



Disability handbook

Salary insurance, CSST, SAAQ, IVAC, SSQ and QPP

**For unions in the public and private sectors
of the Fédération de la santé et des services sociaux – CSN**

May 2012 – Updated February 2014

Comrades,

Disability cases are becoming more and more complex. They can involve interaction among various pieces of legislation, forms of social protection (CSST, SAAQ, IVAC, RRQ) and the collective agreement. This has made it necessary to do the work of preparing a tool that is easy for union representatives and staff representatives to understand and use to manage disability cases when they come up in the course of their work.

The Fédération de la santé et des services sociaux – CSN is proud to present the results of its work in the form of this “Disability handbook”.

Inside, we review the various salary insurance plans provided by the collective agreement, the SSQ, the CSST, the IVAC, the SAAQ and the QPP. The purpose of the handbook is to:

- help the reader understand the various plans;
- provide information about workers’ rights, employers’ obligations, time limits and possible recourse (appeals).

I am convinced that this tool will prove to be very useful and will facilitate your daily work on disability cases.

In conclusion, I would like to thank the union staff representatives and office employee for their help in creating this handbook:

- staff representatives: Réjean Boiteau, Jean-Michel Gaydos, Raymond Laroche, Michel Lecompte;
- office employee: Brigitte Frenette.



Guy Laurion,
Vice-president responsible for paratechnical, auxiliary services and trades personnel (Class 2)
Officer with political responsibility for occupational health and safety work

INTRODUCTION

This handbook will help you follow each step of the collective agreement when a worker comes to you with a salary insurance case.

It covers various situations in which workers may find themselves:

1. Salary insurance;
2. Workers' compensation (CSST – Commission de la santé et de la sécurité du travail) and salary insurance;
3. Auto insurance (SAAQ – Société de l'assurance automobile du Québec) and salary insurance;
4. Compensation for victims of criminal acts (IVAC - Indemnisation des victimes d'actes criminels), for victims of or witnesses to a criminal act;
5. SSQ – short- or long-term insurance (public sector);
6. SSQ – short- or long-term insurance (private sector);
7. QPP (Québec Pension Plan) before and after 60 years of age.

You can supplement this handbook by referring to the “Guide de recours en matière de lésions professionnelles”, published by the CSN in April 2004.

The investigation checklist or “Disability case form” (Appendix 1) and the “Authorization to disclose personal medical information” (Appendix 2) are essential tools that will make your work easier. As well, for SSQ cases, the union should have the worker sign the “Authorization to act on my behalf” (see Appendix 3). Appendix 4 contains the “Application for an extension of the premium waiver” form. Finally, Appendix 5 provides some information about employment insurance sickness benefits.

The union has to take various time limits and deadlines into account. It must also prepare the case and transfer it to the union staff representative for the work.

References:

- 2010-2015 collective agreement
- CSST – Commission de la santé et de la sécurité du travail du Québec: www.csst.qc.ca
- IRR – Income replacement indemnity: www.csst.qc.ca/publications/200/Pages/dc_200_6230.aspx
- RRQ – Québec Pension Plan: <http://www.rrq.gouv.qc.ca/en/accueil/Pages/accueil.aspx>
- SAAQ – Société de l'assurance automobile du Québec (auto insurance): <http://www.saaq.gouv.qc.ca/en/index.php>
- IVAC – Indemnisation des victimes d'actes criminels (compensation for victims of criminal acts): http://www.ivac.qc.ca/EN_acts.asp
- SSQ Financial Group: www.ssq.qc.ca
- Employment Insurance Canada: <http://www.servicecanada.gc.ca/eng/sc/ei/index.shtml>

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Chart 1: Salary insurance in the public sector

