
EMPLOYER'S OPENING BENEFITS PROPOSAL
"E1A"

**Negotiations for a Collective Agreement
between**

The Governors of the University of Alberta

and

The Association of the Academic Staff of the University of Alberta

*Tabled: November 12, 2020; 8amMT
(via email)*

[Note: this document is supplementary to the Employer's E1 proposal; the Employer proposes to amend the renewal collective agreement and benefit plan documents consistent with the proposals herein.]

1. Supplemental Health

On the first January 1 following the date of ratification, revise the Academic Staff Drug Benefit Plan to implement changes that will address the long-term sustainability of the plan and ensure the most efficient and value-added use of all spending within the drug plan. Plan modifications to include:

A. Managed Drug Formulary

- i. Replacement of the current open drug formulary with implementation of a custom managed drug formulary to be established and updated monthly by a third-party provider to ensure that all reimbursable drugs within the plan have proven clinical impact and efficacy for a given disease state. This evidence-based approach will reduce the plan's exposure to high-cost speciality drugs that do not meet the efficacy criteria.
- ii. New drugs entering the market will only be added to the formulary when having proven efficacy.
- iii. The formulary will identify which DINs (Drug Identification Numbers) are eligible for: reimbursement, subject to prior authorization, or subject to Maximum Allowable Cost (MAC) pricing and define the MAC price for each DIN.
- iv. Plan members with claim reimbursement for a drug (DIN) within the 90 days prior to implementation that is no longer on the drug formulary would be grandfathered for continued reimbursement of claims for that drug (DIN) (subject to any existing plan limitations).

B. Dispensing Fees & Dispensing Fee Frequency Limit (DFFL)

- i. Plans members with prescriptions of drugs on the maintenance medications list will be covered for a maximum of five dispensing fees per calendar year for each maintenance medication. (Maintenance medications are used to treat chronic, long-term conditions (often life-long)). Once settled in a treatment regime, medication can be dispensed in 90 or 100-day quantities. Examples of these types of drugs are those used to manage cholesterol, high blood pressure and stomach acidity.)
- ii. If plan members choose to have prescriptions filled more frequently, only the cost of the drug itself will be reimbursed by the drug benefit plan. Any additional dispensing fees will become an out-of-pocket expense for the plan member. These fees are an eligible expense under the HSA. A three-month supply of prescription drug purchases may be dispensed at one time.

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- iii. The maximum dispensing fee of \$8.00 per prescription will be in effect. Dispensing fees exceeding \$8.00 per prescription are an eligible expense under the HSA.
 - iv. If prescribed medications are only dispensed in less than 90/100 day supplies requiring more than five (5) prescriptions per year, members will be required to complete and submit the Sun Life Drug Exemption form for each affected drug.
- C. Introduce Mandatory Generic Drugs
- i. Amend the Academic Drug Plan benefit to limit reimbursement for all prescription drugs that have an alternative generic substitution drug, including those where “no-substitution” is identified on the prescription, at the rate of the lowest-priced equivalent.
 - ii. If there is a medically supported reason why an alternative generic drug cannot be used, a plan member may have their physician complete the Sun Life Drug Exemption form and submit it to Sun Life for review.
 - iii. If a covered member chooses to purchase a brand name drug, the difference between the lowest price generic drug and the brand name will be the plan member's expense.
- D. Eliminate coverage for over-the-counter (OTC) drugs
- i. Remove any reimbursement for over-the-counter (OTC) drug products.
 - ii. Life sustaining OTCs (such as insulin, diabetic supplies, Epi-Pen) and a small number of non-life sustaining OTCs that are injectable OTCs (i.e. injectable vitamins) are included in the plan and will be covered.
- E. Implement an enhanced prior authorization claim review and approval process
- i. To be administered by a third-party provider for all reimbursable high-cost speciality drugs used for treatment of the following disease states:
 - Rheumatoid Arthritis (RA)
 - Multiple Sclerosis (MS)
 - Psoriasis
 - Crohn's Disease/Ulcerative Colitis
 - Chronic Hepatitis
 - Cancer
 - Hypercholesterolemia
 - Rare Genetic Diseases
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- ii. The prior authorization review process would apply to all other plan members with claims within the identified disease states.
 - iii. Plan members with claim reimbursement for a drug (DIN) in the prior authorization program within the 90 days prior to implementation would be grandfathered for continued reimbursement of claims for that drug (DIN) (subject to any existing plan limitations).

F. Introduce Maximum Allowable Cost (MAC)/ Reference-Based pricing

There are a number of drugs in therapeutic classes that have different active ingredients which are equally safe and effective but substantially lower in price. MAC reference-based pricing is a standard practice used in plans which reimburses the cost of the drug up to the lowest priced drug in a therapeutic drug class. MAC reference-based pricing will apply to the therapeutic classes as listed in paragraph i.

- i. To include the following therapeutic drug classes, including but not limited to:
 - high blood pressure
 - stomach hyperacidity
 - elevated cholesterol
 - Anti-inflammatories
 - Triptans
 - Antibiotics
 - attention deficit hyperactivity disorder (non-stimulant and stimulant classes)
 - diabetes (oral medications)
 - anticonvulsants
 - ii. Plan members with claim reimbursement for a drug (DIN) subject to MAC/referenced-based pricing within the 90 days prior to implementation would be grandfathered for continued reimbursement of claims for that drug (DIN).
 - iii. Exceptions to the MAC pricing are permitted only if the member provides a Drug Exemption form which includes a physician's medical evidence that the MAC drug cannot be used.
- G. Introduce a maximum reimbursement limit on medical cannabis**
- i. Maximum of \$5,000 per insured per benefit year, subject to a prior authorization review and approval process performed by a third-party provider, with reimbursement provided only for treatment of the following evidence-based health conditions:
 - Cancer - with severe or refractory pain; or with nausea and/or vomiting associated with cancer treatments

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- Multiple Sclerosis: with neuropathic pain; or with spasticity
 - Rheumatoid Arthritis: with pain which failed to respond to standard therapy
 - HIV/AIDS: with anorexia, or with neuropathic pain
 - For patients requiring palliative care
 - Refractory Paediatric onset epilepsy
 - Spasticity with Spinal Cord Injury

- ii. The list of approved health conditions will be reviewed on an annual basis by the Employer in response to evidence-based recommendations from the third-party provider. Requests for reimbursement for medical cannabis for treatment of conditions outside these evidence-based health conditions will be assessed by the third-party to determine medical necessity and recommended to the Employer for consideration.

