

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the ministry) reconsideration decision of September 10th, 2013 wherein the ministry determined that the appellant was not eligible for the Child Care Subsidy from July 1, 2012 to April 30, 2013 under section 4 of the Child Care Subsidy Act and Sections 4 and 13 of the Child Care Subsidy Regulation because the appellant did not provide the documents required by the ministry to determine eligibility.

PART D – Relevant Legislation

Child Care Subsidy Act (CCSA) Section 4.

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

PART E – Summary of Facts

The Ministry was not in attendance at the hearing. After confirming that the Ministry was notified, the hearing proceeded under Section 86(b) of the Employment and Assistance Regulation

The evidence before the ministry at the time of reconsideration:

- A letter from the Ministry to the appellant, dated October 5, 2012.

The letter states that the Child Care Subsidy Forms that were requested are enclosed and contains submission information for the Child Care Subsidy Service Centre. Also included was a Child Care Subsidy Application Checklist.

- A letter from the Ministry to the appellant, dated November 13, 2012.

The letter states that the Child Care Subsidy request cannot be processed until the Ministry can confirm the information on file. The letter asks the appellant to contact the Child Care Subsidy Service Centre.

- A letter from the Ministry to the appellant, dated November 13, 2012.

The letter states that the Ministry is unable to process the request for Child Care Subsidy without the appellant's two most recent pay stubs and the appellant's work schedule.

- The Child Care Subsidy Work Search Record, date of submission is April 27, 2013.

The Work Search Record details the appellant's work search beginning July 20, 2012 through to September 27th 2012, when the appellant found employment.

- A letter from the Ministry to the appellant, dated May 9, 2013.

The letter states that the Child Care Subsidy Forms that were requested are enclosed and contains submission information for the Child Care Subsidy Service Centre. Also included was a Child Care Subsidy Application Checklist.

- The Child Care Subsidy Application, signed May 20, 2013.

This form shows that the appellant took a new job, beginning February 25, 2013 from 9:00am to 5:00am on Monday through Friday. Additional information contained in this form includes that the appellant is divorced with \$500.00 per month child support. There are two children who require childcare.

- A letter from the Ministry to the appellant, dated May 31, 2013.

The Ministry states that the appellant's Child Care Subsidy request cannot be processed without the two most recent pay stubs and the Child Care Subsidy Arrangement Form (was attached).

- A letter from the Ministry to the appellant dated June 5, 2013.

The letter states that the Ministry reviewed the appellant's request for the Child Care Subsidy. Based on the information provided by the appellant, the Ministry found that the appellant is eligible for Child Care Subsidy between May 1, 2013 and April 30, 2014, but ineligible for the Child Care Subsidy between October 1, 2012 and April 30, 2013 because the application for the Child Care Subsidy was not completed until May 2013. This letter included a copy of the Child Care Subsidy Benefit Plan detailing the benefit plan beginning May 1, 2013 as well as the Child Care Subsidy Assessment Form dated June 5, 2013. The form shows a benefit plan effective date of May 1, 2013, with a re-application date of April 30, 2014.

- A letter from the Ministry to the appellant dated June 12, 2013.

The letter states that the Ministry reviewed the appellant's request for the Child Care Subsidy. Based on the information provided by the appellant, the Ministry found that the appellant is eligible for Child Care Subsidy between May 1, 2013 and April 30, 2014, but ineligible for the Child Care Subsidy between July 1, 2012 and April 30, 2013 because the application for the Child Care Subsidy was not completed until May 2013.

- Request for reconsideration dated July 24, 2013.

The appellant is a single parent with two dependent children. The Ministry found that the appellant applied for the Child Care Subsidy on July 2013 and October 2012. The Ministry determined that the appellant was ineligible for a Child Care Subsidy from July 1, 2012 to April 30, 2013 because the childcare subsidy may only be paid from the first day of the month in which the parent completes an application. On May 23, 2013, the Ministry received the appellant's complete renewal application signed May 20, 2013. The Child Care benefit plan therefore began on May 1, 2013.

In the request for reconsideration, the appellant states that she applied for a Child Care Subsidy in July 2012. The appellant states that the Ministry must have received her application information because she was receiving Ministry letters. The appellant does not understand what the confusion is. The appellant states that she does receive spousal support but the cost of childcare is unaffordable even with the Child Care Subsidy. The appellant works long hours and travels occasionally for work. She needs to keep her job, but cannot afford the cost of childcare.

