

DEMUTUALIZATION CLASS PROCEEDING

The following are a series of questions and answers to questions that the Ontario Hospital Association has received from some of its Participating Employers. It is being provided to all Participating Employers in the Settlement reached regarding the Demutualization Proceeds.

In addition, we wanted to provide a brief status update with respect to these proceedings.

Where are We Today?

- The Court approved the settlement on August 17, 2010. In advance of the Court date, Participating Employers and the OHA posted a notice, as approved by the Court, advising potential Class Members of this proceeding. This Notice appeared in the Globe and Mail on July 5, 2010.
- All Participating Employers and the OHA posted a second notice, as required by the Court, which also appeared in the Globe and Mail on August 20, 2010, advising Class Members of the opt out process and the application process for the Cash Recipients Fund.
- The Opt-out period for individuals who did not want to be members of the Class ended on September 16, 2010. No opt outs were received.
- Class Member who were eligible for payments from the Cash Recipients Fund were required to make those applications by October 18, 2010.

What's Next?

- The OHA is reviewing applications to the Cash Recipients Fund and making payments to eligible applicants. This process must be completed by December 17, 2010. The OHA will review any applications that it does not believe are eligible for this payment with Counsel for the Class Members.
- Each Participating Employer must create a list of current employees who will be eligible for the Premium Holiday (as defined below) and provide that list to its local unions for confirmation. See Question 17 in the attached FAQs for more details regarding how Participating Employers are required to confirm these lists with their local unions.
- The OHA will distribute the funds for the Premium Holiday (as discussed below). Participating Employers will then use these funds as required by the terms of the Settlement (see below).

What's Still to Come?

- Once the Cash Recipients Fund has been administered and expenses have been paid, the OHA will determine what funds are remaining. In accordance with the Settlement, 50% of those funds will be provided to Participating Employers who still participate in the OHA's LTD Policy to provide an additional Supplemental Employee Only Premium Holiday to eligible Class Members (see below).

FAQs FOR PARTICIPATING EMPLOYERS

1. Who is a Class Member?

Class Members are current or former employees of a member organization of the OHA who paid a share of premiums and were covered by the OHA's long-term disability policy (Policy No. 2100) as of December 29, 1997.

2. Who are the Participating Employers?

The "Participating Employers" are the OHA and those OHA member employers who participated on December 29, 1997 under the OHA LTD Policy (Policy No. 2100) or their successors. The list of Participating Employers was attached as Schedule A to the settlement.

3. Which Class Members are eligible for (A) the Premium Holiday and (B) the Supplementary Employee Only Premium Holiday?

(A) The Premium Holiday

In order to qualify for the **Premium Holiday** as an employee, the employee must be a Class Member and:

- (i) be actively employed with a Participating Employer as of the date the proceeds are distributed;
- (ii) pay a share of premiums under the applicable LTD policy as of the dates the proceeds are distributed;
and
- (iii) have participated in the OHA LTD policy on December 29, 1997 with the same employer.

(B) The Supplementary Employee Only Premium Holiday

In order to qualify for the **Supplementary Employee Only Premium Holiday**, the employee must be a Class Member and:

- (i) be actively employed by a Participating Employer that has continued to participate in the LTD policy currently sponsored by the OHA (OHA Benefit Plans);
- (ii) pay a share of premiums under the LTD policy currently sponsored by the OHA (OHA Benefit Plans);
and
- (iii) have participated in the LTD policy as of December 29, 1997 that Mutual Life issued to the OHA at the time, with the same employer.

In practical terms, this means that all employees eligible for the Supplementary Employee Only Premium Holiday will also be eligible for the Premium Holiday described in (A) above.

However, not all employees eligible for the Premium Holiday described in (A) above will be eligible for the Supplementary Employee Only Premium Holiday. For example, those employees of a Participating Employer that has NOT continued to participate in the LTD policy currently sponsored by the OHA, will not be eligible for the Supplementary Employee Only Premium Holiday.