H. Eliminate coverage for massage therapy from paramedical coverage.

These fees are an eligible expense under the HSA.

I. Introduce maximum reimbursement for medical supplies and services, durable and medical equipment.

- i. For all covered items described in the Supplementary Health Care Plan under Article III, section 5. Medical Supplies and Services and section 6. Durable and Medical Equipment, implement an annual maximum on paid claims of the employee and the employee's family to \$10,000.

2. Dental

On the first January 1 following the date of ratification, change coverage levels on orthodontics, major restorative as follows:

- a. Eliminate reimbursement for fluoride treatment for all members and covered dependents (insured) age 16 years and older.
- b. Implement a lifetime maximum reimbursement limit for Orthodontic Services of \$2,500 per insured.
- c. Implement a combined maximum reimbursement for Major Restorative Services to 75% of the dental fee guide to a maximum reimbursement of \$2,500 per insured per benefit year.
- d. Within Major Restorative Services, add reimbursement for Dental Implant(s) to 75% of the dental fee guide to a maximum reimbursement of \$2,500 per benefit year per insured.
- e. Add reimbursement of surgery for Dental Implants to Basic Services.

3. Co-Pay

On the first January 1 following the date of ratification, introduce employee/employer co-payment on supplemental health care plan and dental plan expenses, as follows:

- a. Supplemental health care:
 - i. 20% employee co-payment on 1st \$10,000 of drugs, 0% on balance
 - ii. 20% employee co-payment on all paramedical expenses
 - iii. 20% employee co-payment on medical services and equipment
- b. Dental:
 - i. 20% employee co-payment on all Preventative services
 - ii. 20% employee co-payment on all Periodontics and Endodontics services
 - iii. Coinsurance on Major Restorative moved to 50% (from current 75% employer, 25% employee)

4. Long-term disability

On the first January 1 following the date of ratification, revise as follows:

- a. Change LTD premiums from 100% employer paid to 100% employee paid.
- b. Introduce maximum LTD payment in accordance with the following table.

Annual Earnings (gross)	Disability Leave Benefit *
First \$30,000	70% of Annual Earnings
Next \$36,000 (Annual Earnings between \$30,000 and \$66,000)	55% of Annual Earnings
Over \$66,000	45% of Annual Earnings
* Disability Leave Benefit not to exceed 85% of <u>net</u> Annual Earnings	

- c. Change the practice of payment of employee portion of pension contributions for employees on LTD from employer paid to employee paid. The employer will continue to pay its portion.
- d. Revise the LTD Plan text to address other areas of concern to the Employer as identified at Schedule A. The Employer proposes to strike a sub-committee, having equal representation from AASUA and the Employer with LTD administration expertise, to negotiate changes to the LTD Plan text and any appropriate changes to Article 9. Negotiated changes shall be brought forward to the parties' respective bargaining teams for consideration and approval, which shall be included by reference in the overall renewal 2020 collective agreement.

5. Group Life

For deaths occurring on or after the first January 1 following the date of ratification, amend coverage as follows:

- a. 2x annual salary to maximum \$350,000 for Faculty, Librarian, APO, FSO (increased from current \$100,000).
- b. 2x annual salary to maximum \$350,000 for TRAS, ATS, TLAPS in full-time appointments for a minimum of 1 year in duration (increased from current \$100,000).
- c. A flat amount of \$75,000 for TRAS, ATS, TLAPS full-time appointments between 8 months and 1 year in duration (increased from current \$50,000).
- d. For academic staff on phased pre-retirement appointments, 2x annual salary to maximum \$350,000 (increased from current \$100,000).
- e. For academic staff on phased post-retirement appointments, no change (\$50,000).
- f. Basic life coverage is reduced by 50% on the first day of the month following the staff member attaining the age 65. For active employees aged 65 or older as of the first January 1 following the date of ratification, no change to current coverage. New limits apply upon appointment to a new term.
- g. Coverage for basic and optional life ends on the last day of the month upon which the staff member attains age 71.
- h. For academic staff members who are in receipt of long-term disability benefits or on a leave without pay from the University on the effective date of these changes, the effective date of the new basic life insurance coverage will be the first day that they return to their regular duties.

6. Professional expense reimbursement (PER)

Effective July 1, 2023, the maximum unspent balance at any point in time shall be \$5,600. Unspent allocation in excess of \$5,600 would be forfeited.

7. Academic supplemental retirement program (ASRP)

On the date of ratification, the ASRP shall be closed to new participants. On the first January 1 following the date of ratification, no further employer contributions shall be made for existing plan participants.

8. Personal Spending Account

The following changes are effective the first January 1st following the date of ratification, provided ratification occurs on or before the preceding November 1. If ratification occurs between November 1 and December 31, the following changes are effective the second January 1st following date of ratification.

- a. Increase Health Spending Account (HSA) annual allocation from \$750 per eligible staff member to \$800
- b. Introduce a Personal Spending Account (PSA) option for eligible staff members who participate in the HSA. The PSA can be used to cover the cost of personal wellness, educational and personal development, fitness equipment, fitness-related expenses, health-related expenses and more. The following shall apply:
 - Expenses incurred by dependents are not eligible under this plan.
 - PSA reimbursements are subject to income tax as required by the Canada Revenue Agency
 - During each open annual allocation period, eligible staff members will be able to choose to allocate their \$800 total annual credits between either the HSA or PSA or combination of both. Upon initial enrollment in the academic staff benefit plan in the calendar year, the eligible staff member shall receive an annual allocation to the HSA benefit of \$800.
 - Credits not spent within the benefit year will be forfeited at the start of the next benefit year
 - Staff members appointed to an eligible academic position from a benefits eligible position within the Non-Academic Staff Association (NASA), Management and Professional Staff (MAPS), Academic Administrators or Excluded Support Staff shall not receive any additional credits in the calendar year of appointment.
 - Staff members that leave employment for any reason during a calendar year and then are re-appointed in that same calendar year shall be entitled to use any remaining unspent credits in their HSA and/or PSA.
 - For clarity, no staff member shall be allocated more than \$800 spending credits in any calendar year.
 - A complete Personal Spending Account plan document will be created for the plan by the implementation effective date.