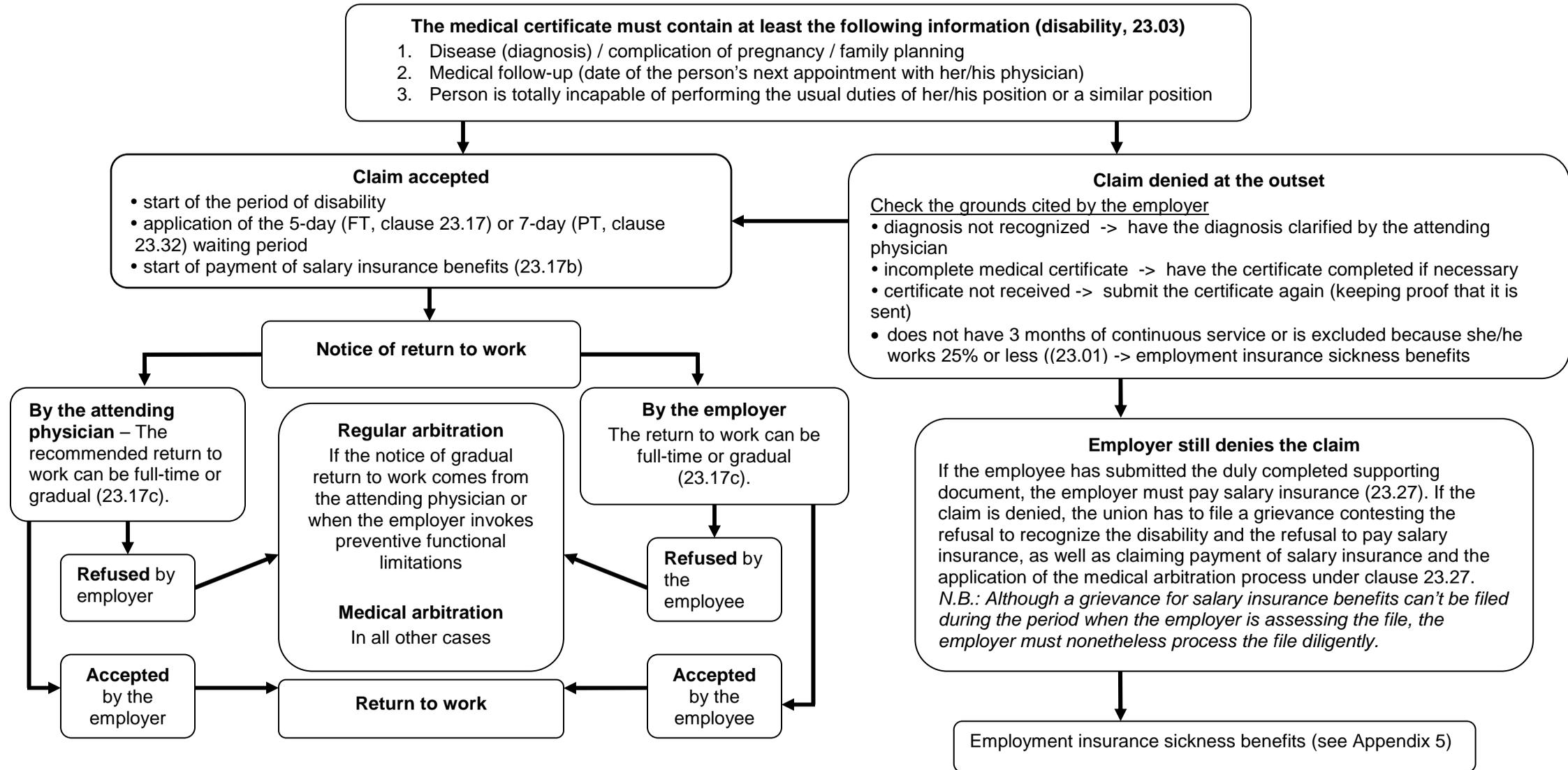


Chart 2 : CSST (workers' compensation) / salary insurance

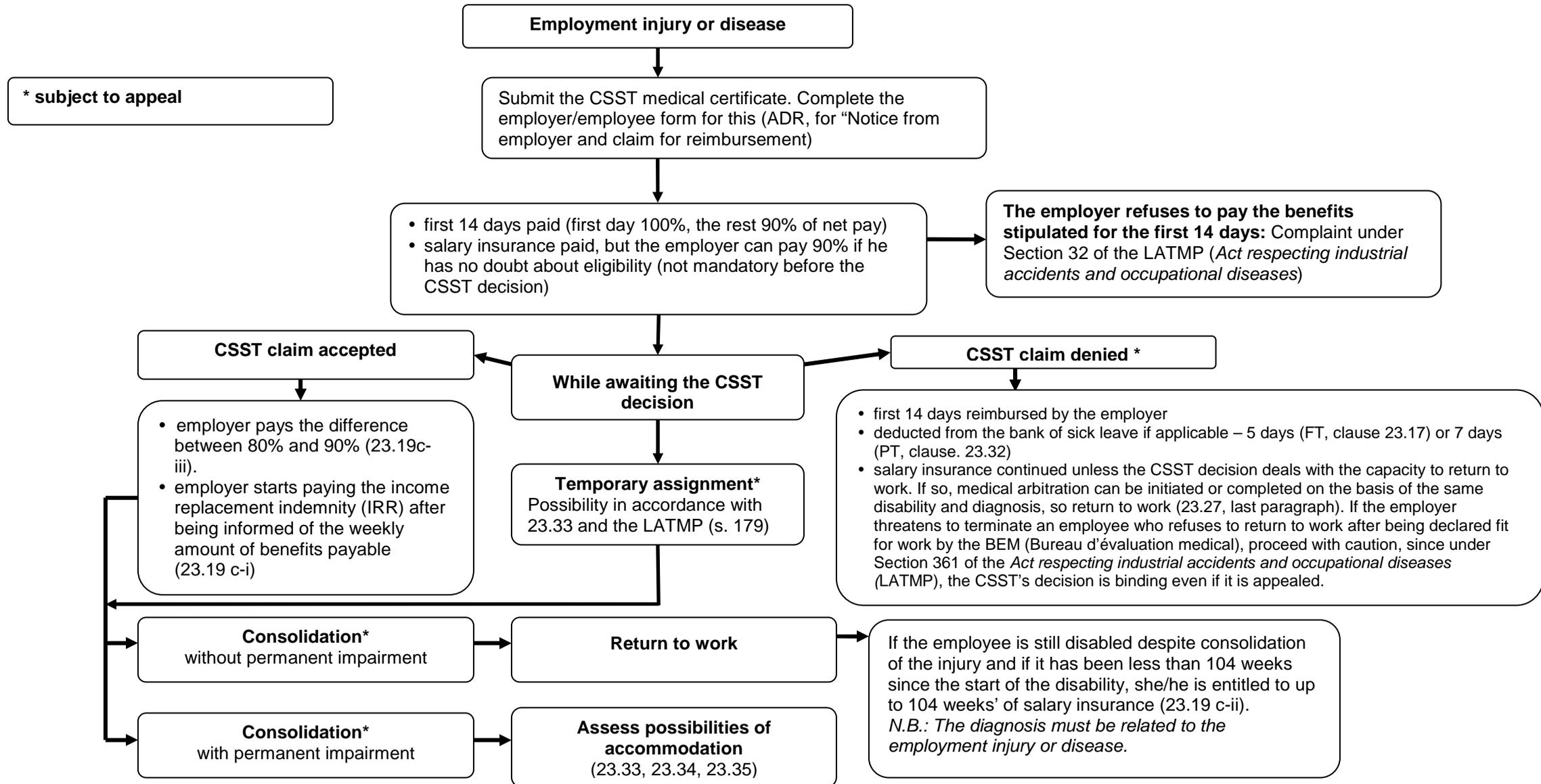


