



November 1, 2021

Honourable Carla Qualtrough
Minister of Employment, Workforce
Development and Disability Inclusion
House of Commons
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Delivered by Email

RE: Denial of Employment Insurance based on vaccination status

Dear Minister Qualtrough,

I am writing on behalf of the Canadian Civil Liberties Association (CCLA) regarding comments you have made in the media and information on the Employment Insurance (EI) website about eligibility for EI. As you know, the position stated is that if an individual is terminated for failing to comply with an employer's vaccination mandate, the individual will not be considered eligible for employment benefits. In effect, a refusal to be vaccinated, or to disclose one's vaccination status to an employer, is treated as misconduct. In our view, this policy is wrong-headed, counter-productive, and may well conflict with the government's constitutional and human rights obligations. We strongly urge you to reconsider this position.

Vaccination mandates in workplaces are not a simple question of occupational health and safety. The federal government, for example, is requiring employees who work remotely to provide an attestation that they are vaccinated, or face termination. Applying this policy to an employee who does not physically interact with other employees cannot be said to be required based on health and safety or employment-related concerns. Rather, the federal government itself appears to be using its role as the largest employer in the country to encourage or "incentivize" vaccine uptake. We are aware of other employers who are also requiring vaccination of individuals who do not ever physically enter a communal workplace.

We accept that encouraging individuals to be vaccinated is a valid policy objective, but it cannot be pursued without limits. Individuals who are willing to lose their jobs rather than accept the vaccine clearly have a genuine and sincerely held objection. While it may be easy to try to dismiss all such individuals and assume that their hesitancy is premised on misinformation, we know that this is not true of all individuals who refuse the vaccine. We are aware of some individuals, for example, who have been advised by their physicians not to be vaccinated based on complex personal health issues. However, many employers, including the federal government, do not appear willing to accept this as a valid medical exemption. As the Minister responsible for disability inclusion, your office should be particularly sensitive to this issue and the concerns that many members of the disability community have about the inflexible approach being taken to medical exemptions.

There is a point at which encouragement and incentives become *de facto* coercion. In our view, denying employment insurance benefits to individuals who have lost their job rather than comply with a vaccine mandate crosses this line. Further, since poverty is one of the key social determinants of health, such an approach may well be counter-productive from a public health perspective. Finally, the individual

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circumstances of those who may be denied EI as a result of this policy may give rise to *Charter* or human rights claims. We strongly urge you to reconsider your government's approach to this issue. We look forward to your reply.

Sincerely,

Cara Faith Zwibel
Director, Fundamental Freedoms Program