

MS in the Workplace: An employer's guide

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MS in the Workplace: An employer's guide is a publication intended for employers of those diagnosed with MS. It is a stand-alone piece which is part of a resource for those affected by MS called, *A Guide to Employment and Income Support*.

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COVER ARTWORK

Kathy Harvey*

Dwelling Places, Oil on canvas

"I've had so many opportunities in my life to contribute. I would never have dreamt that I'd be painting and making money for the MS Society from it... if you don't take opportunities – even ones you think you aren't capable of – you miss out on a lot. Everybody, with MS or otherwise, has something to offer. You just need to think about what that is."

Kathy Harvey, who passed away in January, 2007, was an artist and advocate for patient autonomy in long-term care facilities. She began painting on a whim in the 1980s. Her work raised over \$200,000 for the Mississauga Chapter through the sale of Christmas cards. She was a nationally recognized mouth painter. Kathy received a number of awards for her various contributions, including the MS Society of Canada Sir David Flavelle Award of Distinction, and the prestigious Ontario Medal for Good Citizenship in 2002. The Mississauga Chapter has created a volunteer award in her honour, the Kathy Harvey Inspiration Award.

Christmas cards as well as limited edition prints of *Dwelling Places* are available to be purchased through the Mississauga Chapter at info.mississauga@mssociety.ca

