



May 2011

## BC Court of Appeal Decision Re CMBC's Attendance Management Program

Dear Employee:

This notice is being sent to all employees for two purposes:

1. To remind employees about the Attendance Management Program in general; and
2. To inform employees about the decision issued last Fall from the BC Court of Appeal regarding CMBC's Attendance Management Program (AMP) and how the Company will address the decision.

### **The Attendance Management Program**

CMBC's AMP was first introduced in 1998. Over the years, the Program has changed from time to time, but the purpose of the Program has always been to communicate the importance of employees coming to work on a regular and consistent basis and to provide support for employees to enable them to do so.

The program involves Managers meeting with employees to discuss the impacts of absenteeism. The Manager's goal is to assist employees to improve their attendance. There are many instances where the employee can make positive changes that will result in improved attendance. These changes can include working with medical practitioners and utilizing ongoing corporate health programs, i.e. flu clinics, Employee and Family Assistance Programs, Occupational Health Nurses, etc. Throughout the meetings, the Company will seek the employee's commitment to make every effort to attend at work regularly. Through the AMP, the Manager may also set specific attendance expectations for the employee to meet. At every step, the Manager will explain the AMP process that the employee can expect will be followed.

### **BC Court of Appeal Decision**

Last year, the BC Court of Appeal confirmed that maintaining regular attendance at work is an essential part of the employment relationship. It examined the Attendance Management Program and validated it as a legitimate program for addressing most absenteeism. The Court also said that the application of the Program had to be changed where it applies to employees with disabilities, where those disabilities are a protected ground under the Human Rights Code.

It is important to understand that all absences considered under the Attendance Management Program are due to a medical concern of some sort. However, not all medical concerns amount to a "disability" which is a protected ground under the Human Rights Code.

### **What does it all mean?**

In practical terms, it means the following:

1. If you think you have a disability that contributes to your absenteeism, you have an obligation to advise the Company, i.e., the Occupational Health Nurse or your Manager.
2. The Company will then work with you, your Union representatives and appropriate medical professionals to conduct a thorough analysis of your individual circumstances and determine if you do have a disability that is protected by the Human Rights Code.
3. If you do have such a disability, then, in accordance with the Duty to Accommodate, the Company will work with you to facilitate a solution that enables you to attend work on a regular and consistent basis.

Overall, we count on our employees' regular attendance at work to deliver on our commitment to our customers to deliver outstanding service.

We hope this helped to answer some questions. If you have further questions, please contact your immediate supervisor.

Doug Kelsey  
Interim President & General Manager