Schedule A

LTD Plan Text - Proposed Revisions

Article I - Definitions

In this document, the following terms shall have the meaning as set forth below; unless otherwise specifically provided:

1. **“Administrator”** means the person designated by the University who is responsible for the administration of this Plan on behalf of the University. This includes but is not limited to dealings with other insurers or government agencies on matters arising from provisions of the Plan. Specific day-to-day administrative responsibilities may be further delegated by the Administrator.
2. **“Association”** means the Association of the Academic Staff of the University of Alberta.
3. ~~**“Disability”** means the complete inability of an eligible Employee because of accidental bodily injury or sickness, to engage in any occupation or employment for remuneration or profit for which he is reasonable suited by reason of education, training or experience, except that during the applicable Elimination Period, and the next 24 months of any Period of Disability, the Employee is deemed to have suffered total disability while he is wholly prevented by such injury or illness from performing his Regular Duties. In both cases the Participant must be under the regular, ongoing care of a Physician, who may be required to confirm their medical condition from time to time, but they do not have to be confined to their home or an institution.~~

“Disability” means a medical condition that causes an eligible employee to be unable to perform any combination of duties that, prior to the commencement of illness or injury, regularly took at least 60% of the employee's time at work to complete. During the first 24 months, disability will apply to the eligible employee's own occupation. After 24 months of disability leave, the eligible employee will be considered disabled if they are incapable of engaging in any occupation for which they are reasonably suited by means of education, training or experience that provides Gainful Employment.

The Participant must be under the regular, ongoing care of a Physician, who may be required to confirm their medical condition as requested by the University's Disability Management Provider.

Note: aligns with best practices and meets reasonable test; reduces risk if challenged; the strict application of "Totally Disabled" has been found to be unreasonable and may not withstand a legal challenge.

4. **"Disability Leave Benefit"** means the monthly income payable ~~for a Totally Disabled Participant or to a Participant with a Progressive Disability in accordance with the terms of this Plan~~ *to a Disabled Participant.*

Note: Refined definition aligns with new definition of disability (eliminates "Total") and removes Progressive Disability. (see proposed change to Progressive Disability definition 18.)

5. **NEW** *"Disability Management Provider" means the contracted third party organization that provides initial and ongoing medical leave assessment, medical recovery and rehabilitation supports to Staff Members on illness or injury leave.*

Note: Reflects the current state of how the DL plan is administered

6. **"Elimination Period"** means a period of 26 weeks in the aggregate ~~for each Disability~~ following the onset of ~~that a specific Disability~~ *during which the Employee was disabled or a combination of medical conditions causing Disability or consecutive medical conditions causing Disability, from which the Employee is disabled.*

Note: Remove "Each", which could be interpreted to allow the staff member to run consecutive elimination periods (Medical Leaves) if a different disability were to emerge during the original elimination period. This has been referred to as 'stacking Medical Leaves'. Essentially, a staff member could run consecutive medical leaves for a prolonged period if they have different medical conditions that overlap or occur back-to-back. The intent of an Elimination Period is to satisfy a set period of time for recovery before applying for and moving into LTD/DL.

7. **"Employee"** means an employee in the Service of the Employer who participates in an Employer benefit program that provides for inclusion in the Disability Leave Program. Notwithstanding anything to the contrary expressed or implied any Employee described above who is on assisted leave, sabbatical or other leave with pay, leave without pay subject to payment of the monthly premium by the Employee, or who is placed on disability leave by the Employer, shall be deemed to be an Employee for purposes of this Program.
8. **"Employer"** means the Governors of the University of Alberta.
9. **NEW "Gainful Employment"** means employment that an eligible Employee is medically fit to perform for which that Employee has at least the minimum qualifications based on education, training or experience and that provides a salary of at least 60% of the Employee's pre-disability salary. Gainful Employment is not contingent on the work being available to the Employee.

Note: Gainful Employment was not previously defined. It is important to specify now as it aligns with the proposed definition of Disability (not using Total Disability).

10. **"Medical Advisor"** means a Physician retained by the ~~Employer~~ *University's Disability Management Provider* to advise the Administrator on medical questions related to benefit entitlement or other aspects relevant to the Plan, medical issues or treatment, or suitability of a Rehabilitation Program.

Note: Changed to reflect the current status of the disability management program (initiated in November, 2015).

11. ~~"Medical Reference Board" means a board of one or more physicians established from time to time by the Employer for adjudicating disputes on medical matters arising out of decisions made by the Administrator.~~ **"Independent Medical Review"** means the independent appointment of a Medical Specialist to conduct a review and provide a final decision in the appeal process.

Note: Eliminate the Medical Reference Board (MRB) provision and replace it with Independent Medical Review (IMR). MRB has proven to be expensive, difficult to coordinate and not timely. An IMR minimizes these aspects.

12. “**Medical Specialist**” means a *licensed medical doctor who has completed advanced education and clinical training in a specific area of medicine and who is* ~~person~~-qualified to provide *medical* advice relevant to the medical condition, treatment and rehabilitation of a Participant.

Note: Provides a more complete definition of a medical specialist

13. “**Monthly Annual Earnings**” means the basic ~~monthly~~ *annual* rate of salary plus, where one exists, the market supplement in effect on the date disability leave commenced. When a subsequent period of ~~Total~~ Disability is considered as a continuation of the previous period of ~~Total~~ Disability, the ~~Monthly~~ *Annual* Earnings shall be determined on the date the previous disability leave commenced.

Note: Delete word ‘Total’ to align with new definition of Disability; change Monthly to Annual to align with revised benefit table.

14. “**Participant**” means an Employee who ~~has joined the Plan and whose membership has not terminated, or who~~ *has been approved for Disability Leave and* is in receipt of a Disability Leave Benefit.

Note: More concise and clear definition.