**Assisted by Betty Williams*

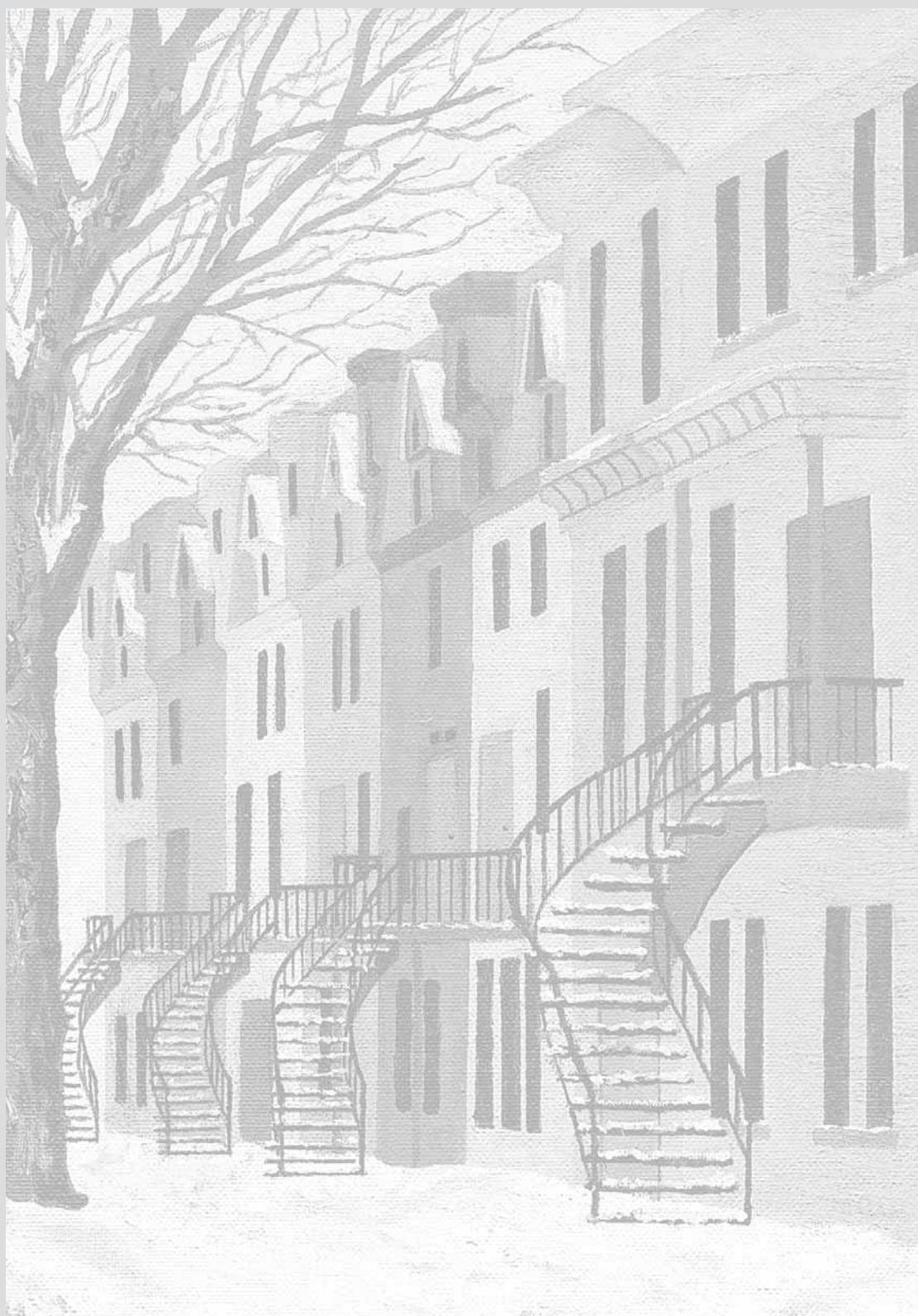


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MS in the Workplace: An employer's guide

This guide is designed to help you, as an employer, understand the nature of MS and the types of issues that arise for people with MS in the workplace, including disclosure of diagnosis, the employer's duty to accommodate, examples of accommodations for MS-specific symptoms, and strategies for discussing and implementing workplace accommodation.

The goal is to provide you with sound information and resources that will help you to retain your valuable employees with MS, keeping in mind that people with MS now have a greater chance than ever of being employed for as long as they are able, thanks to advances in the management of MS and in society's attitudes towards people with disabilities.

MS: an overview

What is MS

Multiple sclerosis is a chronic, non-contagious disease that affects the central nervous system – brain, spinal cord and optic nerves. It is thought to be an autoimmune illness in which the immune system mistakenly attacks the body. In MS, the immune system attacks myelin, which is a fatty coating protecting the nerve fibres of the central nervous system. Damage to any part of the myelin coating or nerve fibre can disrupt messages moving through the central nervous system. When these messages are distorted or blocked, a wide range of MS-related symptoms may occur.

MS symptoms

MS symptoms are unpredictable. They vary from person to person and also vary in severity and duration. They may include:

- visual disturbances
- unusual and extreme fatigue
- speech problems
- changes in sensation, such as numbness or pain
- loss of coordination or balance

- bladder and bowel problems
- stiffness of muscles
- weakening or paralysis of any part of the body
- pain
- mood or cognitive changes

Many people with MS are able to manage their symptoms and remain productive in the workforce.

Course of MS

MS varies from person to person. Neither the person with MS nor a doctor can accurately predict what course MS will take.

Types of MS

There are four main types of MS:

Relapsing Remitting

- the most common form of MS (75% of cases at time of diagnosis)
- characterized by clearly-defined relapses (attacks) followed by complete or partial recovery (remissions)

Secondary Progressive

- about half of people with relapsing-remitting MS start to worsen within 10 years of diagnosis, often with increasing levels of disability and without remission

Primary Progressive

- a less common form of MS (10-15% of cases at time of diagnosis)
- people with this type of MS have a nearly continuous worsening of symptoms from the beginning, usually without clear relapses or remissions

Progressive Relapsing

- relatively rare
- combines relapses with steady worsening from the onset of the disease

Relapse

In relapsing forms of MS, there is typically a period of acute symptoms (known as an MS attack, relapse, exacerbation or flare-up), followed by a period of partial or total recovery. A relapse can last from a day to weeks or months. Many relapses are not severe and do not prevent people from business as usual, though some may. Remissions (periods with little or no symptoms) can last for weeks, months or even years.

Diagnosis

There is currently no one definitive diagnostic test for MS. Making the diagnosis can take time because other diseases and medical conditions have to be ruled out. Diagnostic tests may include MRI and/or CAT scans (which may show any inflammation or damage to the myelin and nerve fibres); clinical examinations; evoked potential tests (which measure the speed at which messages travel along nerve fibres in the brain) and spinal taps (which reveal indications of an abnormal immune response).

Treatment

MS can be treated in a variety of ways.

