

# Federal Government Clarifies Interaction Between CERB and SUB Plans

**Date :** May 14, 2020

The Federal government has updated its [Q&A Page](#) on the Canada Emergency Response Benefit (“CERB”), confirming that registered Supplemental Unemployment Benefit (“SUB”) plans cannot be used in conjunction with the CERB.

## Registered SUB Plans

SUB plans permit an employer to increase employees’ weekly earnings when they are unemployed due to a temporary shortage or stoppage of work. Payments from SUB plans that are registered with Service Canada are not considered earnings and are not deducted from Employment Insurance (“EI”) benefits. Many employers may be familiar with SUB plans for the purpose of an employer providing a “top-up” to employees on pregnancy or parental leave or sickness benefits. SUB plans also exist to allow employers to provide additional earnings to employees who are on lay-off and in receipt of EI benefits. Although SUB plans cannot be used in combination with the CERB, employers may be able to use them to top-up employees who become eligible for EI once they stop receiving the CERB.

SUB plans must be registered before their effective date and must comply with a specific set of requirements. The registration date of the SUB plan is the date on which it is submitted to the SUB Program, provided all the required conditions are met and all supporting documents are received. Until the SUB plan is registered, any amounts paid by an employer to a temporarily laid off employee will be treated as earnings and may be deducted from the employee’s EI benefits. Employers can find more information about SUB plans in the [Guide for Employers Offering Supplemental Unemployment Benefits to Their Employees](#).

## Interaction with the CERB

In the Q&A guide, the government confirms that given the “simplified design” of the CERB, the provisions under the EI system that permit employers to make additional payments to employees through SUB plans during a period of temporary lay-off do not apply to employees receiving the CERB.

However, employers that wish to register a SUB plan to Service Canada are still encouraged to do

so. While they cannot top-up employees receiving the CERB, they can make payments to employees who receive EI benefits or sickness benefits and will be prepared if their employees need EI benefits at a future time.

The CERB provides eligible individuals with a taxable benefit of \$2,000 for a four-week period for up to 16 weeks (paid between March 15, 2020, and October 3, 2020). Eligible individuals may earn up to \$1,000 in employment and/or self-employment income in each of their benefit periods while continuing to receive the CERB. The Federal government's [Q&A page](#) provides that amounts received by individuals from any employer in excess of the \$1,000 threshold would create an obligation for the individuals to repay CERB amounts they received for the same benefit period. For more detailed information on the CERB see our previous Focus Alerts:

- [Federal Government Announces Expanded Eligibility Rules for the Canada Emergency Response Benefit](#)
- [Federal Government Launches Canada Emergency Response Benefit on April 6th](#)
- [COVID-19 Emergency Response Act Receives Royal Assent](#)

## In Our View

If the CERB program remains the same and is capped at 16 weeks, then employees who remain on lay-off may be eligible for EI in the coming months. At that point, employers with a registered SUB plan already in place will be able to provide additional payments to their employees.

For assistance with the development and registration of a SUB Plan or for further information or advice on your rights and obligations as an employer when dealing with COVID-19 and similar issues, please contact [Kecia Podetz](#) at [613-940-2752](tel:613-940-2752), [Colleen Dunlop](#) at [613-940-2734](tel:613-940-2734), [Lauren Jamieson](#) at [613-563-7660](tel:613-563-7660) ext 236, [Carolyn Dunlop](#) at [613-940-2760](tel:613-940-2760) or [Steven Williams](#) at [613-940-2737](tel:613-940-2737).