

PART C – Decision under Appeal

The decision under appeal is the Ministry of Children and Family Development (the "Ministry") reconsideration decision dated April 9, 2013 which denied the appellant a child care subsidy from September 1, 2012 to February 29, 2013 for her two daughters because the child care subsidy may only be paid from the first day of the month in which the parent submits the Child Care Arrangement form (CF27898) in accordance with the legislated criteria of section 5 of the Child Care Subsidy Act (CCSA) and section 14 of the Child Care Subsidy Regulation (CCSR).

PART D – Relevant Legislation

Child Care Subsidy Act (CCSA) sections 4 and 5  
Child Care Subsidy Regulation (CCSR) sections 4 and 14

## PART E – Summary of Facts

**Evidence** - The evidence before the Ministry at the time of the reconsideration decision included the following:

- the Ministry Child Care Subsidy (CCS) Child Care Arrangement form which outlines the care arrangement for the appellant's younger daughter and son with the main child care provider and is dated March 1 2012;
- the CCS Eligibility Calculator for the appellant's three children and the eligible subsidy amounts at the assessment date of July 31, 2012;
- the appellant's earning statements for the pay period ending February 16 and March 2, 2013 and July 1, 2012;
- the appellant's CCS Application dated December 7, 2012 which outlines the appellant's need for childcare for her son and younger daughter;
- the appellant's work search record for September 1, 2012 – December 31, 2012 and January 1 – 18 2013 which outlines the date of the activity the type, the time spent, who was contacted, contact information and email or mailing address;
- a letter from the appellant to the Ministry dated January 18, 2013 which includes the appellant's earning statements for the pay period ending July 1 2012 and November 24 2012;
- the appellant's CCS Benefit Plan dated February 1, 2013 which outlines the son's name, birth date, care provider, benefit period of September 1 2012 to February 1 2013, and payment portions;
- a letter from the appellant to the Ministry dated March 11, 2013 which requests back dated child care subsidy for her two daughters for the months of September 2012 to February 2013. The letter states the new child care provider's name and that she submitted the documents that the Ministry asked for such as her pay stub and work hours. The appellant states that when she submitted the form just her son was in care and she outlines that she thought that the request would automatically include her daughters;
- a April 9 2013 letter to the appellant from the Ministry which states that based on the information provided that the Ministry determined that the appellant is not eligible for a CCS beginning September 1 2012 and that the decision was made with reference to CCSA section 4 and CCSR section 14;
- the April 12 2013 CCS Request for Reconsideration Form:
  - in section 2 the Ministry outlines that it determined the appellant was not eligible for child care subsidy from September 1 2012 to March 1 2013 for her two daughters because a child care subsidy may only be paid from the first day of the month in which the parents submit the required Child Care Arrangement form (CF2798). Also that on March 22, 2013 the Ministry received the required form signed March 11 2013 therefore the appellant's Benefit Plan will begin on March 1, 2013; and
  - in section 3 the appellant outlines that she requests a reconsideration of this decision of her child care subsidy for her two daughters, that the main child care provider cared for her son from September 2012- February 2013, that there is new child care provider for her two daughters since September 2012, that as of March the child care provider for all three children will be this new child care provider, and the appellant provided her two pay stubs for February and March 2013;
- the April 26 2013 Ministry Reconsideration Decision background section in which the Ministry outlines information from the files as follows:
  - on July 13 2012 the Ministry received the appellant's CCS application form;
  - on February 1, 2013 the CCS was approved for the appellant's son from September 1, 2012 to February 28, 2013,

- on March 11, 2013 the appellant requested a CCS for all three of her children backdated to August 2012;
- on April 9, 2013 the Ministry sent the appellant a letter advising that the appellant was ineligible for the CCS beginning September 2012;
- that the appellant first applied for CCS in August 2011 for her two daughters and her son and that she has custody of her son 50% of the time;
- that the appellant's previous CCS authorization ended on July 30, 2012, no CCS was provided for August 2012 and that the appellant now request that her subsidy for her daughters be back dated to September 2012;
- that the March 1, 2012 Child Care Arrangement form was completed for the main child care provider and the form indicates that the child care provider is a relative but it is not indicated on divorce and custody documents on file as the children's father;
- that on July 12, 2012 the Ministry advised the appellant in a telephone call that a Child Care Arrangement form is not needed for CCS reapplication if the child is attending with the same child care provider;
- on July 13, 2012 the appellant submitted a CCS Application which requested child care for the younger daughter and her son, that the care provider was the main child care provider, and that the older daughter was a another dependent child living in the appellant's household;
- that there were delays in the application process related to completion of the CCS Work Search Record and on February 1, 2013, a CCS Benefit Plan was issued for the appellant's son for September 2012 to February 2013 with the main child care provider;
- on February 1, 2013 during a telephone call between the appellant and the Ministry, the Ministry confirmed that the child care provider was still the main child care provider listed, the appellant's work schedule, and that there was no mention of the care for either of the appellant's daughters;
- on February 12, 2013, the appellant advised the Ministry that she wanted daycare for both daughters and the son and that supervision of the older daughter is still necessary, and that the Ministry advised the appellant to submit a Child Care Arrangement form for both daughters;
- on March 8, 2013, the appellant advised the Ministry that she did not require care for her two daughters at this time;
- in a letter dated March 11, 2013, from the appellant to the Ministry the appellant requested a CCS for both daughters back dated for September 2012 to February 2013, that the child care provider for the daughters is a new child care provider, and that when the appellant filled out the form for her son that she thought the CCS for her daughters would be processed automatically; and
- on March 22, 2013 the Ministry received Child Care Arrangement forms for all three of the appellant's children, that the care provider is the new child care provider, that the start date is September 1, 2012 and the end date is September 1, 2014, that the main child care provider was listed as the "previous child care provider" and the form was signed by the appellant on March 11, 2013.

