

**PART C – Decision under Appeal**

The decision under appeal is the Ministry of Children and Family Development's (the "Ministry") February 1, 2013 reconsideration decision in which the Ministry determined, in accordance with sections 4 and 13 of the Child Care Subsidy Regulation, that the Appellant was not eligible for a child care subsidy for the period between October 1, 2011 and December 31, 2011 because it first received a complete subsidy application, dated January 15, 2012, from the Appellant on February 8, 2012.

**PART D – Relevant Legislation**

Child Care Subsidy Act ("CCSA") Section 4.

Child Care Subsidy Regulation ("CCSR") Section 4 and 13.

## PART E – Summary of Facts

The Ministry did not appear at the hearing. The Panel confirmed that the Ministry was notified of the hearing and then proceeded with the hearing pursuant to section 86(b) of the Employment and Assistance Regulation.

For its reconsideration decision, the Ministry had the following evidence:

1. Child Care Subsidy application signed on January 15, 2012.
2. Information from the Ministry's records indicating that:
  - On February 8, 2012, the Ministry received the Appellant's child care subsidy application form signed by him on January 15, 2012.
  - The Ministry has no correspondence or contact on record from the Appellant before that date.
  - The Ministry found the Appellant eligible for a subsidy as of January 1, 2012.
  - The Appellant contacted the Ministry on January 16, 2013 asking about his eligibility for a child care subsidy for the period October 1, 2011 to December 31, 2011.
2. Appellant's request for reconsideration dated January 13, 2013 in which he wrote that in September 2011 he sent the subsidy paper work in, but it was filled out incorrectly and was completely inadmissible. He stated that his doctor could not correct the paperwork sooner. Also, in the form he put in the wrong date of January 1, 2012 instead of October 1, 2011. The Appellant submitted that he did not feel that his inexperience should cost him \$1550 that he has no way to repay. And he did not feel that the day care provider should absorb that amount. The Appellant wrote that his lack of knowledge is the only thing that is stopping him from getting benefits.

In his notice of appeal, dated February 4, 2013, the Appellant wrote that his inability to fill out or file the correct paperwork should not penalize him \$1550 that he has no way of paying. His disability cheques won't cover anything close to that without starving his children.

At the hearing, the Appellant's representative explained that the Appellant originally submitted his application for a subsidy to the Ministry on November 8, 2011. The day care provider sent the application by fax and the faxed forms indicated that the fax result was okay. The Appellant said that in about December 2011 the Ministry sent him a letter asking for more information and included a checklist indicating what information was missing. Therefore, he reapplied with the additional information. The Appellant's representative also stated that about a week before the hearing she sent the Ministry a copy of the application the Appellant originally sent in November 8, 2011.

The Panel finds that the testimony from the Appellant and his representative provided additional details about his child care subsidy applications. Therefore, pursuant to section 22(4) of the Employment and Assistance Act, the Panel admits that testimony as evidence in support of the Ministry's reconsideration decision.

Because the Ministry did not appear at the hearing, the Panel will consider the Ministry's reconsideration to be its position in this appeal.

The Panel makes the following findings of fact:

1. The Appellant submitted a child care subsidy application on about November 8, 2011.
2. The Ministry informed the Appellant more information was needed for that application.
3. The Appellant resubmitted a subsidy application dated January 15, 2012, which was received by the Ministry on February 8, 2012.

## PART F – Reasons for Panel Decision

The issue in this appeal is whether the Ministry reasonably determined that, in accordance with sections 4 and 13 of the CCSR, the Appellant was not eligible for a child care subsidy for the period between October 1, 2011 and December 31, 2011 because it first received a complete subsidy application, dated January 15, 2012, from the Appellant on February 8, 2012.

### Applicable Legislation

The following sections of the CCSA apply to the Appellant's circumstances in this appeal:

#### *Child care subsidies*

4 Subject to the regulations, the minister may pay child care subsidies.

The following sections of the CCSR apply to the Appellant's circumstances in this appeal:

#### *How to apply for a subsidy*

4 (1) To be eligible for a child care subsidy, a parent must

(a) complete an application in the form required by the minister,  
(b) supply the minister with the social insurance number of the parent and each adult dependant, and  
(c) supply the minister with proof of the identity of each member of the family and proof of eligibility for a child care subsidy.

(2) Only one parent in the family may apply for a child care subsidy.

(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.

#### *Will a subsidy be paid for child care provided before completion of the application*

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 Parties' Positions

The Appellant's position is that he applied for a child care subsidy on about November 8, 2011 for child care costs starting in October 2011. Therefore, the Appellant submitted that the Ministry should provide him with a subsidy starting with October 1, 2011. The Appellant also submitted that he cannot afford to pay the costs for daycare for October, November and December 2011. He should not be penalized just because he had difficulty filling out paperwork.

The Ministry's position is that, based on the provisions in section 13(1) of the CCSR, it can only pay a child care subsidy from the first day of the month in which the parent completes an application. In this case, the Ministry's records indicate that the Appellant signed a child care application on January 15, 2012 and it was received by the Ministry on February 8, 2012. The Ministry submitted that it has no record of any application from the Appellant before that date. The Ministry also considered the provisions of section 13(2), which allows for backdating subsidy payments in the 30 days before the

parent completes an application, if there has been an administrative error. The Ministry found that there had been no such error in the Appellant's case.

### The Panel's Findings

The Ministry may pay child care subsidies subject to the provisions in section 4 and section 13 of the CCSR. Section 13 provides that a child care subsidy may be paid from the first day of the month in which the parent "completes" an application under section 4. Based on the evidence from the Appellant, the Panel finds that the Appellant's first application, made in about November 2011, was not complete. He indicated that he was advised by the Ministry that information was missing. Therefore, he resubmitted his application. The Ministry's evidence is that on February 8, 2012 it received a subsidy application from the Appellant dated January 15, 2012 and then determined that the Appellant was eligible for a subsidy beginning in January 2012. Based on this evidence, the Panel finds that the Ministry reasonably determined that it received a completed application on February 8, 2012, not in November 2011. Further, because the completed application was dated January 15, 2012, the Ministry also reasonably determined that the Appellant was eligible for a child care subsidy starting on January 1, 2012, but not on October 1, 2011.

The Panel also finds that there is no evidence of any administrative error by the Ministry, which might have provided an additional 30 days of subsidy before the Appellant completed his application. Therefore, based on the evidence, the Panel finds that because it did not have a complete application until February 2012, the Ministry reasonably determined that the Appellant was not eligible for a child care subsidy for the period between October 1, 2011 and December 31, 2011.

### Conclusion

For the reasons stated above, the Panel confirms the Ministry's reconsideration decision because it was reasonably supported by the evidence and was a reasonable application of the applicable enactments in the Appellant's circumstances.