15. “**Period of Disability**” means the period during which ~~an Employee~~ *a Participant* receives benefits under the Program commencing after the last day of the Elimination Period.
16. “**Physician**” means only a ~~duly qualified physician~~ *medical doctor* who is legally licensed to practice medicine *by the appropriate licensing authority where treatment is rendered, and who is practicing within the scope of their license.*

Note: Makes clear 'medical doctor' and avoids other categories (e.g. Dr. of Homeopathy; Chiropractor). Consistent with LTD definition.

17. **"Premium"** means the monthly cost of the Program as determined by the Employer from time to time divided by the number of eligible employees.
18. **"Program"** means the Disability Leave Benefit Plan established by the employer for its Employees after July 1 1978, retroactive to take effect July 1, 1978.
19. ~~**"Progressive Disability"** means a medically identifiable disease or condition recognized by the medical profession as chronic, progressive and degenerative in nature, and which restricts the participant's ability to fully perform the duties of their Regular Occupation, or any gainful occupation where the Participant has already been in receipt of a Disability Leave benefit for more than 24 months.~~

Note: Eliminate "Progressive Disability" – see Article V; 4

20. **"Regular Duties"** means the normal duties or duties similar to the normal duties that the employee was performing immediately prior to the commencement of the Elimination Period.
21. ~~**"Regular Own Occupation"**~~ means the duties equal or similar to those duties performed by the Employee immediately prior to the commencement of the Elimination Period.
22. **"Rehabilitation Program"** means any program with the purpose of returning a ~~Totally~~ Disabled Participant to remunerative employment, as described in Article V, Section 3.

Note: Delete the word 'Total' - under the proposed new definition of Disability

23. **"Service"** means the period during which an Employee holds an academic appointment with the Employer.

Article II – Eligibility and Membership

1. Effective Date

The Program is effective on July 1, 1978. Prior to this date similar coverage was provided under the Group Total Disability Insurance Policy issued by the Teachers' Insurance and Annuity Association.

2. Eligibility

An Employee whose Service commenced on or before the effective date of the Program as described in Section 1 of this Article is eligible for coverage under the Program commencing on the effective date. An Employee whose Service commences after the effective date of the Program as described in Section 1 of this Article is eligible for coverage under this Program commencing on the date on which his/her Service commences.

3. NEW *Waiting Period*

A new Employee must serve a 12 month waiting period of continuous employment before they become eligible for Disability Leave benefits, should they so qualify.

Note: Many disability plans have a waiting period before a new employee becomes eligible for the benefit. This assists in managing disability costs.

4. Actively at Work

Employees who are absent due to sickness or injury on the date upon which they normally would have commenced Service shall not be eligible for coverage until they are determined to be medically fit to perform all of the Regular Duties *and hours* of the position to which they were appointed as determined by the Employer, and they report to work. *The Waiting Period provision will commence once they report to work.*

Note: Adds the provision of working the hours of the position and connects this provision appropriately with the Waiting Period.

5. Continued Participation during Leaves of Absence

1. An Employee who is on assisted leave, sabbatical or other approved leave with pay shall be eligible for coverage throughout such leave, subject to the termination provisions of Section 5 of this Article.
2. An employee who is on approved leave of absence without pay shall be eligible for coverage throughout such leave, subject to the termination provisions of Section 5 of this Article and subject to payment of the monthly Premium by the Employee.

6. Termination of Eligibility

An eligible Employee shall cease to be eligible for disability leave coverage at the earliest of the following:

1. the date ~~he ceases~~ *they cease* to be an Employee as defined in Article I,
2. the date of retirement ~~being June 30 following the attainment of age 65, or on August 31 following the attainment of age 65 if the staff member was appointed to the academic staff prior to July 1, 1966.~~
3. the date of death.
4. *the attainment of age 65.*
5. *the effective date of a lockout or strike action. Participants already in receipt of Disability Leave benefits prior to a strike or lockout are not affected by this provision, however there will be no new claims accepted for the duration of a strike or lockout.*
6. *The date of entry into active duty with the armed forces of any country.*

Article III – Description of Benefits

1. Monthly *Disability Leave* Benefit

Eligible Employees who become disabled and whose Disability continues throughout the Elimination Period shall be eligible to apply for disability leave benefits in accordance with Article V. These benefits will be paid monthly in arrears (*1/12 of Disability Leave Benefit*) commencing the first day following completion of the Elimination Period *and in accordance with the following table*: ~~will be equal to 70% of Monthly Earnings, subject to the maximum benefit in effect under this Program as follows:~~

- (a) ~~effective from July 1, 1978 to June 30, 1982 \$3,000 per month;~~
- (b) ~~effective from July 1, 1982 to June 30, 1983 \$4,283 per month;~~
- (c) ~~effective from July 1, 1983 \$4,283 per month adjusted by amounts equivalent to adjustments in the appropriate salary scale made after June 30, 1983; and~~
- (d) ~~effective from July 1, 2004 \$8,750 per month adjusted by amounts equivalent to adjustments in the appropriate salary scale made after June 30, 2005.~~

<i>Annual Earnings (gross)</i>	<i>Disability Leave Benefit *</i>
<i>First \$30,000</i>	<i>70% of Annual Earnings</i>
<i>Next \$36,000 (Annual Earnings between \$30,000 and \$66,000)</i>	<i>55% of Annual Earnings</i>
<i>Over \$66,000</i>	<i>45% of Annual Earnings</i>
<i>* Disability Leave Benefit not to exceed 85% of <u>net</u> Annual Earnings</i>	

2. Pension Contributions

During the Period of Disability an Employee *will be responsible for the Employee's portion of pension contributions if they so wish to continue with contributions.*

~~will receive, in addition to the benefits described in Section 1 of this Article an additional monthly benefit equal to the required Employee's contribution to the Universities Academic Pension Plan.~~ This amount will be remitted directly to that Pension Plan by the Employer together with the Employer's required contribution to the Pension Plan.

3. Benefit Adjustment

~~The monthly benefits described in Section 1 of this Article, subject to the maximum monthly benefit will be adjusted by amounts equivalent to adjustments in the appropriate salary scale made during the Period of Disability.~~ Any negotiated salary scale increases for the group will be applied to the net DL benefit paid to the Participant.