Chart 3: SAAQ (auto insurance) / salary insurance

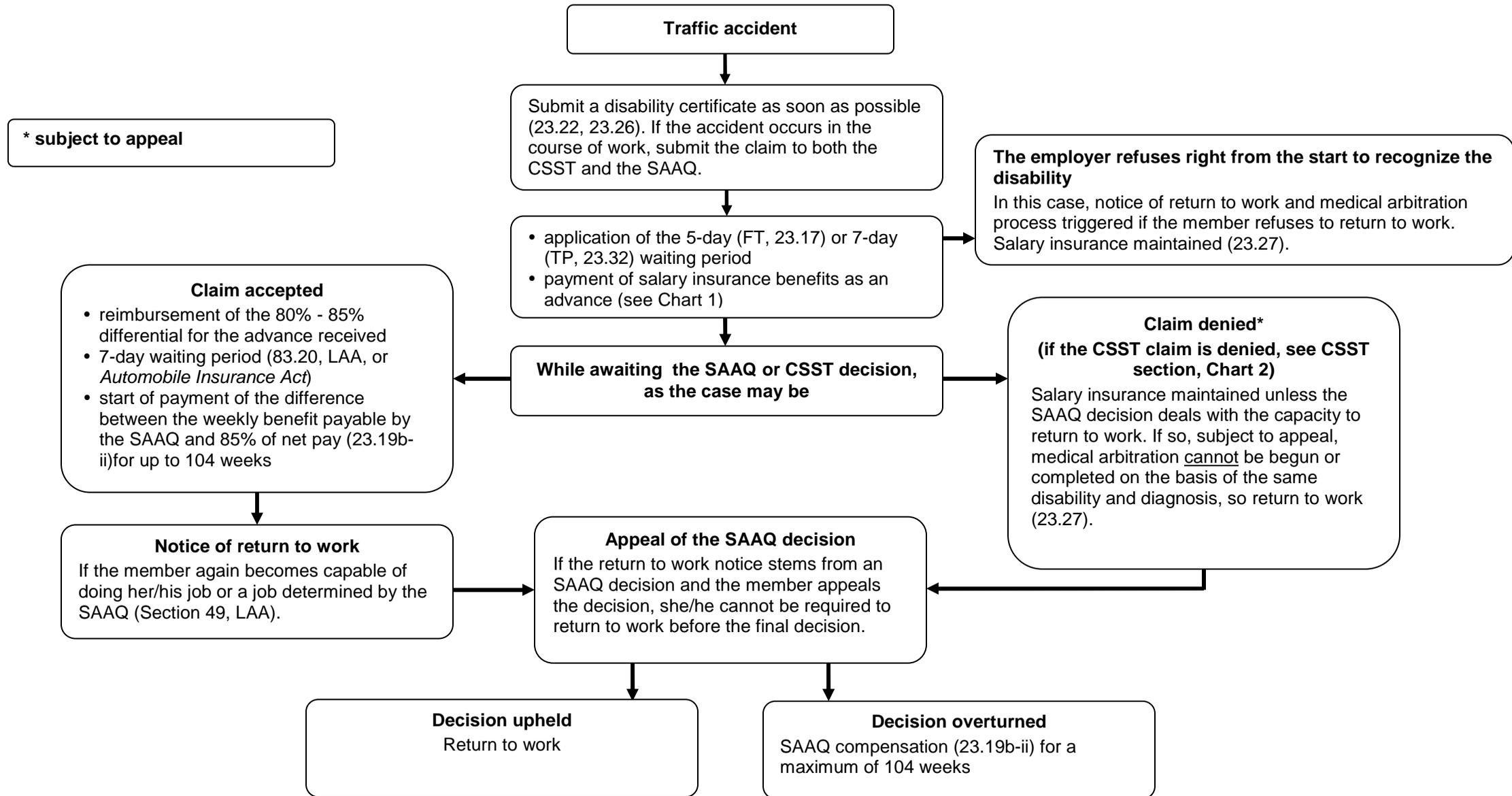
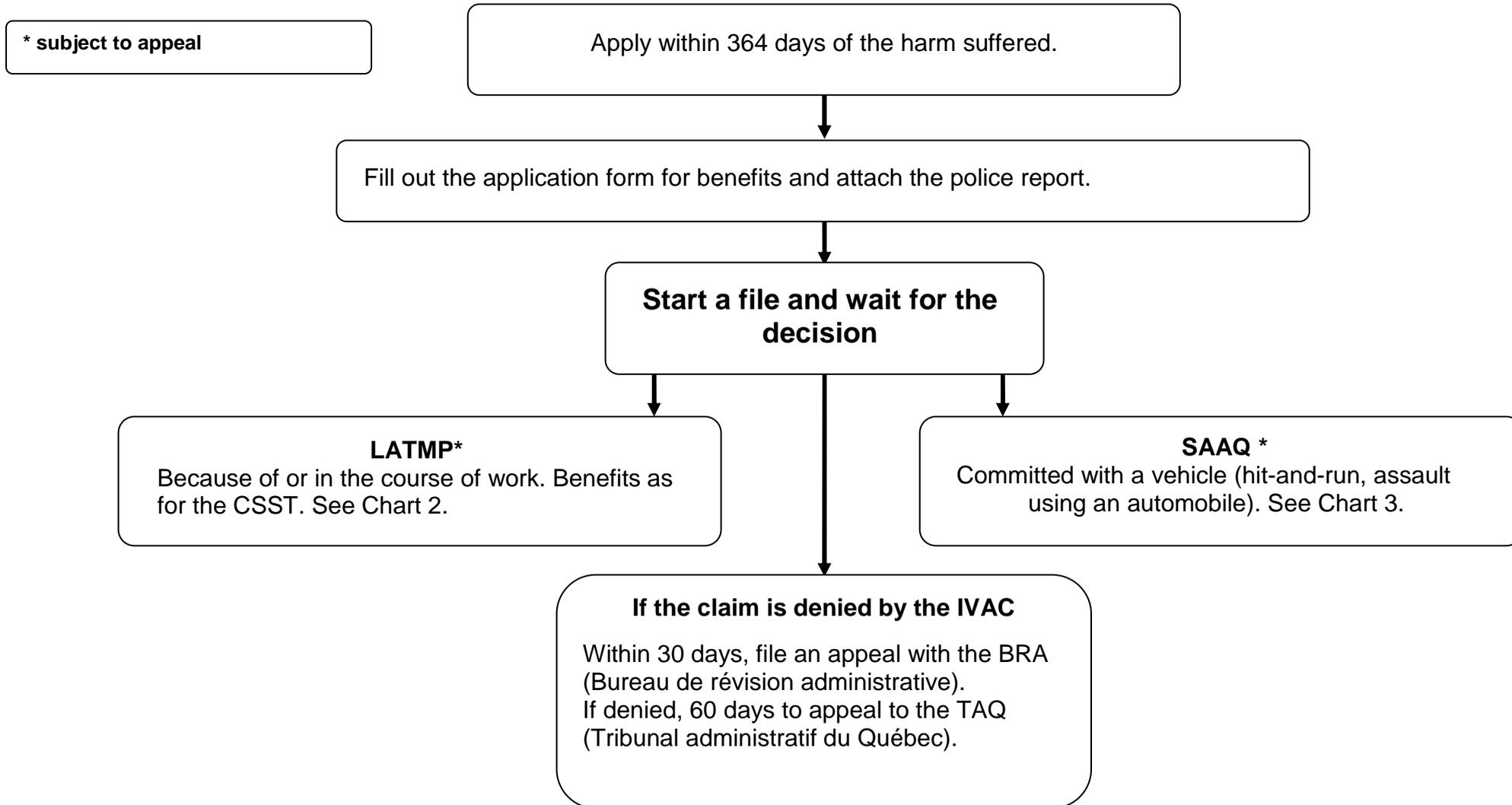