4. Why would a Class Member be ineligible for the Premium Holiday?

Class Members can be ineligible for a number of reasons, including:

- the employee may be working for the same hospital as they were in 1997, but the employee no longer pays LTD premiums;
- the employee may no longer be working for the same Participating Employer as they were on December 29, 1997, may be retired, may be currently on leave, or may be currently receiving LTD benefits and therefore not paying premiums.

5. *What happens to a Class Member who is not eligible to receive a Premium Holiday under the terms of the Settlement, do they get any compensation?*

The Class Member was required to apply by Monday October 18, 2010 to the Cash Recipients Fund.

6. *If the maximum you can get from the Cash Recipients Fund is \$100, what happens if there is money left over after all the approved respondent class members have been mailed their cheques?*

The money that remains after the payments to the Cash Recipients Fund applicants will be divided. 50% of the remaining funds will go to the OHA. The other 50% of the remaining funds is what provides the funds for the Supplementary Employee Only Premium Holiday.

7. *What portion of the demutualization funds will each Participating Employer receive?*

Each Participating Employer will receive an amount that must be used solely for a premium holiday under its LTD policy. This **Premium Holiday** is based on a pro-rata share of \$17,200,000 and provides both the Participating Employer and eligible Class Members with a premium holiday in proportion to the premiums that the Participating Employer and its employees currently pay under their current LTD policy.

Those Participating Employers who continue to participate in the LTD policy sponsored by the OHA will receive a second amount, a **"Supplementary Employee Only Premium Holiday"**, which provides an supplementary premium holiday for eligible Class Members **only** (and not to Participating Employers) out of the funds remaining from the proceeds after all other payments have been made. The eligibility of Class Members for the Supplementary Employee Only Premium Holiday is described in greater detail above.

Participating Employers who receive amounts in respect of each the Premium Holiday and the Supplementary Employee Only Premium Holiday will receive these payments in two separate instalments. Funds for the Premium Holiday will be provided first. After the administration of the demutualization proceeds has been completed, eligible Participating Employers will receive the funds to provide the Supplementary Employee Only Premium Holiday to eligible Class Members.

8. *How is the Participating Employer's portion of the Premium Holiday calculated?*

The Settlement states that \$17,200,000 is to be divided and distributed to the Participating Employers on a "pro-rata" basis: it will be distributed in direct proportion to the number of employees the Participating Employer had who were covered under the OHA's LTD policy as at December 29, 1997.

According to OHA policy records, there were approximately 41,000 employees covered under the LTD policy as at December 29, 1997, which results in payment of approximately \$419.50 (17,200,000 divided by 41,000) per covered employee. Each Participating Employer will receive an amount which corresponds to the number of eligible employees of that Participating Employer (including any predecessor employers) as at that date, in accordance with the OHA's policy records.

9. How do I administer the Premium Holiday for my hospital?

- **Step 1:** The Employer Portion of the Premium Holiday is determined by the percentage of the LTD premiums that the Participating Employer currently pays. The Participating Employer **must** use its portion solely for the purpose of providing a premium holiday under the Participating Employer's LTD policy.

For example, assume that in accordance with the OHA's policy records, the Participating Employer had 500 employees who were covered under the OHA's LTD policy as at December 29, 1997. Using the estimated total of 41,000 employees covered under the LTD policy as at December 29, 1997, the Participating Employer will receive \$209,750.00 towards the Premium Holiday. If the Hospital currently pays 75% of the LTD premiums, 75% of the funds received for the Premium Holiday (not the Supplementary Employee Only Premium Holiday) are to be used by the Participating Employer to fund its own premium holiday. In other words, \$157,312.50 of the \$209,750.00 is to be used to fund the Participating Employer's Premium Holiday.

- **Step 2:** The balance of the amount received in respect of the Premium Holiday (in the above example, the remaining \$52,437.50) must be used to fund premium holidays for eligible Class Members.
- **Step 3:** If you are a Participating Employer who continues to participate in the LTD policy sponsored, you will also receive an amount in respect of the Supplementary Employee Only Premium Holiday. This amount must be used to fund premium holidays for eligible Class Members only until there are no further funds available for that purpose (i.e. no portion of this amount can be used to fund Participating Employer premium requirements.)