Note: If the Participant is receiving CPP disability benefits with their DL benefits, U of A negotiated increases will only apply to the net amount payable (not the full amount of DL before the CPP offset). For example, if the full monthly DL benefit is \$5,000 and the CPP benefit is \$2,000, any negotiated salary increase will be applied to the net \$3,000 DL benefit that is payable. CPP has its own COLA adjustment and it is applied to its benefit (\$2,000 CPP payment). This is consistent with LTD plan.

4. Coordination of Monthly Income

The Disability Leave Benefit as described in Section 1 of this Article will be coordinated with disability benefits from other sources as follows:

- (a) The Disability Leave Benefit will be directly reduced by any benefit payable under Workers' Compensation legislation, excluding pension awards established prior to the claim for Disability Leave, provided this injury is in no way contributing to the current ~~Total~~ Disability.
- (b) The Disability Leave Benefit will be directly reduced by any benefit payable under Canada or Quebec Pension Plan benefits in respect of the Employee only (primary benefit) which the Participant receives, or which the Participant would have been entitled to receive had a satisfactory application been submitted. Such amount does not include benefits payable under these plans to another member of the Participant's family.
- (c) If "Total income from all sources" as defined in subsection (d) of this Section exceeds ~~75% of Monthly Earnings~~, *85% of Annual Earnings (net)* then the Disability Leave Benefit will be further reduced so that the "Total income from all sources" equals ~~75% of Monthly Earnings~~ *85% of Annual Earnings (net)*.
- (d) "Total income from all sources" includes:
 - (i) the disability leave benefit described under "~~Basic~~ Monthly *Disability Leave* Benefit" in subsection 1 of this Section,
 - (ii) the monthly benefit payable under the Canada or Quebec Pension Plan other than the primary benefit described in subsection (b) of this section,
 - (iii) any other disability benefits from other plans (available through employment),
 - (iv) any monthly pension paid from retirement plans other than the University's Academic Pension Plan available through employment,

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- (v) any indemnity for loss of time from plans required or provided by any No Fault Auto Insurance law,
 - (vi) any other remuneration received from any employer or from self employment while disabled but excluding 50% of rehabilitation earnings as described in Section 3 of Article V.

5. Repayment of Benefits Paid In Arrears

A Participant is required to immediately advise the Administrator of any Canada or Quebec Pension Plan disability benefits, or other benefits or income considered to be a Direct or Indirect offset as described in 4 ~~(d)~~ paid to the Participant subsequent to approval of their claim for Disability Leave benefits.

A Participant is required to reimburse the Plan an amount calculated by the Administrator for the entire period during which they received Disability Leave benefits and subsequently were paid Canada or Quebec Pension Plan disability benefits or any other benefits or income as noted in 4 ~~(d)~~.

6. Cessation of Benefit

The Disability Leave Benefit payable under the Program shall cease at the earliest of:

- (a) The date the Participant ~~is no longer Totally Disabled or is determined not to have a Progressive Disability~~ *no longer meets the definition of Disability;*
- (b) The date of death;
- (c) The date the Participant is no longer under continuing medical care or treatment by a Physician, or fails to comply with the requirement to provide medical evidence as specified by the Administrator;
- (d) The date the Participant fails to co-operate in or comply with a Rehabilitation Program approved by the Administrator;
- (e) *The date the Participant fails to communicate and cooperate with the University's Disability Management Provider;*

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- (f) The end of an approved Rehabilitation Program;
 - (g) The date the Participant engages in any ~~gainful employment~~ *Gainful Employment*, except pursuant to an approved Rehabilitation Program ~~or~~
 - (h) The date the Participant retires ~~as defined in Article II (6 b):~~
 - (i) *The date the Participant attains the age of 65.*
 - (j) *The date the Participant is incarcerated in a prison, correctional facility, or mental institution by order of authority of a criminal court.*

Note: Incarceration provision is infrequently used but still a common provision in many plans.

Article IV– Subrogation

Note: the employer offers no suggested changes to this section re Subrogation for the purposes of this E1A and defers to the recommendations of the sub-committee.

4.01 Definitions

For purposes of Article IV:

- a) **Benefit** shall mean any Disability Leave Benefits payable under this Plan together with all sick leave benefits including Medical Leave, leave with pay, or costs under the Supplementary Health Care benefit;
- b) **Interest** means interest calculated in accordance with the provisions Alberta *Judgment Interest Act*, S.A. 1984 c.J-0.5 and amendments and regulations thereto;
- c) **Judgment** shall mean an Order of the court of competent jurisdiction;
- d) **Participant** shall mean any Employee of the University of Alberta who is entitled to Disability Leave Benefits or Medical Leave Benefits;
- e) **Plan** means the Disability Leave Program
- f) **Settlement** shall mean an agreement whereby the participant agrees to accept any sum of money representing past or future loss of income, either by lump sum, periodic payment, or through the purchase of an annuity, or any combination of the above;
- g) **Subrogated Claim** shall mean the Plan's right of subrogation for claims originating prior to 26 January 2004, which arises when the Participant, as a wrongful act or omission of a third party, recovers:
 - i) damages representing the amount of any Benefits paid or payable under the Plan, whether or not the Participant recovers, in whole or in part at all, any additional damages from the third party; and
 - ii) amounts representing the amount of any Benefit paid or payable under the Plan, from the Participant's insurer under a Family Protection Endorsement or other similar insurance coverage.