Chart 4: IVAC – Victim of or witness to a criminal act



Warning concerning the application of clause 23.27 of the collective agreement¹

If a body covered by clause 23.27 (CSST administrative review, for example) decides that a person is fit for work, the person can appeal the decision to another body (CLP or other). Despite this, the employer may require that the employee return to work even before the final decision is rendered. In such a case, there is still disagreement on the disability, which is covered by 23.27. In our opinion, the employer cannot invoke the last paragraph of 23.27 for a decision that is not final. This said, the hearing on the grievance does have to be suspended until the competent court or tribunal has ruled on the matter.

However, once the final decision is rendered on appeal, there may still be a disability that is not covered by the law, or a medical diagnosis that is different from the one considered by the tribunal. In such a case, the final paragraph of 23.27 cannot be used to oppose the claim.

Since there have been very few decisions on this so far, it is hard to say that this interpretation will be widely followed. So caution is called for, especially if the employer threatens to terminate an employee who refuses to return to work after the BEM has ruled that she/he is fit for work. Note that under Section 361 of the LATMP, the CSST's decision is binding notwithstanding any appeal. And Section 46 stipulates that a worker is deemed incapable of doing her/his job as long as an employment injury is not consolidated.

So it is important to carefully weigh the risk of a penalty if the employee defies an order to return to work.

¹ Taken from a legal opinion by Anne Pineau, CSN Legal Services Department, April 14, 2011

Chart 5a: SSQ long-term salary insurance after 104 weeks – Public sector
Definition of disability

Public sector – definition of disability

From the 105th to the 208th week of a period of disability, a state of incapacity resulting from an illness, including an accident or a complication of pregnancy, a tubal ligation, a vasectomy or similar cases related to family planning, or an organ or bone marrow donation, that is being monitored medically and that renders the employee totally incapable of performing the usual tasks of her/his position, or any other similar position with similar remuneration offered to her/him by the employer.

Subsequently, “total disability” means a state of incapacity resulting from an illness or accident, including a complication of pregnancy or organ donation, that is being monitored medically and that renders the employee totally incapable of doing any paid work for which she/he is reasonably suited in light of her/his education, training and experience.

Chart 5b: SSQ long-term salary insurance after 104 weeks – Public sector Eligibility

To receive SSQ salary insurance benefits:

