

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (Minister) reconsideration decision dated January 15, 2014 which held that the Appellant is not eligible for the Child Care Subsidy as set out in Child Care Subsidy Regulation (CCSR) 7, 8 and 10 because the family's net income exceeded the child's threshold amount and the calculation under Section 8(2) is less than zero.

PART D – Relevant Legislation

Child Care Subsidy Regulation, Section 7, 8 and 10

## PART E – Summary of Facts

The evidence before the Ministry at the time of the reconsideration decision consisted of:

1. Appellant has 4 people in the family unit, a daughter, two sons and the Appellant. In addition, there is a spouse who is currently awaiting Canadian citizenship and a stepson.
2. The Appellant is employed, working Monday to Friday, 8 hours per day.
3. The Appellant's son turned 5 years of age in December 2013 and is currently attending Kindergarten on a part time basis.
4. The Appellant has completed a Child Care Subsidy Special Needs form (CF2951) for her 5 year old son.
5. Under CSS Regulation Section 10, the income threshold is calculated to be \$2,158.00.
6. The Appellant's total monthly income is \$3,174.54.
7. The Appellant advises that the 5 year old son has special needs and needs to be in a routine centre for his behaviours where special needs are met with support, and if he is at home he gets destructive and violent and unmanageable.
8. The Appellant states that her income is needed to cover the costs associated with her 5 year old son's special needs, such as therapy and assessments.

At Reconsideration the Ministry did recalculate the Appellant's eligibility for the CCS based on the higher rate of care (G4: \$415/month, more than 4 hours per day), taking into consideration the diagnoses provided by the Pediatrician. However, based on the new eligibility calculations, the Appellant's income is still in excess of the legislated limits.

In the Notice of Appeal, the Appellant states that her income is not enough to take care of three children under 6 at home with special needs (with no special needs income yet) because they are waiting to be assessed. Also, the Appellant takes care of the spouse who can't work yet due to immigration status and the Appellant is financially responsible for the step-son. The Appellant can't find the \$650 per month to pay for full time day care for the 5 year old son that was recommended by the pediatrician, doctor, development centre and the social worker.

## PART F – Reasons for Panel Decision

The issue to be decided is “did the Ministry reasonably conclude that the Appellant is not eligible for the Child Care Subsidy as set out in CCS Regulations 7, 8 and 10” because the family’s net income was too high.

### **Legislation – Child Care Subsidy Regulation**

#### **Income test**

- 7 (1) An applicant is not eligible for a child care subsidy for a child receiving a type of child care if
- (a) the family's monthly net income exceeds the child's threshold, and
  - (b) the result of the calculation under section 8 (2) for the child is not more than zero.
- (2) Subsection (1) does not apply to an applicant if the child care is for a child
- (a) in relation to whom the applicant has entered into an agreement with a director under section 8 of the *Child, Family and Community Service Act*,
  - (b) in relation to whom the applicant, by agreement under section 94 of the *Child, Family and Community Service Act*, exercises a director's rights or carries out a director's responsibilities,
  - (c) of whom the applicant has interim or temporary custody under an order of the court under section 35 (2) (d), 41 (1) (b), 42.2 (4) (c), 49 (7) (b) or 54.01 (9) (b) of the *Child, Family and Community Service Act*,
  - (c.1) of whom the applicant has been permanently transferred custody under an order of the court under section 54.01 (5) or 54.1 (3) of the *Child, Family and Community Service Act*,
  - (d) of whom the applicant has custody under an order of the court under section 42.2 (4) (a) of the *Child, Family and Community Service Act*, if the applicant is the other person referred to in section 42.2 (4) (a) (i),
  - (e) who is receiving assistance under the authority of the Child in the Home of a Relative Program Transition Regulation, B.C. Reg. 48/2010, and the applicant is the relative with whom that child resides, or
  - (f) who is receiving assistance under a program, similar in nature to the program referred to in paragraph (e), provided
  - (i) on a reserve, within the meaning of the *Indian Act* (Canada), by the government of Canada, or
  - (ii) by the Nisga'a Nation or a treaty first nation.

#### **Amount of subsidy**

- 8 (1) If a family's monthly net income does not exceed a child's threshold, the amount of child care subsidy for the child in respect of a type of child care is the amount set out in Schedule A or the parent fee, whichever is less, for the type of child care.
- (1.1) If a parent is eligible for a subsidy for more than one type of child care set out in Schedule A, the minister may determine which subsidy rate applies.
- (2) If a family's monthly net income exceeds a child's threshold, the amount of child care subsidy for the child in respect of a type of child care is

$$A - B$$

where

A = the amount set out in Schedule A or the parent fee, whichever is less, for the type of child care;

B = the amount of A for the child, divided by the sum of the amounts of A for all

children in the family receiving child care described in section 2, multiplied by 50% of the amount by which the family's monthly net income exceeds the child's threshold.

(2.1) Repealed. [B.C. Reg. 388/2004.]

(2.2) The child care subsidy for a child described in section 7 (2) is the amount set out in Schedule A or the parent fee, whichever is less, for the type of child care the child is receiving.

(3) If child care is required for less than 20 days per month, the child care subsidy will be prorated based on the daily rate set out in Schedule A or the daily parent fee, whichever is less.