4.02 Plan's Right of Subrogation

In the event that the Plan pays a Disability Leave Benefit as a result of an act or omission of a third party, the Plan is subrogated to the amount of the benefits paid or payable to the Participant plus interest. The following provisions shall apply:

- a) the Participant shall advise the Administrator of any claim for loss of income being advanced by the Participant against a third party or his/her own insurers pursuant to a Family Protection Endorsement;
- b) the Participant shall include in its claim advanced against a third party or his/her own insurers pursuant to a Family Protection Endorsement the amount of the Benefits paid or payable under the Program arising as a result of any disability which was caused by the act or omission of a third party together with, if the Participant remains disabled as a result of the actions or omissions of a third party, the amount of all anticipated future Benefits;
- c) the Participant agrees to cooperate with the Administrator and to provide all records, transcripts, reports and information with respect to the calculation or allocation of any loss of income claim. In addition, the Participant agrees to attend at Examination for Discovery or trial at the request of the Administrator;
- d) the Plan shall have the right (but not the obligation) to maintain an action in the name of the Participant to recover its Subrogated Claim and the Administrator may at all times engage a solicitor to recover its Subrogated Claim and for this purpose, the Participant shall permit the Administrator to engage his/her solicitor to pursue its Subrogated Claim;
- e) the Participant shall not settle his/her claim without the prior written consent of the Administrator. Any Settlement by the Participant without the consent of the Administrator shall be deemed to be a fundamental breach by the Participant of his/her obligations under the Plan and in addition to any remedies available to the Administrator, the Administrator may forthwith terminate payment of any Benefits payable under the Plan; and
- f) the Participant shall not sign a Release, which releases the Subrogated Claim of the Plan, without the written consent of the Administrator;

4.03 Recovery of 100% of Claim

Where, as a result of a Judgment or Settlement, the Participant has recovered 100% of his/her damages, including, but not limited to, general damages, special damages, loss of income, loss of housekeeping capacity and interest, the Participant shall pay to the Administrator 100% of the Benefits, paid or payable, less a proportionate share of legal fees.

4.04 Recovery of less than 100% of Claim

Where as a result of a Judgment or Settlement, the Participant does not recover 100% of his/her damages, including, but not limited to, general damages, special damages, loss of income, loss of housekeeping capacity and interest, the Participant shall pay to the Administrator, a percentage of its Benefits paid which is equal to the percentage of total recovery made by the Participant in relation to all of his/her damages, less a proportionate share of the legal fees paid.

4.05 Settlement without Consent of the Administrator

In the event that the Participant settles without the consent of the Administrator, in addition to any other remedies available to the Administrator and notwithstanding any express term of any Settlement:

- ii) the amount of the Settlement shall be deemed to have been paid firstly with respect to any claim which the Plan may have a Subrogated Claim and for which the Participant has received benefits arising from the act or omission of a third party;
- iii) the amount of recovery shall be deemed to have been paid with respect to the future benefit as of the date of settlement and the Plan shall offset the full amount which would otherwise be offset on a Settlement with the consent of the Plan Administrator; and
- iv) the balance, if any, shall be deemed to have been paid with respect to the other claims of the Participant.

Article V – Benefit Limitations and Special Provisions

1. Benefit Limitations

No benefit is payable for Disabilities resulting from

- (a) declared or undeclared acts of war,
- (b) participation in, or in consequence of having participated in, the commission of an indictable offence.
- (c) a sickness due to alcoholism, drug addiction or the use of any hallucinogenic or stimulating agent taken voluntarily unless
 - (i) the sickness is specifically documented as being an organic condition, or
 - (ii) the Employee is undergoing an alcoholic or drug addiction rehabilitation program that has received prior approval but only while the Employee is participating in the program of rehabilitation.

2. Recurrent Disabilities

Successive periods of Disability suffered by an eligible Employee shall be deemed to occur in the same Period of disability, (i.e., no new Elimination Period is required) except when:

- (a) the later Disability is due to causes wholly different from those of the prior Disability, or
- (b) the later Disability is due in whole or in part to causes related to the prior Disability and the employee completes at least 6 consecutive months of Service in their ~~Regular~~ *Own* Occupation, excluding Service during a Rehabilitation Program, before the commencement of the later Disability.

Should a Recurring Disability be established, the period remaining from the initial 24 months of disability leave will be applied and the Change of Definition (COD) will be the combination of the initial period of Disability Leave combined with the Recurrent period(s) to a maximum of 24 months in aggregate.

Note: This additional statement ensures an understanding that the 24 month 'own occupation' period does not start over again with a recurrence. Provides clarification that the initial assessment period (first 2 years of LTD) is 'in aggregate' when a disability recurs – i.e. same disability recurs within 6 months of end of original claim.

3. Rehabilitation

- a) ~~A disabled Employee may be required by the Employer to participate in an approved Rehabilitation Program which will include one or more of the following activities:~~
 - a) ~~employment in the Employee's Regular Occupation but on a less than full-time basis, or~~
 - b) ~~employment in another occupation more compatible with the nature of the Disability, or~~
 - c) ~~participation in a formal vocational training program.~~
- b) ~~An Employee's entitlement to disability leave benefits will not be prejudiced at any time during his participation in a Rehabilitation Program except as follows:~~
 - a) ~~Disability Leave benefits will be reduced by 50% of the income received during a Rehabilitation Program.~~
 - b) ~~The "all sources maximum" of 75% of Monthly Earnings described in subsection c) of section 4 of Article III, is increased to 100% of Monthly Earnings.~~
 - c) ~~Disability Leave benefits will cease 48 months after the commencement of the Rehabilitation Program unless the Employee has again become Disabled.~~

Note: REPLACE Rehabilitation section with the following.....

Rehabilitation

The Administrator may determine, after consulting with a Medical Advisor, the Participant's attending Physician or other Health Care Provider, or a Medical Specialist that a Participant in receipt of a Disability Leave benefit is required to participate in a Rehabilitation Program established by the Administrator.

If the Participant fails to enter into, or fully cooperate and participate in, a Rehabilitation Program that has been approved by the Administrator, payment of the Disability Leave benefit will cease immediately and the Participant will no longer be entitled to Disability Leave. In considering whether or not a Rehabilitation Program is appropriate, the Administrator will assess factors such as expected duration of disability, the anticipated outcome and the level of activity required to facilitate a timely return to employment.

