**Firms urged to accommodate workers engaged in family care**



Yaldaz Sadakova | September 17, 2013

Canada’s population is getting older, forcing a number of employees to perform eldercare, increasingly on top of childcare, which often conflicts with their work demands. In this new environment, many are urging employers to show flexibility and accommodate workers engaged in family care.

The accommodation of employee demands doesn’t have to be complete, though, said Jennifer Fantini, a partner at Borden Ladner Gervais (BLG), speaking at a Toronto seminar on family status. “Employees are not entitled to request perfect accommodation—what they are entitled to request is reasonable accommodation,” Fantini explained.

**The numbers**
As Canada’s population ages, many employees find themselves saddled with eldercare duties that require accommodation from their workplaces. Twenty percent of employed Canadians care for one elderly dependent, while 22% are responsible for two elderly dependents, according to a national work/life balance study conducted in 2011 and 2012 by professors at Carleton University and Western University. Thirty-one percent care for three or more elderly dependents, according to the survey.

Many Canadians are also engaged in childcare. Two-thirds of respondents in the work/life study are parents. Of those, 25% have kids under five, 34% have children between five and 12, and 30% have teenagers who still live at home.

And one in three respondents in that study balance both childcare and eldercare. The number of these “sandwich” workers is expected to increase in the next decade given that many Canadians wait until their 30s to have children and lifetimes are increasing, according to the survey, which polled more than 25,000 workers across the country.

**What to do**
So what should employers do to help staff members who balance work and family care? First, they need to know that the onus is on the employee to exhaust all possibilities of childcare and eldercare before requesting a work schedule change, Fantini said.

Once they receive an accommodation request, employers have to determine if the demand stems from a responsibility or a choice, said Naomi Calla, a lawyer at BLG, in an interview. There is a difference between having to care for a severely ill family member and wanting to attend a child’s sports event, she explained.

Also, when addressing such requests, employers should consider each case individually, instead of rigidly applying a blanket policy, Calla said. “Every situation is different, so you can’t just say, ‘No, we don’t do flexible hours,’” she added. If a company insists that all employees need to have the same schedule, then it has to prove that it’s a bona fide requirement of the job for everybody to be in and out of work at the same time, Calla explained.

Additionally, employers have to keep in mind that allowing flexible schedules doesn’t normally involve a cost for them, Calla said. “Generally, it’s more in the realm of flexibility,” she added.

**Guidelines and laws**
Soon, Canadian organizations will have a guide to turn to when dealing with staff members who need family status accommodation.

The Canadian Human Rights Commission, a quasi-judicial body established by the federal government, is now drafting a national guide for employers, workers and unions across Canada on the issue. The final version of the guide will likely be published in the spring of 2014, according to Marcella Daye, senior policy advisor at the Canadian Human Rights Commission. The document is not going to be legally binding.

Currently, family status cases fall within the broad realms of human rights law. There are both federal and provincial codes dealing with human rights.

The federal law, in the form of the *Canadian Human Rights Act,* applies to employers, service providers and unions operating under federal jurisdiction, Daye said in an email. This includes entities such as federal government departments, agencies and Crown corporations, banks, interprovincial transportation companies (including trucking, bus, rail and air), and telecommunications service providers.

Provinces and territories, on the other hand, are responsible for the majority of employers and service providers in Canada, according to Daye. Those include entities such as restaurants, schools, hospitals and grocery stores.