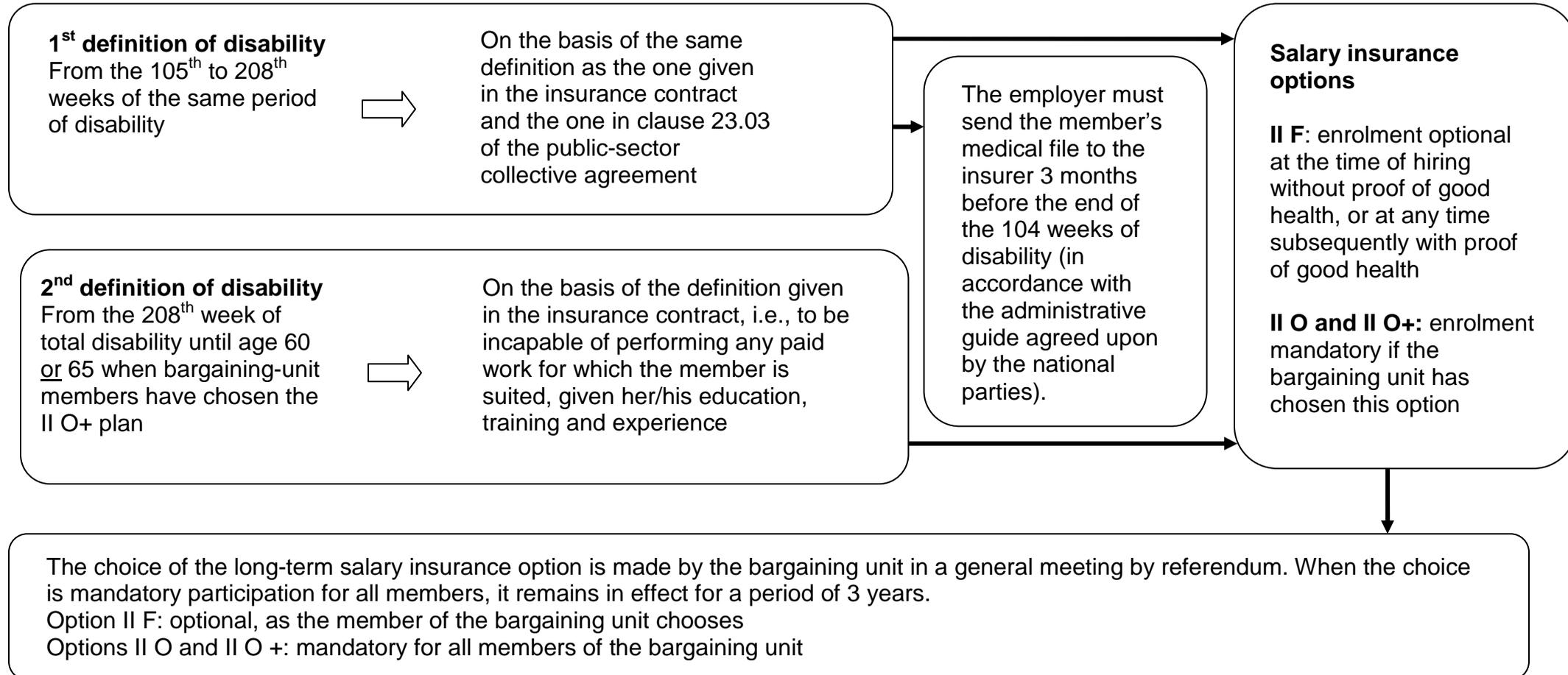


Tableau 5c: SSQ long-term salary insurance after 104 weeks – Public sector
Appeals process

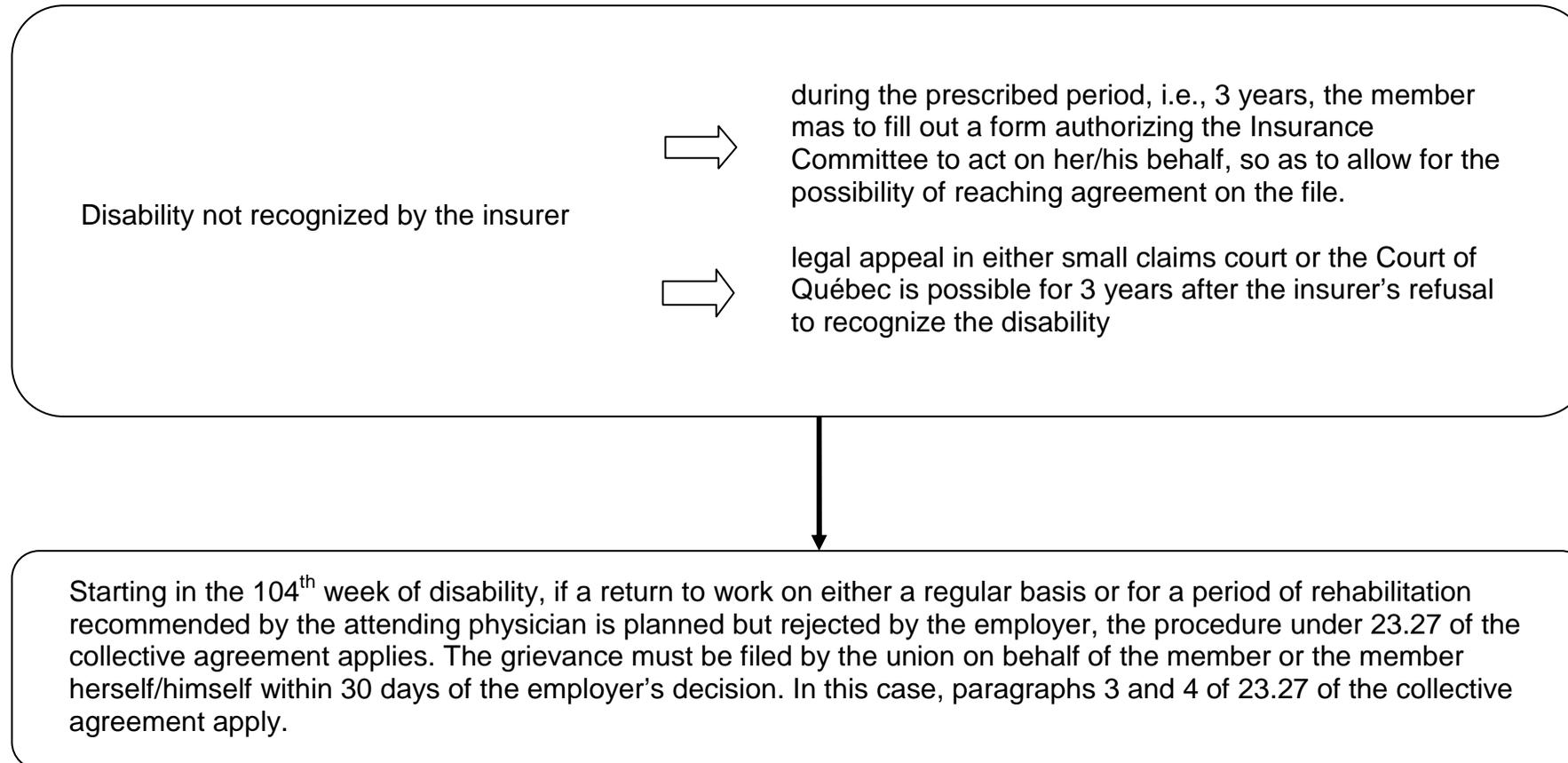


Tableau 5d: SSQ long-term salary insurance – Public sector
Payment of premiums, Option II

II F and II O

Payment of premiums ends in the following situations:

- as of age 53, on a voluntary basis
- as of January 1 following the employer's notice for members working less than 25% of regular time worked for the entire year, on a voluntary basis
- after 33 years of participation in the RREGOP for purposes of service, on a voluntary basis
- automatically at 58 years of age
- upon retirement



II O +

Following the same criteria as for Options II F and IIO, for voluntary termination of payment of premiums. Payment ceases automatically at age 65.