- There are treatments that influence the underlying disease. People on these disease-modifying therapies tend to experience fewer and less severe attacks and show fewer areas of brain damage (lesions) on MRI. These therapies are aimed at slowing down or modifying the course of the disease and do not necessarily improve current symptoms or prevent pre-existing symptoms from recurring.
- There are medications (steroids) that decrease the severity of relapses when they occur.
- There are many therapies that help ease several MS-related symptoms.
- As well, many people with MS benefit from non-drug treatments and therapies such as rehabilitation, physiotherapy, exercise, diet, stress management, psychotherapy, complementary and alternative medicine.

Research

Researchers are working to develop better drugs and therapies to relieve MS symptoms and stop the progress of MS. Extensive research is being done in myelin regeneration, genetics, immune system, magnetic resonance imaging (MRI) and the role of viruses. We don't know what causes MS but researchers are closer to finding the answer.

MS is NOT

- contagious
- a mental disease
- a fatal illness

Most people with MS can expect to live a normal or near-normal life span.

MS facts and statistics

- Canadians have one of the highest rates of multiple sclerosis in the world.
- An estimated 55,000 – 75,000 Canadians have MS.
- MS is the most common neurological disease affecting young adults in Canada.
- Women are three times as likely to develop MS as men.

MS and employment

Many people with MS continue working for many years after diagnosis and retire at or close to the usual time. Others find that the variety, unpredictability and severity of their MS symptoms interfere with their ability to continue in their current jobs and change positions or even careers. Still others leave the workforce much earlier than they intended. Of those who stop working, many say they would have preferred to continue working and would have done so with adjustments to their job tasks, work schedules or physical work environment.

People with MS, like people with other chronic or disabling illnesses, sometimes find that the greatest barrier in the workplace is their co-workers' and supervisors' lack of understanding of their illness or disability and misperceptions or reduced expectations about their skills and abilities.

Employees with MS develop strategies to manage their symptoms in the workplace and look to their employers to promote workplace environments that are supportive of all employees.

Employers who exercise flexibility and creativity in retaining valuable employees may find it more cost-effective than hiring and training new staff.

Points to keep in mind about MS:

- MS is variable. No two people experience MS in exactly the same way.
- MS is unpredictable. Symptoms may come and go, stabilize or improve. One set of symptoms may be replaced by another. During periods of remission, it may seem as though the person with MS has no illness at all.
- Some MS symptoms are invisible. For example, a person with MS may look fine but feel exhausted or be in pain. Invisible symptoms such as extreme fatigue, pain or depression often have the greatest impact on quality of life.
- MS fatigue is different from ordinary fatigue. It is akin to muscle weakness, physical tiredness and mental exhaustion combined and can fluctuate on a day-to-day basis.
- Changes in temperature, particularly hot weather, can trigger or aggravate MS symptoms.
- MS causes cognitive changes in some people, affecting their short-term memory and concentration, or problem-solving skills.

Disclosure of diagnosis

An employee with MS does not have to disclose that he or she has MS. Some people will choose to disclose their diagnosis, limitations or disability. Others will not. The decision is personal.

Disclosure is legally required only if an employee is asking for job accommodation. The employee is required to describe only the limitations in carrying out the essential duties of the job and does not have to disclose the diagnosis or nature of the illness.

The only questions an employer can legally ask an employee or interviewee about an illness or disability are questions relating to the person's ability to perform the essential duties of the job.

When an employee decides to disclose the diagnosis to an employer, confidentiality of medical information must be respected. The employer should ask the employee how much information, if any, is to be shared with supervisors and/or co-workers.

Accommodation

When MS affects job performance, an employee with MS has a right to request accommodation. Accommodation is any change in the workplace environment that enables a person with special needs to do a job. Small accommodations can make a big difference to an employee's effectiveness on the job and improve employee morale. More than half of all job accommodations cost less than \$500. In some cases, the cost of accommodation may be partially recovered through government programs, loans, grants, wage subsidies or tax rebates.