An approved Rehabilitation Program can consist of, but is not limited to:

- 1. Training and/or re-employment: any training or a work related activity expected to facilitate the Participant's return to their Own Occupation or other Gainful Employment. This could involve efforts such as a work trial, training on the job, formal schooling, part time work, or modified work in the Participant's Own Occupation or some other occupation more compatible with the restrictions associated with the Participant's medical condition.*
- 2. Physical or Psychological Rehabilitation: any physical rehabilitation, psychological counseling or treatment program intended to enhance the Participant's ability to meet job demands. Examples include but are not limited to: physical or occupational therapy, or conditioning; psychological/psychiatric counseling, pain management therapy or participation in other specialized programs or clinics. This also includes attendance at medical assessments or evaluations used to establish a treatment or Rehabilitation Program.*
- 3. Vocational Rehabilitation: transferable skills analysis, vocational or career counseling, active job search, or other vocational assessments or evaluations used to support a return to Gainful Employment.*

Duration of a Rehabilitation Program:

- 1. The duration of each Rehabilitation Program must be approved by the Administrator. The Disability Leave benefit will cease at the end of an approved Rehabilitation Program, or at the expiry of 24 months after the commencement of an approved Rehabilitation Program, whichever is earlier, unless the Participant has again become Disabled. Participation in a Rehabilitation Program is not an automatic entitlement and must first be approved by the Administrator.*
- 2. A Participant who subsequently becomes Disabled and is unable to continue his/her Rehabilitation Program may be eligible to resume a Rehabilitation Program for the balance of the 24 months when medically fit to do so.*
- 3. Where the duration of the Rehabilitation Program was less than the maximum of 24 months, and a Participant in receipt of Disability Leave benefits for greater than 24 months has not returned to his/her Own Occupation or other Gainful Employment immediately after completion of retraining, the Disability Leave benefit may be extended for up to 3 additional months to support the staff member while involved in a focused job search. If a Participant chooses not to immediately commence a focused job search the Disability Leave benefit will cease upon completion of the training.*

Impact of Rehabilitation Earnings on LTD Benefits

If a Participant is receiving income under an approved Rehabilitation Program, this income will be coordinated with the Disability Leave benefit payable under the Plan as follows:

- 1. the Disability Leave benefit will be reduced by 50% of the income received under the Rehabilitation Program; and*
- 2. the combination of income and Disability Leave benefit will not exceed 100% of pre-disability earnings. If the combination of income and Disability Leave benefits exceeds 100% income, then the Disability Leave benefit will be reduced so the combined amount does not exceed 100% pre-disability earnings.*

Note: The proposed rehabilitation program provides a more robust description of a rehabilitation program. It eliminates the 48 months provision for a rehabilitation program. A 48-month rehabilitation provision is unusually long in a disability plan.

4. ~~Progressive Disabilities~~

(a) ~~A Participant with a Progressive Disability may qualify for Disability Leave Benefits beyond 48 months of participation in a Rehabilitation Program if all of the following conditions are satisfied:~~

- ~~I. The Participant provides medical evidence of a Progressive Disability that is satisfactory to the Administrator; and~~
- ~~II. The Progressive Disability, in the judgment of the Administrator, has reached a stage where the Participant is, and will continue to be, unable to perform a substantive portion of the duties of their Regular Occupation for the foreseeable future; and~~
- ~~III. The Administrator determines, after consulting with a Medical Advisor, the Participant's attending Physician, or an appropriate Medical Specialist that a Participant with a Progressive Disability can continue to work on a part time basis, or on a reduced work load basis in their Regular Occupation, or in alternative employment.~~

(b) ~~Where a Participant receives a Disability Leave Benefit due to a Progressive Disability and employment income with respect to part-time work, reduced work or alternative work, the LTD Benefit will be coordinated with such income under the Program as follows:~~

~~I. The Disability Leave Benefit will be reduced by 50% of the employment income received; II. The "all sources maximum" of 75% of Monthly Earnings described in subsection c) of section 4 of Article III, will be increased to 100% of Monthly Earnings.~~

(c) ~~If a Participant's Progressive Disability is subsequently determined to become a Total Disability, this section will no longer apply and the Participant will qualify for full Disability Leave Benefits under the terms of the Plan, but no second Elimination Period will be required provided there is no interruption in Disability.~~

- (d) ~~Benefits payable under this section may continue as long as the above requirements continue to be met.~~

Note: Eliminate "Progressive Disability". The current progressive disability provision discriminates against a person with a progressive disability that has limited function but remains able to work in that their disability is not recognized until they have been on DL for 24 months but they would not be entitled to DL as they are not 'totally disabled'. With the proposed new definition of disability and the elimination of this provision, all staff and medical disabilities conditions will be treated equally.

Article VI – Claims Administration

1. When the illness of an Employee who has been granted Medical Leave is expected to exceed 26 weeks in the aggregate, the Employee will ~~submit an application for Disability Leave to the Administrator on claims forms provided by the Administrator for this purpose.~~ *be provided a Disability Leave application package. The Employee will have 30 days from the end of their Medical Leave entitlement to apply for Disability Leave.*
2. The ~~Administrator~~ *Disability Management Provider* will review the application to ~~determine~~ evaluate the Employee's eligibility for disability leave benefits ~~and the amount of benefits payable.~~ The ~~Administrator~~ *Disability Management Provider* will consult with the Medical Advisor on questions requiring medical advice. The ~~Administrator~~ *Disability Management Provider* may consult with the attending Physician or other health care providers or Medical Specialists in order to adjudicate the claim or determine appropriateness of a Rehabilitation Program, job accommodation or medical treatment. *The Administrator will advise the Participant in writing of the decision and if deemed eligible for the Disability Leave benefit, the amount of benefits payable.*
3. Employees in receipt of Disability Leave Benefits may be required by the Administrator
 - (a) to provide medical evidence from time to time and to undergo periodic examination by a Medical Specialist chosen by the Administrator to establish that the ~~Total or Progressive~~ Disability continues to exist;

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- (b) to actively participate and co-operate in the development and implementation of a Rehabilitation Program where such program is recommended;
 - (c) to apply for any government sponsored disability benefit for which the participant is eligible and to make an appeal, from time to time, if the government sponsored disability benefit is denied or terminated; and
 - (d) to provide all other reasonable information as requested by the Administrator.

Failure to meet any of the above requirements within the time frames specified by the Administrator will result in immediate cessation of Disability Leave benefits.

4. A Participant may request a review of a decision regarding their claim for Disability Leave Benefits, in writing, within 30 *calendar* days of the date of notification of such decision. The only recognized dispute resolution processes under the Program ~~are~~ *is* the ~~Medical Reference Board~~ *Independent Medical Review* for disputes based on medical evidence and the Administrative Review Committee for disputes involving plan interpretation.