Tableau 5e: SSQ long-term salary insurance – Public sector
“Without payment” and premium waiver, re-qualification period (relapse)

“Without payment” of premiums

(article 4.10.4 of the SSQ brochure “Your group insurance plan AT...”)

When a disability is not recognized by the employer, members can apply to the Insurance Committee to be classified as “without payment” for insurance premiums.

The refusal to recognize the disability must be contested by grievance.

Re-qualification period (relapse)

For the insurance plan, the relapse period for re-qualifying for salary insurance benefits is as follows:

- from the 105th to the 156th week of disability, the period is identical to that in the FSSS national collective agreement (23.04)
- from the 157th to the 208th week of disability, the period is 6 months

Premium waiver

During the first 36 months of disability

Regardless of who pays the benefit, the member’s payment of insurance premiums is waived after the end of the waiting period (art. 4.8 of the SSQ brochure “Your group insurance plan AT...”).

In the case of members receiving full compensation from the CCST or recognized as totally disabled by the CSST, the waiver continues until age 71 (art. 4.8 of the SSQ brochure on “your plan”).

Premium waiver after the 36th month of disability

Conditions for obtaining waiver:

- have maintained an employment relationship
- be waiting for an accommodation process supported by the attending physician
- have protected rights with a grievance
- have filled out and signed the “Application for an extension of the premium holiday” and filed it with the Insurance Committee (for the form, see Appendix 4)

Termination:

- the earlier of the return to work (excluding periods of gradual return) and the 48th month of disability

Termination contested (art. 4.10.3 of the SSQ brochure “Your plan”)

- the Health I plan is mandatory
- the Health II and III plans and life insurance are optional
- the salary insurance plan is suspended; a favourable decision makes payment of premiums and payment for any disability retroactive

In all cases, the member must pay the total amount of the premium provided in the contract, The RAMQ is automatically informed of any failure to pay.

Chart 6a: SSQ long-term salary insurance after 104 weeks – Private sector

Private sector – disability and employment insurance

For the first 48 months of a given period of total disability, a state of incapacity resulting from an illness, including an accident or a complication of pregnancy, a tubal ligation, a vasectomy or similar cases related to family planning, or an organ donation, providing that the state of incapacity is monitored medically and renders the employee totally incapable of performing the usual tasks of her/his position or any other similar position with similar remuneration offered to her/him by the employer.

For some groups, disability benefits are paid as follows: the first 2 weeks are paid by the SSQ, following weeks by employment insurance up to a maximum of 15 weeks, and finally the remaining weeks are paid by the SSQ up to a maximum of 104 weeks (see information in Appendix 5).

After this period, the notion of “total incapacity” is recognized, defined as a state of incapacity resulting from an accident, illness, complication of pregnancy or organ donation, providing that this state renders the employee totally incapable of doing any paid work for which she/he is suited, given her/his education, training and experience.



Private sector – disability

From the start of disability after the waiting period applicable for each bargaining unit and up until the 104th week, salary insurance benefits are paid by the SSQ according to the percentage of gross pay stipulated for each bargaining unit. Premiums are paid to the SSQ by the employer. Short-term salary insurance premiums are paid in accordance with the contribution of the employee and/or the employer as provided by the collective agreement or agreement between the parties appended to the collective agreement.



For home childcare providers (RSGs), employees pay the premiums directly to the SSQ through pre-authorized payments from their financial institution. The reference salary is between \$19,000 and \$35,000, and is determined by each individual.

Chart 6b: SSQ long-term salary insurance – Private sector
Payment of premiums, Option II

II F and II O

Payment of premiums ends in the following situations:

At the member's choice:

- as of age 53, on a voluntary basis
- as of January 1 following the employer's notice for members working less than 25% of regular time worked for the entire year, on a voluntary basis
- after 33 years of participation in the RREGOP for purposes of service, on a voluntary basis
- automatically at **58 years of age**
- upon retirement



II O +

Payment of premiums ends in the following situations:

At the member's choice:

- as of age 53, on a voluntary basis
- as of January 1 following the employer's notice for members working less than 25% of regular time worked for the entire year, on a voluntary basis
- after 33 years of participation in the RREGOP for purposes of service, on a voluntary basis
- automatically at **63 years of age**
- upon retirement

