefits under:
 - a. the Employment Insurance program under the *Employment Insurance Act*, or any other government program of the same nature, subject to the note at paragraph 6 subparagraph g;
 - b. a partnership agreement;
 - c. a policy at the firm where they practise or work;
 - d. an individual agreement with the firm where they practise or work;
 - e. any other form of financial parental benefits or any form of income replacement, other than financial support received from their family members or their spouse's family members.
9. A birth mother who would otherwise be eligible for benefits under paragraph 6 and has a miscarriage or stillbirth after the 19th week of gestation, is eligible for benefits under the PLAP from the date of miscarriage or stillbirth for a maximum period of 12 weeks.
10. A leave must begin and end within the 16 weeks immediately following,
 - a. the date of the birth of the child, unless the child remains hospitalized, in which case the period is extended by the number of weeks during which the child remains hospitalized;
 - b. in the case of an adoption, the date upon which the child is placed with the lawyer; or
 - c. the date of a stillbirth or miscarriage after the 19th week of gestation.
11. Notwithstanding paragraph 10, a birth mother, who would be eligible under paragraph 6 but who, on the advice of the physician or a midwife and because of complications caused by her pregnancy, must cease to practise law before the delivery of the child, is eligible for benefits under the PLAP from the first day of her leave for a maximum period of 12 weeks.

Benefit Amount

12. The amount of benefits offered by the Law Society for a parental leave is \$750 per week for up to 12 weeks, to a maximum of \$9,000 per leave. If more than one parent is eligible under the PLAP, each parent may claim benefits as long as the total combined amount of benefits does not exceed \$9,000 per leave per family unit.

13. Benefits will be paid by electronic funds transfer (EFT) on a bi-weekly basis where the lawyer meets all of the eligibility criteria and submits the necessary documents required for consideration of his or her application. The benefits will be prorated on a weekly basis.
14. Without limiting the generality of paragraph 13, if a lawyer engages in remunerative work or practises law in a given week, he or she will not be eligible for benefits for that week. The lawyer is required to notify the Parental Leave Assistance Program Administrator within 5 business days of the last day of the week worked.
15. Without limiting the generality of paragraph 13, if a lawyer ceases to be a member in good standing or is not a member in good standing in a given week, he or she will not be eligible for benefits for that week. The lawyer is required to notify the Parental Leave Assistance Program Administrator within 5 business days of the last day of the week during which the lawyer ceased to be a member in good standing or was not a member in good standing.
16. For tax purposes, the benefits paid under the PLAP are considered to be taxable income. As benefits will be payable to an individual lawyer, a T4A will be issued to the lawyer by the end of February of the year following payment of the benefits.

Application Process

17. A lawyer who wishes to apply for the PLAP benefits must complete and file a PLAP application, in the form of an affidavit, and provide all requested supporting documents.
18. The affidavit must be certified by a licensed lawyer, other than the applicant, or another individual who is approved by the Ministry of the Attorney General as a commissioner for taking affidavits.
19. The Law Society may require additional information and supporting documentation at any time to determine any lawyer's eligibility for benefits under the PLAP.
20. Applications under the PLAP must be filed within 4 weeks of the event.
21. PLAP applications are considered by the PLAP manager. In processing a PLAP application, the PLAP manager shall consider the following:
 - a. the application and all required supporting documents submitted by the applicant;
 - b. all additional information and documents requested by the Law Society under paragraph 19;

- c. all information obtained by the PLAP manager from the Lawyers' Professional Indemnity Company; and
 - d. all other relevant information, including information with respect to the lawyer's status with the Law Society, payment by the lawyer of required fees and compliance by the lawyer with filing requirements.
22. Eligibility decisions are communicated to the lawyer in writing within one month of receipt of a complete PLAP application. The lawyer may file a request for review of the decision with the Chief Financial Officer within one month of the decision having been communicated to the applicant. The Chief Financial Officer will review the PLAP manager's decision and communicate his or her decision to the lawyer within one month of receipt of the request for review.
23. Continued eligibility for PLAP benefits is determined by the PLAP manager, based on the following: the application and all required supporting documents submitted by the lawyer, all additional information and documents requested by the Law Society under paragraph 19, all information obtained by the PLAP manager from the Lawyers' Professional Indemnity Company and all other relevant information, including information with respect to the lawyer's status with the Law Society, payment by the lawyer of required fees and compliance by the lawyer with filing requirements.

Repayment of Benefits

24. Where, after a lawyer has been paid benefits under the PLAP, the Law Society determines that the lawyer was not in fact entitled to receive payment of benefits under the PLAP, the Law Society may request from the lawyer the repayment of the benefits paid to the lawyer. Where the Law Society requests from a lawyer the repayment of the benefits paid under the PLAP, the lawyer shall repay the benefits within 30 days of receiving the Law Society's request.