#### **Additional Evidence**

In the Notice of Appeal dated May 2, 2013 the appellant states that she disagrees with the Ministry reconsideration decision because she called a couple of times in 2012 to update the Ministry about her two daughters and that she still needed a child care provider for her son, that she filled out all requirements that were needed at that time such as her work schedule and pay stubs. At the hearing, the appellant confirmed the information that she provided in the reconsideration decision and stated that she did not understand that both of her daughters were not included in the CCS Application for child care for her son on July 13, 2012. The Ministry did not attend the hearing and did not provide any additional evidence. The panel determined that the oral testimony from the appellant was admissible under section 22 (4) of the EAA as it is in support of the information that was before the Ministry at the time of its reconsideration decision.



## PART F – Reasons for Panel Decision

The issue under appeal is whether the Ministry's reconsideration decision which denied the appellant a child care subsidy from September 1, 2012 to February 29, 2013 for her two daughters in accordance with the legislated criteria of section 5 of the CCSA and section 14 of the CCSR is reasonably supported by the evidence or is a reasonable application of the applicable enactment in the circumstances of the appellant.

**Legislation** - The applicable legislation is as follows:

### **CCSA sections 4 and 5**

Child care subsidies

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

### Information and verification

- 5 (1) For the purpose of determining or auditing eligibility for child care subsidies, the minister may do one or more of the following:
  - (a) direct a person who has applied for a child care subsidy, or to or for whom a child care subsidy is paid, to supply the minister with information within the time and in the manner specified by the minister;
  - (b) seek verification of any information supplied by a person referred to in paragraph (a);
  - (c) direct a person referred to in paragraph (a) to supply verification of any information supplied by that person or another person;
  - (d) collect from a person information about another person if
    - (i) the information relates to the application for or payment of a child care subsidy, and
    - (ii) the minister has not solicited the information from the person who provides it.
- (2) A person to or for whom a child care subsidy is paid must notify the minister, within the time and in the manner specified by regulation, of any change in circumstances affecting their eligibility under this Act.
- (3) If a person fails to comply with a direction under subsection (1) (a) or (c) or with subsection (2), the minister may
  - (a) declare the person ineligible for a child care subsidy until the person complies, or
  - (b) reduce the person's child care subsidy.
- (4) For the purpose of auditing child care subsidies, the minister may direct child care providers to supply the minister with information about any child care they provide that is subsidized under this Act.

### **CCSR sections 4 and 14**

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.

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- (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.

Notifying the minister of change in circumstances

14 The notification required by section 5 (2) of the Act must be given in writing or by telephone,

- (a) as soon as possible after any change in circumstances affecting the eligibility of the parent, and
- (b) to an employee in the Child Care Subsidy Service Centre.

The Ministry argues that the appellant is not eligible for CCS for her two daughters from September 1, 2012 to February 29, 2013 because the legislated criteria of the CCSA section 5 and the CCSR section 14 have not been met as the appellant did not notify the Ministry in writing or by telephone until March 2013 of changes in circumstances that occurred in September 2012 that affected her eligibility. The Ministry outlines that the CCS authorization for the older daughter ended on July 30, 2012 and that the CCS application the appellant submitted in July 2012 did not indicate that child care was required for the older daughter. Also that the CCS Application indicated that the younger daughter care provider was the main child care provider. Therefore, as the Ministry was not notified until March 2013 of a request for CCS for the older daughter to begin September 2012 and was not notified that the younger daughter's child care provider had changed in September 2012, the appellant did not provide the notification as required in the CCSA section 5 (2) and the Ministry finds the appellant ineligible for CCS requested from September 1, 2012 to February 29, 2013 in accordance with CCSA section 5(3).

The appellant argues that she disagrees with the Ministry reconsideration decision because she called a couple of times in 2012 to update the Ministry about her two daughters and that she filled out all requirements that were needed. Further at the hearing, the appellant confirmed the information that she provided at reconsideration and stated that she has been extremely busy with caring for her children, looking for work and that it has been a stressful time as a parent. Also that she did not understand that both of her daughters were not included in the CCS Application for child care for her son on July 13, 2012.

The CCSA section 5 (2) outlines that a person to or for whom a child care subsidy is paid must notify the minister, within the time and in the manner specified by regulation, of any change in circumstances affecting their eligibility under this Act. The panels finds that there is no evidence that the appellant did notify the Ministry within the time and in the manner specified by regulation. The CCSA section 5 (3) outlines that if a person fails to comply with a direction under subsection 5 (1) (a) or (c) or with subsection 5 (2), the minister may (a) declare the person ineligible for a child care subsidy until the person complies, or (b) reduce the person's child care subsidy. The panel finds that in the circumstances of the appellant that this is a reasonable application of the legislation. The CCSR section 14 outlines that the notification required by section 5 (2) of the Act must be given in writing or by telephone, (a) as soon as possible after any change in circumstances affecting the eligibility of the parent, and (b) to an employee in the Child Care Subsidy Service Centre. The panels finds that there is no evidence that the appellant did notify the Ministry by telephone or in writing about the child care requirements for the older daughter or that younger daughter's care provider had changed until March 2013.

#### **Panel Decision**

The panel finds that the Ministry decision to deny a child care subsidy from September 1, 2012 to February 29, 2013 for the appellant's two daughters in accordance with the legislated criteria of section 5 of the CCSA and section 14 of the CCSR is reasonably supported by the evidence and a reasonable application of the applicable enactment in the circumstances of the appellant. Therefore the panel confirms the Ministry's reconsideration decision.