Types of accommodation

Modification of work schedule

- flexible work hours, shift change, compressed work week
- work on weekends, work from home
- time off (without penalty) for medical reasons / appointments

Modification of job tasks

- modification of the employee's regular job
- exchange of one type of job duty for another
- reassignment of specific tasks to another position
- job sharing

Modification of workstation / physical plant / building access

- relocating a workstation closer to a washroom
- raising a desk, widening a doorway, installing a ramp or handrails
- technical aids, special equipment and devices
- wheelchair-accessible washrooms, designated parking space

Changes in workplace policies and procedures

Transfer to another position in the organization

Training for another position in the organization

Examples of accommodations for MS-specific symptoms

MS Symptom	Sample Accommodation
Fatigue	<ul style="list-style-type: none"> ● work from home ● cot available for rest periods ● flexible work hours ● relocating a workstation closer to a washroom
Visual impairment	<ul style="list-style-type: none"> ● temporary reassignment of some work responsibilities ● altered lighting ● adapted computer equipment ● use of magnifiers
Temperature sensitivity	<ul style="list-style-type: none"> ● air conditioner, fan or heater, depending on type of sensitivity ● flexibility to work from home during hot or cold spells
Gait and mobility problems	<ul style="list-style-type: none"> ● relocating a workstation closer to a washroom ● wheelchair access to workstations ● cart for transporting supplies and equipment ● designated parking space
Bladder and/or bowel difficulties	<ul style="list-style-type: none"> ● relocating a workstation closer to a washroom ● ability to work from home
Speech difficulties	<ul style="list-style-type: none"> ● adapted telephone and computer equipment
Other	<ul style="list-style-type: none"> ● job sharing ● time off for medical appointments ● unpaid leave

Employer rights and responsibilities

Canadian employers (and unions) have a legal obligation to accommodate the needs of employees (or union members) with disabilities, up to the point of undue hardship. This obligation is known as the **duty to accommodate**. It is set out in the federal Canadian Human Rights Act, Employment Equity Act and provincial human rights legislation, and is reinforced in Supreme Court of Canada rulings.

The **duty to accommodate** means that employers and/or unions must take whatever measures are necessary to enable employees with disabilities to perform their jobs to the best of their abilities. The duty to accommodate is not open-ended, however. It may not be required, if an employer can show that providing accommodation would cause undue hardship to the organization or business.

Undue hardship is measured mainly in terms of health, safety and cost. That means an employer would have to provide evidence that the proposed accommodation would pose an undue risk to the health and safety of people in the workplace. Or that the cost of the proposed accommodation is so high that it would affect the very survival of the organization or business, or threaten to change its essential nature.

Undue hardship may also take into account other factors, such as:

- the type of work performed
- the size of the workforce
- the interchangeability of job duties
- the financial ability to accommodate
- the impact on a collective agreement*, and
- impact on employee morale

*In some instances, the duty to accommodate can override a provision in a collective agreement.

Disability and the duty to accommodate

For the purposes of workplace accommodation, a disability is a physical or mental condition that is both:

- permanent, ongoing, episodic or of some persistence; and
- a substantial or significant limit on a person's ability to carry out some of life's important functions or activities, such as employment.

Disabilities include both physical disabilities, such as mobility constraints; and non-physical disabilities, such as cognitive dysfunction or mood disorders.

When approached with a request for accommodation, employers are expected to:

- determine what barriers might affect the employee
- explore options for removing those barriers, and
- accommodate to the point of undue hardship

Employers have a responsibility to obtain enough information to assess the accommodation requirements. This may include asking the employee to provide a medical report or undergo a medical assessment identifying the functional limitations, suggesting types of accommodation that might be useful, and indicating the prognosis – how long the employee is likely to need accommodation.

Employers (and unions) have a responsibility to work with employees to implement reasonable accommodation.

An employer does not have to provide accommodation if removing a barrier or changing a workplace rule creates an undue hardship on the business.

An employer also does not have to provide accommodation if it can be shown that a specific work rule, standard or practice, is based on a bona fide occupational requirement (BFOR) or bona fide justification (BFJ). An example of a BFOR would be, if an employee cannot meet a specific requirement of the job; for example, the vision requirements for a position as an airline pilot or air traffic controller.