10. What happens if the Participating Employer paid 75% of the premiums on December 29, 1997 but now pays 100% of the premiums?

The Participating Employer will use 100% of the Premium Holiday to fund a holiday of its premiums and the Class Members employed by that Participating Employer would have been eligible to apply for a payment from the Cash Recipients Fund (see more details below).

The Participating Employer will not receive any amount in respect of the Supplementary Employee Only Premium Holiday as it will not have any Class Members eligible to receive that supplementary holiday.

11. What happens if the Participating Employer now pays 75% of the premiums for one of its employee groups, but pays 100% of the premiums for another employee group?

The Participating Employer will divide the Premium Holiday into amounts allocated to each employee group, based on the number of individuals who were in each employee group as at December 29, 1997.

Assume the Participating Employer currently pays 75% of the LTD premiums for Group A, and 100% of the LTD premiums for Group B. The Participating Employer will use 75% of the funds allocated to Group A for purposes of the employer portion of the Premium Holiday and allocate the remaining 25% to the eligible Class Members from Group A for their portion of the Premium Holiday. For Group B, the Participating Employer will use 100% of the funds for the Premium Holiday to fund its Premium Holiday and the eligible Class Members in Group B, if any, will be eligible to apply to the Cash Recipients Fund.

Any amount that is payable in respect of the Supplementary Employee Only Premium Holiday will only be applied to Group A employees who are otherwise eligible for the supplementary holiday.

12. How do I administer the Cash Recipients Fund cheques?

The OHA administers the Cash Recipients Fund in accordance with the Notice to Current and Former Employees included in the Settlement. Please see the Notice that you previously posted for details about this application process. If an employee asks you any questions about this process, please refer them to that Notice. Please note that the deadline to apply for the Cash Recipients Fund expired on October 18, 2010 at 5 p.m.

13. When are the Cash Recipients Fund payments made?

The Settlement agreement requires that Cash Recipients Fund payments be mailed to approved Class Members within 60 days following the deadline for application to the Cash Recipients Fund. Therefore, cheques must be mailed to approved respondent class members no later than December 17, 2010.

14. We have a very mobile workforce – employees change hospitals often. What happens to employees who have left the Participating Employer they worked for on December 29, 1997, but now work for another Participating Employer? Are they eligible for a premium holiday, or payment from the Cash Recipients Fund?

Class Members who are no longer employed with the same Participating Employer that they were employed with on December 29, 1997 were eligible to apply to the Cash Recipients Fund for payment.

15. Can Class Members who are eligible for a premium holiday opt for a cash payment of \$100 from the Cash Recipients Fund instead?

No.

16. Is eligibility dependent on whether the employee changed union status (i.e. non union vs. union), or union groups (i.e. CUPE to ONA)?

No. None of the criteria for an individual to be entitled to any aspect of the settlement (i.e. the criteria to be a Class Member, to receive a premium holiday or to apply for payment from the Cash Recipients Fund) are dependent on whether the employee has changed status as a unionized employee or is now represented by a different union.

17. The Participating Employers are responsible for processing the premium holidays for eligible Class Members. Do we need to validate the list of eligible Class Members with the OHA first?

The Settlement does not require Participating Employers to validate their lists with the OHA. However, each Participating Employer is required to create a list of its current employees who will be eligible for the Premium Holiday and share that list with its local unions. The purpose of this list is for the local unions to confirm those employees who will receive the Premium Holiday (see Question 3 for details for determining which of your employees will be eligible). We ask that you share this list with your local unions **by December 10, 2010** and that you send a copy to Joanne Philipose at the OHA when you have done so (by email to jphilipose@oha.com). When you do so, please advise the local unions that they will be deemed to have confirmed the list as accurate unless they provide written information to the contrary within two weeks. Please advise Joanne Philipose as soon as possible if there are any concerns raised by your local union.

