

PART C – Decision under Appeal

The reconsideration decision dated 29 August 2012 determined that the appellant was not eligible for child care subsidy for the month of March 2012 since the appellant completed and signed the application form on 4 April 2012 and therefore child care subsidy to be paid from 1 April 2012 under section 13(1) of the Child Care Subsidy Regulation.

PART D – Relevant Legislation

Child Care Subsidy Regulation (CCSR), sections 4(1)(a) and 13.

PART E – Summary of Facts

The evidence before the Ministry at reconsideration consisted of:

- The appellant received Child Care Subsidy (CCS) until the end of February 2012 and requested that it be renewed for March 2012.
- A CCS Application form filled and signed by the appellant and dated in a box titled "Date signed (YYYY/MM/DD)" on "2012/04/03/".
- The Ministry received the application on the same date, 3 April 2012.
- On 14 May 2012 the Ministry determined the appellant's eligibility for CCS as of 1 April 2012.
- On 4 July 2012, the appellant contacted the Ministry to request the beginning date for subsidy payments be backdated to 1 March 2012 but was advised through an interpreter that this was not available given the legislation and of her right to request a reconsideration of the decision.
- In her Request for Reconsideration dated 7 August 2012, the appellant stated: "Because I changed my job on March 2012, until early April 2012 I got two payroll, so at that time I completed the forms and wrote down the date. But Child Care Subsidy Application from [form?] and Child Care Arrangement form for preschool and Child Care Arrangement from [an individual] that all forms submit Child Care arrangement start dates were to fill in March 1, 2012. I hope that the application is approved for Child Care Subsidy in March."
- On 13 August 2012, the Ministry received this Request for Reconsideration.

In the appellant's Notice of Appeal dated 7 September 2012, she indicated the CCS she received ended on 29 February 2012 and she reapplied to begin on 1 March 2012 and made the same child care arrangements accordingly. She further stated that the Ministry decided to approve her CCS as of 1 April 2012 because she had filled the application form dated 4 April 2012 (sic) but in fact she applied to have the CCS to continue on 1 March 2012 and thus she hopes to get the CCS in March.

The panel considers the appellant's reasons for appeal in the Notice of Appeal as new evidence and determine that it is admissible under s. 22(4) of the Employment and Assistance Act as it was in support of the record before the Minister at reconsideration.

PART F – Reasons for Panel Decision

The issue under appeal in this case is whether the Ministry's decision that the appellant was not eligible for CCS for the month of March 2012 since the appellant completed and signed her application form on 4 April 2012 and therefore CCS could only be paid from April 2012 under section 13 of the CCSR was either a reasonable application of the legislation or reasonably supported by the evidence.

Section 4 of the CCSR states:

4 (1) To be eligible for a child care subsidy, a parent must
(a) complete an application in the form required by the minister,

Section 13 of the CCSR states:

13 (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 Ministry argues that since the appellant filled and signed the CCS application form on 4 April 2012, she is not eligible for CCS for the month of March 2012 as it cannot backdate CCS payments since section 13(1) of the CCSR states that CCS "may be paid from the first day of the month in which the parent completes an application" form for CCS. The Ministry further argues that the only exception would be if "an administrative error has occurred", under section 13(2) of the CCSR but that in this instance no administrative error occurred and thus, the appellant is not eligible for CCS for the month of March 2012.

The appellant argues that she changed employment in March 2012 and that because she was under two payrolls until April 2012 that's why she could only complete the form at that time. She also argues that she made the arrangements with the child care provider starting 1 March 2012 and that the form reflected that arrangement and thus CCS should start for the month of March 2012.

Although the appellant claims she incorrectly dated the form, there is no legislative authority to set aside the date indicated on the application form, which the panel notes is also the date it was received by the Ministry, and it was therefore reasonable for the Ministry to apply the legislation and determine that the date the form was filled was the date indicated on it, 3 April 2012. While the appellant expected she would receive CCS as of 1 March 2012, the panel finds the Ministry had no choice but to apply the regulation and reasonably determined that such payments should start as of 1 April 2012, "the first day of the month in which the parent completes an application under section 4" of the CCSR. The only exception to this would be where an administrative error would have been made under section 13(2) of the CCSR but the panel finds there is no evidence of such an error.

Therefore, the panel finds the Ministry's decision was reasonably supported by the evidence and confirms the decision.