

PART C – Decision under Appeal

The Ministry of Children and Family Development (Ministry) Reconsideration Decision dated September 27, 2012 denied the appellant a child care subsidy from November 1, 2011 through to May 31, 2012 because the child care subsidy can only be paid from the first day of the month in which the parent completes an application. The appellant submitted an application that was completed on June 22, 2012. The ministry, therefore, determined eligibility for a child care subsidy from June 1, 2012. The ministry further determined, as a result, that the appellant was not eligible for a child care subsidy from November 1, 2011 to May 31, 2012.

PART D – Relevant Legislation

Child Care Subsidy Act (CCSA), Section 4
Child Care Subsidy Regulation (CCSR), Sections 4 and 13

PART E – Summary of Facts

The evidence before the ministry at the time of its reconsideration decision was:

- June 18, 2012 the appellant submits a Child Care Subsidy Renewal Application (CCSRA) which was assessed but could not be approved by the ministry because only one page had been received. The ministry sends a letter to the appellant on this date requesting the complete application.
- July 16, 2012 the appellant completes the CCSRA and the ministry determines the appellant is eligible to receive the subsidy from June 1, 2012. It indicates further that the appellant is responsible for paying for the costs of any child care received prior to this date.
- July 27, 2012 the appellant calls to discuss back payment of the subsidy from November 1, 2011 and the ministry explains to the appellant its backdating policy and its determination that she is not eligible for child care subsidy beginning November 1, 2011. In a letter of this date to the appellant the ministry explains that the subsidy can only be paid from the first day of the month in which the parent completes the application.
- September 17, 2012 the appellant's Request for Reconsideration in which she indicates that applied for renewal of her subsidy in September 2011 and spoke with an adjudicator in the last week of October 2011 who informed her that all the information was received for her renewal and that her daughter was "good for daycare for another year." Because of this she found no reason to call the ministry until April 2012 when her daycare manager told her payments were not being made. The appellant indicates she called the ministry who advised her that a letter was sent asking her to complete a signature that was missing on her application and to fax the page back to the ministry. The appellant did this and after subsequently calling the ministry was told she submitted the wrong forms and was advised to resubmit a renewal package. The appellant indicates she did this and faxed them to the ministry, but in follow up call to the ministry was advised her file was closed. The appellant submits that she did not receive a letter in the mail, no phone calls were made to her and that daycare is still invoicing her and there is an outstanding bill of \$4000.00 she cannot afford.

In her Notice of Appeal dated October 10, 2012 to the Tribunal, the appellant states that "Nowhere in the notes does it state my first renewal back in September 2011 as well as my follow up call back in October. As of October I found no reason to think subsidy wasn't going to be paid when I was told I was good for another year."

A letter of support dated October 4, 2012 from the appellant's Daycare Manager reports that the appellant is very responsible about ensuring her child care subsidy is completed in a timely manner so her daughter's child care fees are taken care of. The letter indicates the appellant knew her subsidy would expire and that she provided the appellant the forms to re-apply. The letter reports that the appellant filled out the forms, faxed them to the ministry and followed up with a call and which time the ministry confirmed her approval for another year. The Daycare Manager indicates the appellant waited several months with no receipt of authorizations for a renewed subsidy or a notice regarding deficiencies with her application and questions "isn't it not [the ministry's] job to contact parents regarding missing information for their application?" The letter reports that the appellant in April 2012 called the ministry and was then informed she was missing a signature on her application. The Daycare Manager indicates the appellant at this time faxed a new form to the ministry and was told not to worry and to get the form in which would be looked at and to also re-apply which the appellant also did as well. The Daycare Manager believes the ministry should make every effort to

contact parents regarding missing information on applications and should not be giving false information to them regarding their fees.

The appellant's NOA above and the written testimony of her Daycare Manager was admitted by the panel as evidence under section 22(4) of the Employment and Assistance Act (EAA) as evidence in support of the information and records before the ministry at the time of reconsideration.