(4) If the child care is

(a) arranged or recommended by staff delegated under the *Child, Family and Community Service Act*, after staff have

(i) offered support services or agreements to the child and family under section 16 (2) (a) of that Act, or

(ii) commenced an investigation under section 16 (2) (c) of that Act, or

(b) provided through a Young Parent Program, and the child care provider operating the Young Parent Program confirms, in the form and manner specified by the minister, that the parent is participating in the Young Parent Program,

the minister may pay any increase in the amount of the child care subsidy that the minister considers necessary to ensure that the child care is provided.

(5) In this section, "parent fee" means the payment made by the parent for a child care space.

#### How child's threshold is calculated

10 (1) The threshold income level for a child receiving a type of child care is calculated by adding

(a) the base threshold income level applicable under subsection (2) for the child's family, and

(b) the amounts applicable to the child under subsection (3).

(2) The base threshold income level for a child's family is the amount set out in Column 2 opposite the family's size in Column 1:

Column 1	Column 2
Family Size	Base Threshold Income Level
2 persons	\$1 082
3 persons	\$1 275
<b>4 persons</b>	<b>\$1 418</b>
5 persons	\$1 571
6 persons	\$1 704
7 persons	\$1 837
8 persons	\$1 960
9 persons	\$2 083
10 persons	\$2 206
more than 10 persons	\$2 206 for the first 10 plus \$123 for each additional person

- (3) The base threshold income level for a child is increased as follows:
- (a) **by \$125 per month for each person in the child's family who**
    - (i) is a child with special needs,**
    - (ii) is a person with disabilities, or
    - (iii) has reached 65 years of age;
  - (b) **by \$515 per month for a child who**
    - (i) has not reached school age and is receiving child care
      - (A) in a licence-not-required child care setting, or
      - (B) in the child's own home as described in section 2 (c), or
    - (ii) is of school age and is receiving child care in any child care setting;**
  - (c) by \$1 500 per month if the child has not reached school age and is receiving child care
    - (i) in a licensed child care setting, or
    - (ii) in a registered licence-not-required child care setting;
  - (c.1) Repealed. [B.C. Reg. 145/2011, s. 3 (d).]
  - (d) **by \$100 per month if the child**
    - (i) is a child with special needs, and**
    - (ii) receives a type of child care described in section 2.**

The Ministry's position is that the Appellant does not qualify for Child Care Subsidy because:

- a) The CCS Regulation Section 8 sets out how the amount of Child Care Subsidy is calculated. The Ministry calculates that the Child Income Threshold amount is \$2,158.00 in accordance to s.10.
- b) The Ministry further calculated that the family's monthly net income was \$3,174.54.
- c) The Ministry concludes that the Appellant's monthly net income was greater than the Child Income Exemption as set out in the legislation.

At the hearing, the Appellant presented arguments as follows

- a) While the family's monthly net income exceeds the Child Income Threshold, there is still not enough money available to provide the required day care for the 5 year old son.
- b) The Appellant expects to receive a diagnosis for the 5 year old son that will give rise to financial assistance from other government agencies, but is unable to financially afford this required day care now.
- c) The Appellant is also financially responsible for the spouse who is not able to work due to the immigration status.
- d) The Appellant states that the school system allows children born in December to defer starting school until the following year, remaining at 'pre-school' status, if it has been determined that they are not developmentally ready to begin school. The Appellant adds that she is frustrated that the Ministry's legislation is not aligned with the school system, which means that children like her son are considered 'school age,' strictly based on their birthdate.

The panel finds that Sections 7, 8 and 10 of the CCSR clearly sets out the criteria to be met to be eligible for the Child Care Subsidy, specifically:

- a) The Ministry calculates that the Child Income Threshold amount is **\$2,158.00**.

**Calculation (CCSR s.8(2)):**

There is 1 child in the family receiving child care described in the CCSR s2

As described by the employer: The family's monthly net income was **\$3,174.54**

As described on the Child Care Subsidy Eligibility Calculator sheet:

- The Potential Subsidy (as per Schedule A) for the type of child care is **\$415.00** (the G4 rate/more than 4 hours per day).
- The Child Income Threshold amount is **\$2,158.00** (as per the CCSR s.10).

**Eligible for a partial subsidy as follows:**

A= \$415.00 (Lesser of Potential Subsidy amount in Schedule A, or actual cost of daycare)

B= \$508.27 (A + total A for family) X (50% of (Actual family income – Child Income Exemption))

- (\$415.00 + \$415.00) = (a) \$1.
- (\$3,174.54 - \$2,158.00) = \$1,016.54 X 50% = \$508.27
- B = (a) \$1 X (b) \$508.27 = \$508.27

A – B = **-\$93.27**

**December 2013**

- \$415.00 (A) - \$508.27 (B) = **-\$93.27** (amount is not more than zero).

**As the amount is not more than zero, you are not eligible for the Child Care Subsidy.**

- b) The Ministry calculates the Appellant's total monthly income to be **\$3,174.54**.

The Panel acknowledges that income thresholds are set in legislation and the Ministry does not have any discretion to grant subsidy if an applicant's income is higher than regulations permit.

Therefore, based on the legislation and the facts presented in this decision, the Panel finds that the Ministry's reconsideration decision is reasonably supported by the evidence and confirms the decision.