



## Appeal of Extension Lump Sum EI Claw Back

To: Presidents and All Members  
From: Pierre Côté, General Secretary

### For Action

D/BU #065/2017-2018 outlined OSSTF/FEESO's recommendation with respect to members who experienced claw back after receiving the 0.5% lump sum payment associated with the Extension Agreement. Service Canada has sent a communication to Ontario regional offices outlining its official position with respect to the lump sum payment. That communication states:

"The [lump sum] payment is in recognition for professional development, supplies or equipment, or for other professional expenses. The calculation for the 0.5% lump sum is based on 2016-2017 earned wages, overtime, top-up of pregnancy leave, position of responsibility allowances. This payment does not cover specific expenses but is a one-time payment to teachers and education workers for expenses they may incur in fulfilling their duties. This payment is made regardless of any other job-related reimbursements the worker may have incurred in the past or may incur in the future.

Impact on EI benefits: this payment is to be considered earnings for EI benefit purposes since it clearly arises from employment. It is to be allocated to the week when the payment was actually made to the employee (September 1, 2017\*), as per paragraph 36(19)(b) of the EIR."

\* Although Service Canada quoted the date agreed to in the Extension Agreement, the lump sum will be allocated to the week when the payment was actually made i.e. the week of November 1, 2017, or whichever week the employer made the payment if it is different than that.

D/BU #065/2017-2018 recommended that members who experience claw back of the lump sum should submit a "Request for Reconsideration". Members who submitted those requests should now be receiving the results. If regional offices adhere to the direction sent by Service Canada, the decision to claw back the lump sum will be upheld.

OSSTF/FEESO continues to hold the position that the lump sum payment should not be considered earnings for EI benefit purposes, and will be appealing unsuccessful "Requests for Reconsideration" at the Social Security Tribunal of Canada. Any member who has submitted an unsuccessful "Request for Reconsideration" as a result of the claw back of the 0.5% lump sum should do the following as soon as possible after receiving the document:



1. Immediately inform their Bargaining Unit that you have filed a “Request for Reconsideration” that has been denied.
2. Complete a “Notice of Appeal” (attached). Complete parts 1 – 5 and part 10;
3. Forward the completed “Notice of Appeal” along with a copy of the “Request for Reconsideration” decision to Lee Anne Gulyas at [LeeAnne.Gulyas@osstf.ca](mailto:LeeAnne.Gulyas@osstf.ca)

OSSTF/FEESO will be taking the appeals forward as a group. In order to allow timelines to be met, members must forward the above documents within 2 weeks of learning of the decision on their “Request for Reconsideration”. We will monitor the success of initial appeals and reassess this strategy as needed.

BF/lag cope 343  
attachment