Chart 7a: Québec Pension Plan (QPP) *before age 60*

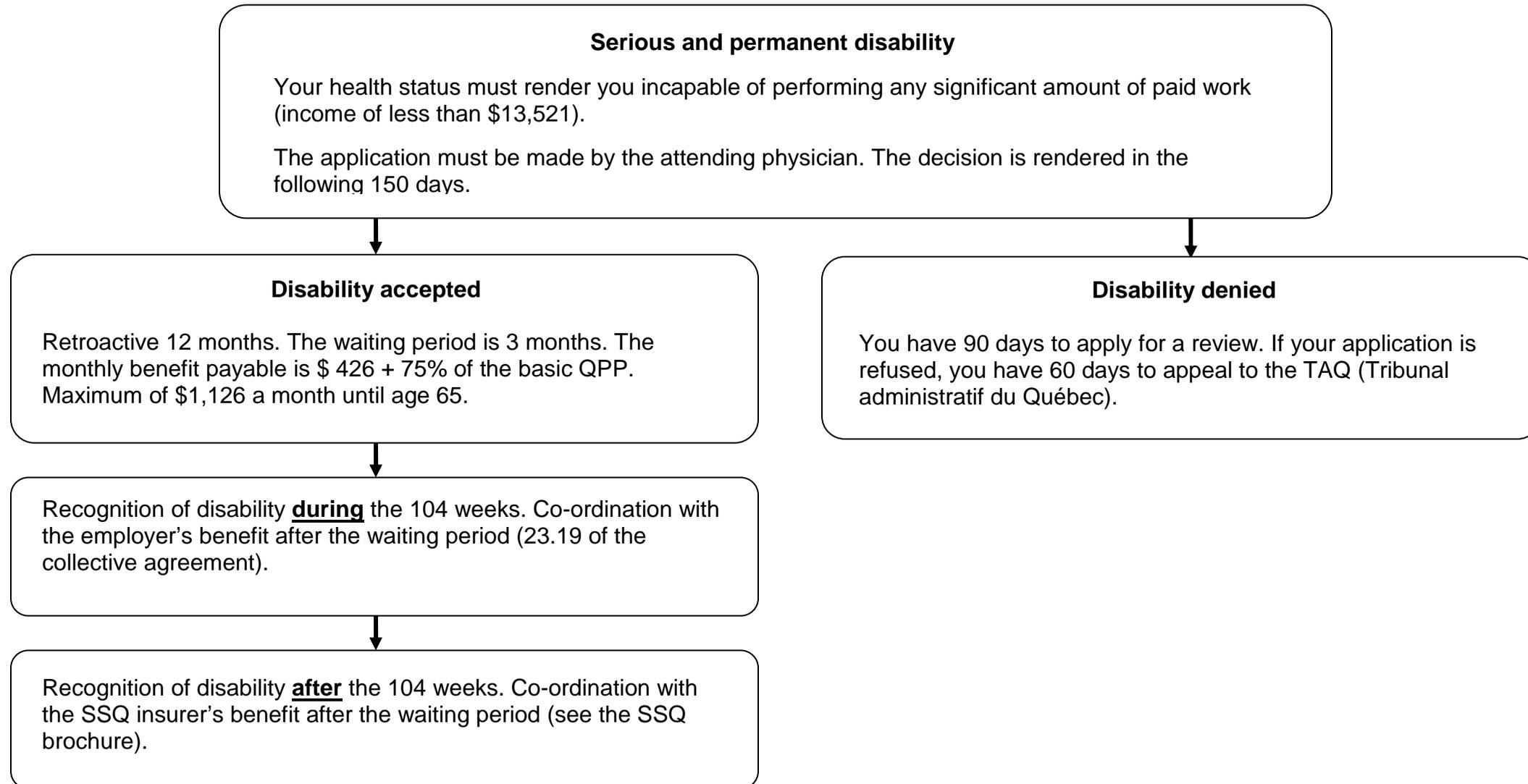
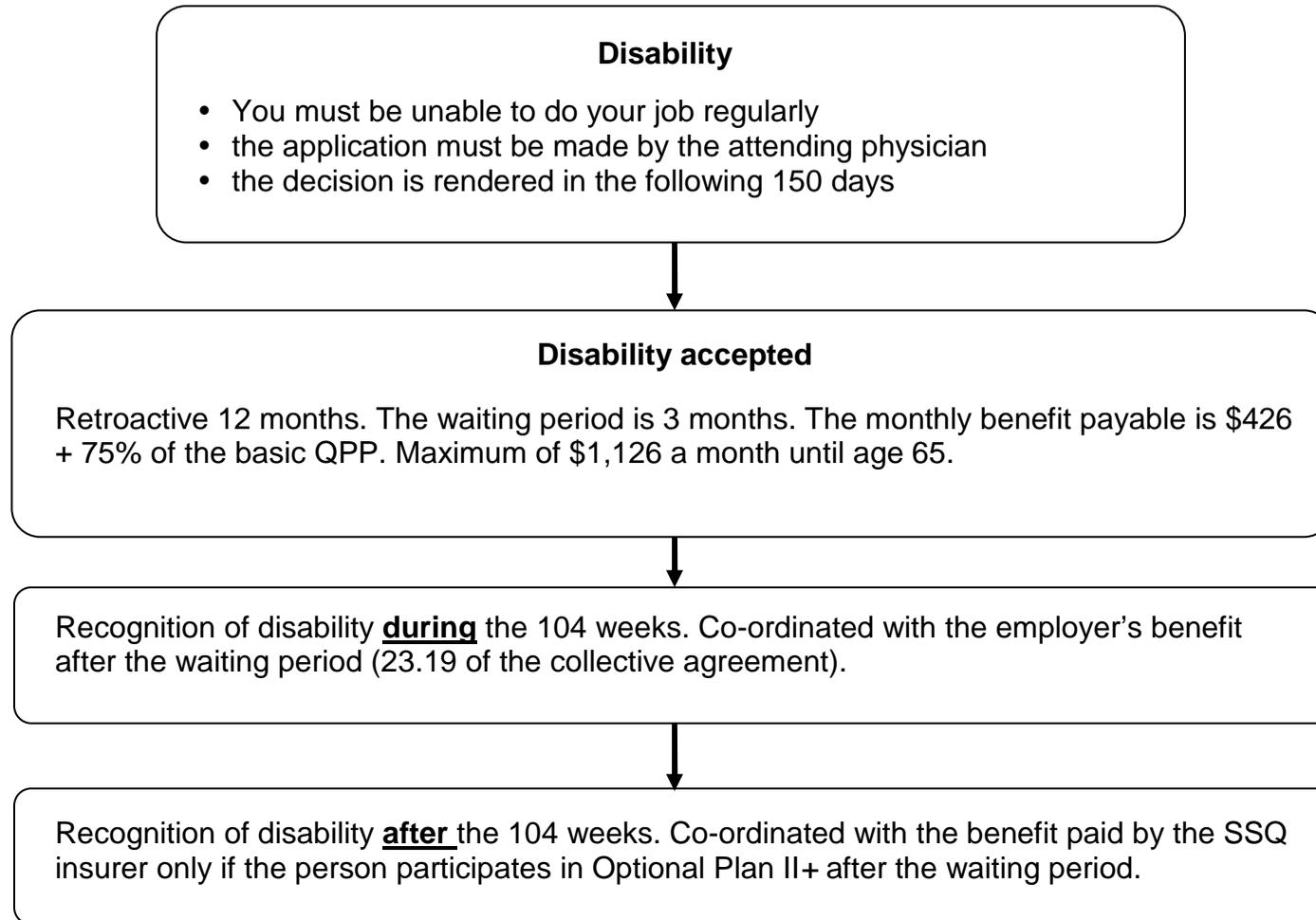