18. Instead of changing the current LTD deductions that are applied to Class Members, can a Participating Employer continue to deduct LTD premiums from Class Members during the “premium holiday” and provide the “premium holiday” in the form of a lump sum increase in pay equivalent to the LTD premium for that Class Member until the “premium holiday” runs out.

No. The Settlement requires each Participating Employer to provide a Premium Holiday, not a payment in lieu of a premium holiday.

19. What if the employee failed to file all the necessary paperwork for the Cash Recipients Fund within the 60 day period?

If an eligible Class Member failed to make a complete application for a payment from the Cash Recipients Fund by 5 p.m. on October 18, 2010, the Settlement states that they will not be eligible for the cash payment. Any incomplete applications and late applications which are not accepted by the OHA are subject to a review process with Class Member Counsel.

20. Is the Participating Employer required to send any communications to the affected active employees about the Premium Holiday or Supplementary Employee Only Premium Holiday? Is a communication protocol being suggested by the OHA? i.e. general intranet communication or an individual letter to each person?

There are no required communications. Participating Employers who wish to communicate about the length or timing of the Premium Holiday should ensure that the communication is consistent with the terms of the Settlement and can seek assistance from the OHA in that regard.

21. If an employee was on a leave of absence (e.g., maternity leave) either on December 29, 1997, and/or will be on a leave of absence when the proceeds are distributed, are they eligible for the Premium Holiday?

If the employee was on leave on December 29, 1997, but paid LTD premiums prior to that date under policy number 2100, then that employee is a Class Member who is eligible for the premium holiday as long as the employee is actively employed with the same Participating Employer and continues to pay LTD premiums as of the date the proceeds are distributed. Otherwise, the Class Member may apply for payment from the Cash Recipients Fund.

If the employee is a Class Member, but on a leave on when funds are distributed, the Class Member will be eligible for the premium holiday if the Class Member is currently paying LTD premiums. However, if the Class Member is on a leave and not paying any LTD premiums, the Class Member could have applied for payment from the Cash Recipients Fund.

Class Members must be actively employed and paying LTD premiums on the date the proceeds are distributed to qualify for the premium holiday.

22. Does it matter if an employee was terminated at some point between 1998 and 2010, or do they just have to be active and enrolled in the LTD plan as of December 29, 1997 and the date of the 2010 Settlement?

If a Class Member was terminated after December 29, 1997, they remained eligible to apply for and should have applied for a payment from the Cash Recipients Fund. If the Class Member was terminated after December 29, 1997, but subsequently rehired by the same Participating Employer and is actively at work and paying LTD premiums as at the date the proceeds are distributed, that Class Member is eligible for the premium holiday. However, if the Class Member is now employed with a different Participating Employer than she or he was employed with on December 29, 1997, the Class Member was required to apply for payment from the Cash Recipients Fund and is not eligible for either of the premium holidays.

23. What happens if the respondent class members have questions about the Settlement or its administration?

Class Members are represented by counsel. As such, all inquiries must be directed to class counsel in accordance with the Settlement as follows:

Contact information for Class Counsel to Class Members represented by (or formerly represented by) a Union:

Cavalluzzo Hayes Shilton McIntyre & Cornish LLP
Barristers & Solicitors
474 Bathurst Street, Suite 300
Toronto, ON M5T 2S6
Fax: (416) 964-5895

Please direct inquiries to:

Telephone: 1-877-398-5711
Email: moconnor@cavalluzzo.com
Web site for Class Members: www.cavalluzzo.com/Class-Actions.aspx (click on OHA class proceeding)

Contact information for Class Counsel to Class Members who are (or were) non-unionized employees:

Koskie Minsky LLP
Barristers & Solicitors
P.O. Box 52
20 Queen Street West, Suite 900
Toronto, ON M5H 3R3
Fax: (416) 977-3316

Please direct inquiries to:

Telephone: 1-866-777-6341
Email: ohaclassproceeding@kmlaw.ca
Web site for Class Members: www.kmlaw.ca/case-central (click on OHA class proceeding)