

### PART C – Decision under Appeal

The decision under appeal is the Ministry's reconsideration decision dated February 8, 2013 which held the appellant was not eligible to receive a child care subsidy (CCS) for the timeframe July 1, 2012 to September 30, 2012. The Ministry denied the CCS application based on when they received the CCS application. In support of this decision, the Ministry is relying on Section 13(1) of the Child Care Subsidy Regulation (CCSR), where it states that a child care subsidy may be paid from the first day of the month in which the parent completes an application; and Section 13(2) of the CCSR, where the legislation indicates, that unless an administrative error has been made by the Ministry, a child care subsidy will not be paid thirty days prior to the parent completing the application.

### 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 evidence before the Ministry at Reconsideration was:**

- Photo copies of the birth certificates of the Appellant's two children.
- The Appellant's first Child Care Subsidy (CCS) Application, dated June 14, 2012.
- Ministry record/documentation of Appellant's phone call to the Ministry on September 24, 2012, following up to the status of her CCS application and the date the Appellant was advised her June 14 Application for CCS had not been received by the Ministry and that she would need to refax her documents to them.
- A fax cover letter from the Appellant to the Ministry dated Oct 10, 2012 requesting her application for CCS be backdated to July 1, 2012, to correspond with her original, June 14, 2013, CCS Application.
- The Appellant's second CCS Application, dated October 10, 2012.
- A letter from the Ministry to the Appellant, dated January 9, 2013, indicating her CCS eligibility was approved from October 1, 2012 to September 30, 2013; but, not approved for the time frame July 1, 2012 to September 30, 2012 because her June 14, 2013 CCS application was not received by the Ministry until October 10, 2012.
- The Appellant's Request for Reconsideration, dated January 26, 2013, (inadvertently dated 2012), requesting her eligibility for CCS be reconsidered and backdated to July 1, 2013.
- A letter to the Ministry, signed by the manager of the children's daycare, outlining the dates the children commenced daycare at her centre as well, as a statement from the Manager stating that she had faxed the Appellant's first CCS application to the Ministry on June 14, 2012; and then, once again she faxed that application, along with a second CSS application to the Ministry on October 11, 2012.

**At the hearing, the Appellant provided evidence that:**

- She had originally filled out her CCS application on June 14, 2012 and had the daycare fax it to the Ministry that day, she did not get a transmission report of that fax because the daycare manager verbally acknowledged the successful transmission of that application to the Ministry.
- She has provided a statement from the daycare manager in support of the transmission of that faxed application on June 14, 2012.
- She called the Ministry three times during the summer months in order to inquire about the status of her CCS application. At each of those times, she was informed, via automated Ministry telephone messages, that due to the high volume of incoming calls, CCS applications were backlogged and were being processed as quickly as possible.
- When asked, the Appellant acknowledged that she had the option, at the time of placing those calls, to choose to speak to a Ministry employee in person. She states she decided not wait to speak to a Ministry representative because her children are little and it was too difficult to remain on the telephone line for any length of time.
- She interpreted each of the automated telephone messages to mean her CCS application was in queue and would be processed at soon as possible.
- When she had not heard about or received her CCS by September, 2012, she followed up with the Ministry on September 24, 2012, via telephone call, to inquire about it. At that time, she was told her CCS application documents had not been received and she would need to refax those documents as well as fill out and fax a new CCS application to the Ministry.

- The Appellant filled out a second CCS application, dated October 10, 2012, and, once again, asked the daycare manager to fax the CCS applications to the Ministry on October 11, 2012. She states that, on October 11, 2012, the fax sent by the daycare included the Appellant's original CCS application, dated June 14, 2012 and a new one dated October 10, 2012 per the Ministry's request.
- The Appellant has provided a letter from the children's daycare manager in support of the appellant's information; and, in that letter, the daycare manager has stated that she had faxed the June 14 CCS application to the Ministry on June 14, 2012. The Manager states that both the June 14, 2012 CCS application and the October 10, 2012 CCS application were faxed to the Ministry on October 11, 2012.
- The Appellant states she did not get a copy of the fax transmission reports from the daycare because the daycare manager had verbally confirmed to her the faxes had 'gone through'.

**At the hearing, the Ministry provided evidence that:**

- The Ministry office received a phone call from the Appellant on September 24, 2012, following up to the CCS application she submitted in June 2012 for the child care subsidy she was requesting to begin in July. The Ministry advised her then, that her CCS application dated June 14, 2012, had not been received at the Ministry office; and, as a result, she was required to re fax the original documentation.
- On October 11, 2012, the Ministry received two CCS applications forms, one signed on October 10, 2012 and one signed in June, 2012. In addition to these two CCS applications, the Ministry acknowledges receipt of a letter, from the Appellant, dated October 10, 2012, requesting her CCS be backdated to July 1, 2012.
- The Ministry indicated they did not receive a confirmation of transmission for the faxed CCS application dated and faxed on June 14, 2012.
- On January 9, 2013, the Ministry wrote a letter to the Appellant outlining that while her application for CCS for the period October 1, 2012 to September 30, 2013 had been approved; the Ministry had determined she was not eligible for CCS for the period July 1, 2012 to September 30, 2012. The Ministry outlined that CCS may only be paid from the first day of the month in which the parent completes the application; and, the application the Appellant submitted was completed on October 10, 2012. Therefore, the Appellant was responsible for paying for the costs of any child care she received prior to October 1, 2012.
- The Ministry submitted that it finds no evidence to establish they had made an administrative error in processing the appellant's June 2012 CCS application.
- When a client calls in to the Ministry, the call is logged in their system to provide a record of the call to the Ministry. The Ministry submitted that, in the Appellant's case, there is no record of any calls received from the Appellant prior to September 24, 2012.
- The Ministry added clarifying context to why it may not have had documentation in support of the Appellant's phone calls during the summer; and, that was: It had undergone a computer system changeover in April, and consequently, after that time, it had been dealing with a high volume of client calls due to the backlog of work that subsequently occurred. The Ministry explained to the Panel, that to remedy the high volume of calls, it [the Ministry] instituted a temporary messaging provision on their phone system that extended over the summer months. It was through this auto messaging that clients were advised that no current information was available with respect to their CCS applications and any information available for applications was back dated at that time. The Ministry states the automated messaging did