Chart 7b: Québec Pension Plan (QPP), after age 60



Appendix 1

Disability claim file

Employee's name: _____
Date of birth: _____
Job title: _____
Department: _____
Site: _____
Address: _____
Phone number: _____
Name of attending physician: _____
Phone number: _____

Start of disability: _____

Is the employee receiving benefits? _____ Since when? _____

Has the employer asked for an expert medical opinion, and if so, from which physician? _____

(If this is the case, you should ask for a copy of the expert opinion and include it in the file.)
Don't forget to include all expert opinions and counter-opinions in the file.

Main diagnosis: _____

Secondary diagnosis: _____

Disability: Physical
 Psychological
 Degenerative

	Yes	No	
Have there been previous disabilities?	<input type="checkbox"/>	<input type="checkbox"/>	Dates: _____

Is it the same diagnosis?	<input type="checkbox"/>	<input type="checkbox"/>	
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Was there medical arbitration?	<input type="checkbox"/>	<input type="checkbox"/>	Date: _____
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Name of the medical arbitrator: _____

Decision : _____

Don't forget to have the member sign the form authorizing you to get a copy of her/his medical file.

Follow-up on the disability file for: _____
Employee's name

Return to work

Projected date of return to work: _____

	Yes	No
Gradual return:	<input type="checkbox"/>	<input type="checkbox"/>
Return to her/his position:	<input type="checkbox"/>	<input type="checkbox"/>

Appendix 2



Union (CSN)

AUTHORIZATION TO DISCLOSE PERSONAL MEDICAL INFORMATION

I, the undersigned: _____
(name)

(address)

authorize: _____
(name of the attending physician or health office)

To send my union: _____
(union's name and address)

c/o: _____
(name of union representative)

the contents or a copy of my medical file pertaining to my current disability.*

Signature

Date

* *The employee is responsible for expenses for copying the file.*

Original: attending physician or health office copy: for the file copy: employee copy: FSSS

Appendix 3



AUTHORIZATION TO ACT ON MY BEHALF

Applicant

Name: _____

Address: _____

Phone no.: _____ Age: _____

Job title: _____ Date of hiring: _____

Has there been an attempt to reassign the employee to another position (accommodation)?

Yes No

If so, to what job title? _____

Reason the reassignment failed: _____

Disability:

Date of the start of the disability with the employer: _____

Date du the start of the disability with the SSQ: _____

Union

Name: _____

Address: _____

Phone no.: _____ Grievance no.: _____

Union staff representative (serving the union)

Name: _____

I am the applicant and I authorize _____, staff representative with the Fédération de la santé et des services sociaux, to represent me vis-à-vis the insurer, the **SSQ Financial Group**, to reach agreement on my file, no. _____, concerning my claim or complaint vis-à-vis the insurer.

I authorize the Fédération de la santé et des services sociaux, its staff and/or the person that it designates to gather, use, copy or save all medical or administrative documents useful to the management of my claim that are in the possession of my employers, therapists or physicians or any clinic, hospital, insurer or public or private agency holding such information.

Signed:

_____ Date: _____

I have been informed and I understand that I must contribute actively to carrying out this mandate.

I have been informed that I have a maximum of 3 years from the date of the insurer's refusal to initiate civil proceedings in Superior Court or small claims court.

I have been informed that at the end of three years from a final decision or transaction disposing of a dispute, I must take back my file, and should I fail to do so I authorize the FSSS to destroy the documents in its possession, without any further notice.

Appendix 4

Application for an extension of the premium waiver beyond the 36th month stipulated in the A4999 contract

Identification	
Employee's name	
Phone no.	
SSQ file no.	
Name of the union	
Union's e-mail address	
Person in charge of the file	
Phone no.	
Union staff representative (serving the union)	

History	
Date of the start of the disability with the employer	
Date of the start of the disability with the SSQ	

Questions	Yes	No
By the 36 th month of disability, has the attending physician made a decision about an eventual return to work? (If so, please attach the documents)		
1) To the employee's position		
2) To another position		
Is the employer contesting the attending physician's position? (If so, please attach the expert opinions in support of his decision)		
Has a grievance been filed to protect the employee's rights?		
Has an arbitrator been appointed for the case?		

Dispute process	
Grievance no.	
Arbitration mandate no.	
Date of the arbitration	
Other appeal levels	

Instructions
In order to protect the sustainability of the group insurance plan, only persons who continue to have an employment relationship beyond the 36 th month and who are awaiting an accommodation process with the support of the attending physician are entitled to an extension of the premium waiver under the A4999 contract.
At 36 months, the attending physician must answer the following questions: 1. Conditions for a return to work 2. Functional limitations 3. Approximate date of the return to work
The premium waiver ends on the date of the return to work (excluding gradual returns) or the 48 th month of disability, whichever comes first.

Date

Signature

Section reserved for the Insurance Committee: _____

Authorized by

Appendix 5

Employment insurance and sickness benefits

Eligibility

- 600 hours of insurable work (except in certain regions);
- submit a medical certificate (diagnosis, prognosis and treatment);
- file the application within 4 weeks.

Benefits

- for a maximum of 15 weeks;
- 55% of the person's average insurable earnings (last 26 weeks);
- 2-week waiting period unless there was a waiting period with the employer.

Extension

- be available to work on light duties and submit a medical certificate to this effect;
- look for work 3 to 5 times a week;
- attend interviews.