If you are interested in knowing more about the steps an employer must take in order to show a bona fide occupational requirement (BFOR) or bona fide justification (BFJ) (the Meiorin and Grismer test), visit the Canadian Human Rights Commission web site and look for the following document:

Bona Fide Occupational Requirements and Bona Fide Justifications under the Canadian Human Rights Act: The Implications of Meiorin and Grismer
<http://www.chrc-ccdp.ca/discrimination/occupational-en.asp>.

Or contact the Canadian Human Rights Commission for a copy.

Canadian Human Rights Commission
(613) 995-1151
1-888-214-1090

Employee rights and responsibilities

Employees with disabilities have a right to ask for accommodation in the workplace.

Employees are responsible for letting employers know that they need accommodation and for suggesting, if possible, the type of accommodation that would be appropriate. If an employee doesn't let the employer know that he or she needs accommodation, the employer may be absolved from the legal duty to accommodate.

Employees are expected to provide employers with enough information to determine suitable accommodation. For example, describing the effects the disability has on their ability to perform their job and/or stating the specific ways that a work rule, standard or practice adversely affects them.

Employees are expected to cooperate with employers and/or unions in good faith efforts to explore accommodation options and develop an accommodation plan. This includes being flexible in considering the options and having realistic expectations.

If an employer offers reasonable accommodation that enables an employee to perform the essential duties of the job and the employee rejects it, the employer may be absolved from the legal duty to accommodate.

Employees who think they have been refused accommodation or deliberately discriminated against because of MS, have the right to make a formal complaint to the appropriate human rights commission.

Employer/employee discussions

Discussions about workplace accommodation should begin with a situation assessment:

- What are the purposes and essential functions of the job?
- How are the person's limitations affecting the ability to do the job?
- What accommodations would be helpful?
- Which accommodations would the employee prefer?

This information will form the basis for the development of an accommodation plan.

10 strategies for discussing and implementing workplace accommodation

- Listen to what the employee says about the disability, the job and what is needed.
- Respect the employee's desire for confidentiality and identify specifically the form and degree of confidentiality.
- Be open. Many adjustments cost little or nothing at all and involve simple problem-solving and commonsense solutions.

- Be flexible and innovative in administering policies, procedures and working conditions.
- Be willing to explore creative solutions for job accommodation.
- Seek advice from resources that specialize in job accommodation, MS and disability issues. (See Resources.)
- Be concrete and specific about what accommodations have been identified. Also, what actions will be taken and indicate who will do what by when.
- Keep written records of key issues discussed.
- Communicate with co-workers who will be affected by the change proposed in the workplace.
- Review periodically the effectiveness of the accommodations, keeping in mind that needs may change.

Ways to value and support employees with MS and other disabilities

- Promote an organizational climate where everyone feels included, valued and accepted.
- Provide sensitivity training for co-workers about disabilities and why people with disabilities need accommodation.
- Dispel myths by educating staff about the causes, treatment, and the personal experience of MS.
- Educate managers about legislation so that they can have frank discussions with employees about known disabilities and desirable accommodations.
- In company newsletters, include articles and information about disabilities, including MS, and updates on research.
- Sponsor fundraising initiatives for MS and other medical conditions.

- Develop relationships with the MS Society of Canada and organizations that specialize in MS and disability issues.
- Contact community, government and corporate organizations that provide expert advice, funding, equipment or support services for workplace accommodation.

Accommodation – Frequently Asked Questions

What if you think an employee is unable to perform essential job functions?

If you think that an employee cannot perform the essential duties of the job because of disability, discuss the matter with the employee in a non-threatening manner. Ask if there is any type of assistance that might enable the employee to better perform his or her job functions. This may open the door to a discussion of the employee's functional abilities and limitations as they relate to the essential job functions, a review of the job requirements, and an exploration of accommodation options. You may find that the person can do the job with reasonable accommodation.

What if you think an employee is abusing the right to accommodation?

MS symptoms fluctuate. People with MS may not always need to use an accommodation. Accommodation needs may also change. If you think an employee is abusing the right to an accommodation, discuss the matter with the employee and refer to the original agreements that were made. Both parties should put key points in writing to help avoid misunderstanding.

What if an employee requests additional accommodation?

As MS symptoms change, an employee's need for accommodation may change. Accommodations should be negotiated on a case-by-case basis.