(a) Disputes Based on Medical Evidence

It is the responsibility of the Participant to arrange for and submit any ~~new~~ additional medical evidence to the ~~Administrator~~ *Disability Management Provider* within 90 days from the date of the request to have the decision reviewed. The ~~Administrator~~ *Disability Management Provider* *will* review ~~the Participant's new~~ any additional medical information in conjunction with other information already contained in the claim file and consult with a Medical Advisor. *They may also consult with the attending* Physician, or other health care providers or Medical Specialists in order to adjudicate the claim.

The Administrator advise the Participant in writing of the decision resulting from the review. If the Participant disagrees with the interpretation of the medical evidence, they may request *an Independent Medical Review* ~~review by a Medical Reference Board~~. This must be requested in writing, within 30 days of notice of the decision resulting from a dispute under this provision.

Request for ~~a Medical Reference Board~~ *an Independent Medical Review*

A Participant may request that ~~a Medical Reference Board be appointed~~ *an Independent Medical Review (IMR) be initiated to* review disputes arising from the interpretation of previously submitted medical evidence in support of the application for, or continuation of Disability Leave Benefits, or participation in a Rehabilitation Program.

~~The Medical Reference Board shall be established by the Administrator. An Independent Medical Review Specialist shall be chosen by a third party organization that specializes in arranging comprehensive medical assessments within 30 days of receiving the Participant's request. The Specialist will have had no prior involvement with the Participant, either directly or indirectly. The Specialist will receive the complete file information from the third party disability management provider, and a copy of the Disability Leave plan, in order to render a decision on the Disability. The Board shall consist of a Vocational Rehabilitation consultant appointed by the Employer in consultation with the Association, and two Physicians with medical specialties appropriate to the issue under review as determined by the Medical Advisor. One Physician will be appointed by the Employer. The second Physician will be appointed by the Participant. Both Physicians must not have had any prior involvement with the Participant, either directly or indirectly. The procedures to be followed by the Medical Reference Board shall be determined by the Administrator.~~

Note: Eliminate Medical Reference Board (MRB) and replace it with Independent Medical Review (IMR). MRB has proven to be expensive, difficult to coordinate and not timely. An IMR minimizes these aspects while providing a reasoned professional opinion by an independent Specialist.

The total cost of a medical reference board is borne by the Employer which has resulted in what could be considered 'frivolous' claims. An IMR minimizes these aspects while providing a reasoned, professional opinion by an independent Specialist.

No decision, order, directive, declaration, ruling or proceeding of the *Independent Medical Review Specialist* shall be questioned or reviewed in any court by application for judicial review or otherwise, and no order shall be made or process entered or proceeding taken in any court, whether by way of injunction, declaratory judgment, prohibition, quo warrant or otherwise, to question, review, prohibit

or restrain the *Independent Medical Review Specialist*. All medical determinations made by the *Independent Medical Review Specialist* shall be final and binding upon the parties.

(b) Disputes Based on Administrator's Interpretation of the Plan

A Participant may request a review of an interpretation of the plan which results in denial or discontinuation of their Disability Leave Benefit. In such an event, the Participant must present to the Administrator in written form, within 30 days, the reasons for disputing the interpretation. The Administrator shall refer the request to an Administrative Review Committee established by the Employer for this purpose.

No decision, order, directive, declaration, ruling or proceeding of the Administrative Review Committee shall be questioned or reviewed in any court by application for judicial review or otherwise, and no order shall be made or process entered or proceeding taken in any court, whether by way of injunction, declaratory judgement, prohibition, quo warrant or otherwise, to question, review, prohibit, or restrain the Administrative Review Committee or any of its proceedings. All decisions of the Administrative Review Committee shall be final and binding upon the parties.

Article VI I – General Provisions**1. ~~Advisory Board~~**

~~An Advisory Board will be established by the Employer and shall include at least one person named by the Association to:~~

- ~~(a) advise the Administrator on the administration of the Program;~~
- ~~(b) determine questions arising from interpretation of the Program other than medical questions referred to the Medical Reference Board; and~~
- ~~(c) recommend to the Employer and the Association changes to the Program.~~

Note: The employer has internal resources and external consultants to provide review and recommendations with regards to the Plan.

2. Insurance

The Employer may at any time enter into an insurance agreement with an insurance company to provide all or a part of the benefits provided under this Program, and in particular may enter into a “Stop Loss” agreement with an insurance company to limit its liability under this Program.

3. Other Employment Income

A Participant has an obligation to advise the Administrator of earnings or payments from any employment in which they were engaged at the onset of Disability, or at the time they become so engaged while in receipt of benefits under this Program, and is required to divulge such detail as deemed necessary by the Administrator.

4. Misstatements

In the event it is found that any material fact has been incorrectly stated, the Administrator is empowered to make or cause to be made such adjustments or terminate payments in respect of such Participant, for the purposes of the Plan, as the Administrator, shall deem equitable.

5. No Right To Employment

The Program shall not be construed to create or enlarge any right of a Participant to remain in the employment of the Employer, nor shall it interfere in any manner with the right of the Employer to

discharge a Participant at any time. Discharge of an Employee while in receipt of Disability Benefits does not impact continued receipt of Disability Leave Benefits where eligible.

6. Liability

No person, Employee or former Employee, Participant or former Participant shall have any recourse under any provisions of this Plan against any past, present or future Governor, Officer, or Employee of the Employer who shall be free from all liability, except in the case of willful misconduct.

6. Currency

All premiums to and payments under the Program shall be payable in the lawful currency of Canada.

7. Construction

The Program shall be construed and enforced in accordance with the laws of the Province of Alberta.

8. Amendment of the Plan

The Employer expects and intends to maintain the Program indefinitely, but reserves the right to amend, modify or discontinue the Program either in whole or in part, subject to the requirements of any applicable legislation, Agreement, or policy.

The Plan may be amended at any time, and from time to time, by the Employer. Where the amendment directly or indirectly affects the benefits due to the Participants, notice shall also be given to the Participants.