- The Child Care Subsidy Application, page one (the final 3 pages are not in the appeal record).

The form shows that the appellant's employment commenced September 27, 2012 from 9:00am to 5:00am on Friday through Sunday.

- Pay stubs

Pay stubs show the appellant's employment income for the appellant's October 11, 2012 pay day and April 15, 2013 pay day.

- A copy of the appellant's Birth Certificate and CareCard.

- A handwritten note by the appellant detailing a list of requirements for a Child Care Subsidy Application.

Additional evidence:

- A handwritten fax from the appellant, dated September 30, 2013 (and stamped 'received' by the Ministry on September 30, 2013)

The appellant writes that a document was sent on September 25, 2013, but not received by the Ministry, and that she called to follow up on September 30, 2013, but they still hadn't received the fax.

At the hearing, the appellant provided oral evidence that she was in contact with the Ministry from July 2012. The appellant stated that she submitted all of the required information to the Ministry by mail in July 2012. She was not aware that she needed to follow up after that. The appellant made numerous calls to the ministry when she did not receive subsidy in August and September and she was told that they were working on it. In the September telephone call, she was surprised to hear that her application was incomplete and that the Ministry did not have copies of her documents. The appellant is not sure why the Ministry did not receive her documents. She confirmed that she was using the address and fax numbers detailed in the Ministry correspondence. The appellant was not sure whether the documents may have been overlooked or misplaced. She knows that some of the documents were received as she has confirmation in letters from the Ministry beginning in November 2012. The appellant did not keep records of her submissions to the Ministry until after September 2012 when it became apparent that they were not receiving her documents. The appellant clarified that the Work Search Record signed on April 27, 2013 is a duplicate copy of the form that she originally submitted at the end of each month (July, August, and September 2012) until she found a job. She re-submitted the form at the request of the Ministry on April 27, 2013.

The Ministry did not attend the hearing and did not therefore submit any additional evidence.

The panel determined the additional oral and documentary evidence was admissible under s.22(4) of the EAA as it was in support of the records before the minister at reconsideration. The appellant's oral testimony and the handwritten fax are in support of her argument that she attempted to provide the requested documents to the Ministry between July 2012 and April 2013.

PART F – Reasons for Panel Decision

The issue under appeal is the reasonableness of the ministry's reconsideration decision to find the appellant was not eligible for the Child Care Subsidy from July 1, 2012 to April 30, 2013 under section 4 of the Child Care Subsidy Act and Sections 4 and 13 of the Child Care Subsidy Regulation because the appellant did not provide the documents required by the ministry to determine eligibility.

Legislation – The applicable legislation is as follows:

Child Care Subsidy Act (CCSA) Section 4.

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

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

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 ministry argues that the appellant applied for the Child Care Subsidy in July and October 2012. Because the ministry did not receive the requested information, the appellant's file was closed due to inactivity in March 2013. On May 23, 2013, the ministry received a new application form signed May 20, 2013 and the ministry determined that the appellant was eligible for a subsidy beginning May 1, 2013, which is the first day of the month in which the application was completed in accordance with CCSR Section 13 (1).

The appellant argues that she disagrees with the ministry's decision because she submitted her documents to the specified locations at the time of application. When she did not receive the subsidy, she called and was surprised to learn that the ministry did not have her documents. The appellant argues that no one from the ministry told her there was a problem until after the fact when she found out that they had not received any of her documents.

CCSR section 13(2) outlines that 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 the application under section 4. The panel

finds that there is no evidence that the appellant's documents were received by the ministry. It has not been established whether this is due the ministry, Canada Post, the method of faxing, or the appellant. In order to show an administrative error by the ministry, it is necessary to introduce evidence that the error occurred within the ministry. The panel finds that there is insufficient evidence to show that the ministry made an administrative error. The appellant stated that she attempted to contact the ministry numerous times via telephone, mail and fax. However, there is no evidence that her July and October application documents reached the ministry. The panel finds that the ministry's decision to find that the appellant is ineligible for the child care subsidy between July 2012 and April 2013 is reasonable given that there is no evidence that the ministry received documents on which to base a decision.

The panel therefore confirms the ministry's reconsideration decision as it is reasonably supported by the evidence and a reasonable application of the legislation.