When can employment be terminated?

If the reason for termination is related to disability, accommodation must be considered first.

Canadian employers (and unions) have a legal obligation to accommodate the needs of employees (union members) with disabilities, up to the point of undue hardship.

Termination of an employee with MS may be justified if an employer can prove statistically and medically that the illness or disability makes the employee incapable of safely and satisfactorily performing the job duties, even with accommodation.

If the reason for termination is not related to disability, then terminating an employee with MS is like terminating any other employee. The employer must document in writing and discuss performance problems with the employee before terminating the employee legally.

As an employer, if you are not sure about whether you have fulfilled the legal duty to accommodate, you should contact the appropriate human rights commission and seek legal counsel before making a decision to terminate.

Resources

**Current as of August, 2008.
Please be advised that resources
may change at any time.**

Canadian Council on
Rehabilitation and Work
<http://www.ccrw.org>

Disability Awareness Series
Sensitivity training program
addressing disability issues in the
workplace.

Job Accommodation Service
Fee-based service for employers.

Canadian Human Rights
Commission
www.chrc-ccdp.ca
613-943-9146 • 1-888-214-1090

**Bona Fide Occupational
Requirements and Bona Fide
Justifications under the
Canadian Human Rights Act:
The Implications of Meiorin
and Grismer**
[http://www.chrc-ccdp.ca/
discrimination/occupational-en.asp](http://www.chrc-ccdp.ca/discrimination/occupational-en.asp)

**Duty to Accommodate –
Frequently Asked Questions**
[www.chrc-ccdp.ca/preventing_
discrimination/toc_tdm-en.asp](http://www.chrc-ccdp.ca/preventing_discrimination/toc_tdm-en.asp)

Job Accommodation Network
<http://janweb.icdi.wvu.edu>

**Job Accommodation Network
in Canada**
1-800-526-2262
1-800-JAN-CANA
Free information and professional
advice to people with disabilities and
employers.

**Human Resources and Social
Development**
www.hrsdc.gc.ca
1-800-277-9914 – English
1-800-277-9915 – French
1-800-255-4786 – TTY

**Opportunities Fund for Persons
with Disabilities**
[http://www.hrsdc.gc.ca/en/epb/sid/
cia/grants/of/desc_of.shtml](http://www.hrsdc.gc.ca/en/epb/sid/cia/grants/of/desc_of.shtml)
1-800-206-7218

Sphere-Quebec
www.sphere-qc.ca
514-904-2606 • 1-866-239-1177
Quebec contact for the Opportunities
Fund for Persons with Disabilities.



How to reach the Multiple Sclerosis Society of Canada
Current as of August, 2008

Call toll-free in Canada: 1-800-268-7582
www.mssociety.ca

NATIONAL OFFICE

175 Bloor St. East
Suite 700, North Tower
Toronto, Ontario
M4W 3R8
(416) 922-6065

ALBERTA DIVISION

#150, 9405 - 50 Street
Edmonton, Alberta
T6B 2T4
(780) 463-1190

ATLANTIC DIVISION

71 Ilsley Avenue, Unit 12
Dartmouth, Nova Scotia
B3B 1L5
(902) 468-8230

BRITISH COLUMBIA DIVISION

1501-4330 Kingsway
Burnaby, British Columbia
V5H 4G7
(604) 689-3144

MANITOBA DIVISION

Suite 100, 1465 Buffalo Place
Winnipeg, Manitoba
R3T 1L8
(204) 943-9595

ONTARIO DIVISION

175 Bloor St. East,
Suite 700, North Tower
Toronto, Ontario
M4W 3R8
(416) 922-6065

QUEBEC DIVISION

550 Sherbrooke St West
Suite 1010, East Tower
Montreal, Quebec
H3A 1B9
(514) 849-7591

SASKATCHEWAN DIVISION

150 Albert Street
Regina, Saskatchewan
S4R 2N2
(306) 522-5600



Contact the Multiple Sclerosis Society of Canada:

Toll-free in Canada: 1-800-268-7582

Email: info@mssociety.ca

Website: www.mssociety.ca

Our Mission

To be a leader in finding a cure for multiple sclerosis and enabling people affected by MS to enhance their quality of life.