At the hearing, the appellant reports that she had applied for renewal of her application in September 2011 and had a follow up conversation with a ministry representative in October 2011 when she was told it was approved for another year. She also reports that she was working full-time and provided the ministry a work number that she could be reached at. In response to a query from the panel the appellant could not recall the name of the ministry official or the date of her conversation. The appellant questions why the ministry did not document her conversation and considers it an administrative error. The appellant further explained that by March 2012 when her daycare manager reported no child care payments were received she called the ministry and was told to send in the signature page. The appellant indicates she complied and sent in new forms.

The ministry stood by the record. The ministry reports that a completed application for a child care subsidy was not received from the appellant prior to June 2012. The ministry outlined its detailed review of the records and logs of the appellant's file. The ministry noted its efforts to contact the appellant by telephone calls which failed due to a disconnected number and in writing. The ministry further described its detailed handling of documents of child care subsidy files and the efforts it takes to ensure documents and records do not get missed. It reports that after a long period of 4 months of no contact with the appellant the appellant's file was closed in March 2012. The appellant, at this time, contacted the ministry and was advised her file was closed and to send in a renewal application, but the application was not received until June 18, 2012. However, because this new application was incomplete it could not be assessed and the ministry indicates it sent a letter of this date and failed in its attempt to reach the appellant by phone. Subsequently, it received a completed application from the appellant approximately a month later on July 16, 2012, but authorized the application effective from June 1, 2012. Because there is on the file no evidence of an administrative error, the appellant's renewal application can only be eligible from the first of the month in which it was received. In the appellant's case June 1, 2012. The ministry notes it does not have legislative authority to make backdated payments. It also acknowledged that administrative errors do occur from time to time, but are rare.

PART F – Reasons for Panel Decision

The issue in this case is the reasonableness of the ministry's decision to deny the appellant a child care subsidy from November 1, 2011 to May 31, 2012.

The relevant legislation is the CCSA, section 4 and the CCSR, Sections 1, 4 and 13. CCSA Section 4 allows the ministry to make child care subsidies subject to the regulation.

CCSR Section 4 (1) and (4) states that:

- (1) To be eligible for a child care subsidy, a parent must
 - (a) complete an application in the form required by the minister,
- (4) A parent ceases to be eligible for a child care subsidy on the date that is 12 months after the date of application under subsection (1) or this subsection, as applicable, unless, before that date, the parent completes an application referred to in subsection (1) and otherwise complies with that subsection.

CCSR Section 13 states that:

- (1) A child care subsidy may be paid from the first day of the month in which the parent completes an application under section 4.
- (2) If an administrative error has been made, a child care subsidy may be paid for child care provided in the 30 days before the parent completes an application under section 4.

The appellant's position is that other than an exception should be made in her case as the ministry has not maintained records of her renewal application of September 2011 and subsequent related conversations with her that confirmed approval of her application. The appellant submits that this amounts to an administrative error on the part of the ministry.

The ministry's position is that the appellant's subsidy ceased on October 31, 2011 and that she was not eligible for a subsidy until a renewal application was made. The ministry considers it reasonable to assert that a completed application was not considered received from the appellant until June 2012 and determined the appellant eligible for a child care subsidy on June 1, 2012.

The panel finds insufficient evidence of an administrative error by the ministry. The panel finds that while the appellant contends she received verbal approval of a renewed application in October 2011 it was her responsibility to ensure a firm authorization for the child care subsidy was received in writing. The panel finds after some considerable lapse of time, the ministry received a renewal application from the appellant signed and dated June 22, 2012. Section 13 of the CCSR clearly states that by signing the application the applicant understands that child care subsidy may be paid from the first day of the month in which the parent completes an application. The panel finds further that the application form is the fundamental basis for ministry authority to renew and approve entitlement for the child care subsidy.

The panel, therefore, finds the ministry's decision as reasonably supported by the evidence in the circumstances of the appellant and confirms the ministry's decision to deny the child care subsidy for the period November 1, 2011 to May 31, 2012.