provide callers with the option to speak directly to a Ministry staff person if they chose to remain waiting on the line.

- When asked what happens when the Ministry receives faxes, the Ministry stated the Ministry date stamps the information and forwards it to an appropriate staff person for action. The Ministry explained there is no verification process currently being used by the Ministry that systematically documents incoming faxes such as utilizing fax machine reporting features or manually recording incoming faxes. This is due to the large volume of information received by the Ministry office on a daily basis.
- The Ministry states that Section 13(1) of the CCSR, only allows the Ministry to pay subsidy monies on the first day of the month the CCS application is received by the Ministry; unless, an administrative error occurs on behalf of the Ministry.
- Only in the case of an administrative error by the Ministry, can a CCS application be backdated to a time prior to the first of the month it was received. In the Ministry's review of the Appellant's information at reconsideration, the Ministry declared there was no evidence to establish that an administrative error occurred in June of 2012; and, because the Appellant's application was then received by the Ministry in October, 2012, she was deemed to be ineligible to receive day care prior to the first of that month, which was October.

**The Panel finds:**

- The Appellant has provided a copy of a CCS application dated June 14, 2012 to the Ministry by faxing it to the Ministry on October 11, 2012.
- The Day care Manager's written statement supports the Appellant's statement that both the June and the October CCS applications were faxed from the daycare facility.
- The Ministry acknowledges receiving two CCS applications via fax on October 11, 2012; one application dated June 14, 2012, and other application dated Oct 10, 2012.
- The Ministry had a messaging provision in place in the summer of 2012 to deal with incoming client inquires and that both parties are in agreement with the content of the Ministry messages.
- The Appellant had called into the Ministry during the summer; but her calls may not have been recorded because of the auto messaging on the Ministry's phone systems indicating that work volumes were significant at that time.
- The Ministry denied the Appellant's' application for child care subsidy for July 1 to Sept 30, 2012, because her June 14, 2012 CCS application was not received until October 11, 2012.
- Neither the Appellant or the Daycare Manager have provided the Ministry with a confirmation of transmission report for the two faxed CCS applications sent in to the Ministry.

## PART F – Reasons for Panel Decision

The issue to be decided in this appeal is the reasonableness of the Ministry's reconsideration decision dated February 8, 2013 where the Ministry held the appellant was not eligible to receive a child care subsidy (CCS) for the timeframe July 1, 2012 to September 30, 2012 because of when the Ministry received the Appellant's application for CCS according to Section 13(2) of the CCSR. The Ministry found there had been no administrative error on the part of the Ministry; therefore, there was no provision in the legislation to backdate the Appellant's CCS request.

The legislation provides:

### Child Care Subsidy Act:

#### **Child care subsidies**

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

Child Care Subsidy Regulations:

#### **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.
- (3) Repealed. [B.C. Reg. 187/2007, s. (b).]
- (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.

[am. B.C. Regs. 218/2003, s. 1; 187/2007, s. (b).]

**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.

[am. B.C. Reg. 337/2008, s. 4.]

**The Appellant argues that:**

She sent in her CCS application in June of 2012 and even though she does not have a transmission report, she has provided written evidence from her daycare provider that the form was sent in via facsimile twice, once in June of 2012 and then, once again, in October of 2012 with an additional CCS application dated October 10, 2012. She states she should be eligible for the CCS from the time she began working in July 2012 to September 30, 2012 per her initial request because she has provided proof that the June 2012 CCS application was sent into the Ministry.

**The Ministry argues that:**

They did not receive the Appellant's first CSS application dated June 14, 2012, therefore, under the CCS legislation, the Appellant is not eligible for CCS for the time frame July 1 to September 30, 2012. In addition, the Ministry has not established that a Ministry administrative error had occurred in reference to the June CCS application; therefore, they cannot backdate the Appellant's CCS to July 1, 2012.

It is the Appellant's responsibility to show the Ministry that she had faxed the CCS application in and this is typically achieved by providing proof of fax transmission via a transmission report and it is not unreasonable for the Ministry to have requested that record of transmission. With respect to the witness statement from the manager of the daycare, the Panel has placed less weight on this evidence given she might have a financial interest in the outcome of the appeal. Based on this, the Panel finds the Ministry's determination that, they cannot approve the Appellant's eligibility for CCS for the time frame July 1, 2012 to September 30, 2012 a reasonable application of the applicable enactment in the circumstances of the Appellant.

Therefore, the Panel confirms the Ministry's Reconsideration Decision dated February 8, 2013.