

PART C – Decision under Appeal

The Ministry of Children and Family Development (the ministry) reconsideration decision dated 29 April 2014 determined that the appellant was not eligible for child care subsidy (CCS) for the period between 1 September 2013 and 31 January 2014 since the appellant completed and signed the CCS Self-Employment application form on 24 February 2014 and filed all the approved forms on that date and therefore the ministry determined that CCS be paid only from 1 February 2014 under section 13(1) of the Child Care Subsidy Regulation.

PART D – Relevant Legislation

Child Care Subsidy Act (CCSA), section 4.
Child Care Subsidy Regulation (CCSR), sections 4 and 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 s. 86(b) of the Employment and Assistance Regulation (EAR).

The following evidence was before the ministry at the time of reconsideration:

- On 24 February 2014, the appellant submitted by fax to the ministry a new application for CCS.
- The documentation provided to the ministry on 24 February 2014 included:
 - A fax cover sheet dated 24 February 2014 from the appellant titled CCS Transmission Sheet indicating that 9 pages were sent;
 - A 4-page form titled “CCS Application” completed and signed by the appellant on 8 June 2013. That form indicates it is the appellant’s first time applying for CCS and that it applies to one child.
 - A 2-page form titled “CCS Child Care Arrangement”, indicating the child care provider’s information and the name of the child to be in care as well as the days and time that the child will be in their care. The form was signed by the child care provider on 30 July 2013 and by the appellant on 8 June 2013.
 - A 1-page form titled “CCS Self-Employment” completed and signed by the appellant on 24 February 2014 and including the appellant’s income statement.
 - A photocopy of a BC Care Card in the name of the appellant’s child that is in care of the child care provider.
- In his Request for Reconsideration dated 2 April 2014, the appellant stated that since he qualifies for the CCS, he should be treated like any other claimant and that he had not realized that he qualified when his child was first signed up for preschool in September. He indicated he received conflicting information and was told that the ministry could backdate the subsidy if he was late. He further indicated that the resource centre could not assist him with his application, as they were concerned about making an error. He had little time to deal with this matter as he was busy working long hours and could not afford losing work time. Since he had not received the subsidy, he had to borrow the money and had to repay it with interest. He stated that since his separation, he had difficulties dealing with government officials that seemed to have judged him unfairly despite the fact that he just wanted to be able to give his children all the opportunities they deserved.

In his Notice of Appeal dated and signed on 15 May 2014, the appellant indicated that he filled out the form in June 2013 and left it with a relative who would take care of it since he was going through difficult times with a failed marriage and ensuring his children’s well being. It was only in the fall that he was told by people at pre-school that he could not apply for CCS until his “taxes were complete”. He further stated that he was unable to do that until January 2014 for personal reasons “but that should not mean that my child should be punished for it!”

At the hearing, the appellant testified that the misleading information he had received was from people and organizations that were involved in child care matters but not the ministry. For instance, the people who advised him that they could not assist him for fear of making an error were not ministry workers but people working with a child care organization who told him they had been advised by the ministry not to assist self employed people to fill those forms for fear that an error could be detrimental to the claimant or the ministry. He also indicated that when he filled the 2 forms

that were signed on 8 June 2013, there were parts of those forms that had not yet been completed, for instance block 7 of the CCS Application and blocks 1 and 4 of the CCS Child Care Arrangement. He did not witness who had completed those forms and he got them back by the end of August or early September from a relative. He testified that this relative had helped him paying this child's care until the summer of 2013 but was not anymore in a position to assist. He also stated that all the information he received prior to 24 February 2014 was from third parties and not from the ministry – in fact he had not contacted the ministry for that purpose at all. He confirmed that the three forms plus a copy of the child's BC Care Card were sent to the ministry on 24 February 2014 for the first time.

The panel determined the additional oral evidence was admissible under s. 22(4) of the Employment and Assistance Act as it was in support of the records before the minister at reconsideration and providing clarification of the events leading to him filing his application for CCS.

PART F – Reasons for Panel Decision

The issue under appeal is whether the ministry's decision that the appellant was not eligible for CCS for the period between 1 September 2013 and 31 January 2014 because the appellant had not completed and signed the CCS Self-Employment application form or filed all the approved forms until 24 February 2014 and therefore CCS could be paid only from 1 February 2014 under section 13(1) of the CCSR, was a reasonable application of the legislation or reasonably supported by the evidence.

Section 4 of the CCSR states:

4 (1) To be eligible for a child care subsidy, a parent must
(a) complete an application in the form required by the minister,...

Section 13 of the CCSR states:

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 ministry states that the appellant only submitted a new application for CCS by fax on 24 February 2014 while the CCS Application and the CCS Child Care Arrangement were completed and signed on 8 June 2013. The ministry argues that the appellant did not complete and sign the CCS Self Employment form and submit his complete application (the 3 forms) until 24 February 2014.

Therefore, the ministry argues, the appellant's eligibility to CCS began on 1 February 2014, the first day of the month in which the application was completed according to s. 13(1)(a) of the CCSR. Finally, the ministry argues that CCS payments can only be backdated where there has been an administrative error and in the present matter; the ministry submits there is no evidence to the effect it committed such an error.

The appellant argues that he was eligible for CCS from the time he first completed the 2 application forms and that if he did not file those forms before February 2014 it was because he was erroneously told he should wait until he filed his taxes and not to worry, that the ministry could backdate payments. He did not know he qualified at the time and he further argues that he was extremely busy, working as hard as he could to provide a decent living to his family and could not take time off work to go to the ministry's offices to deal with this matter. He argues that he was leery contacting the ministry because of bad experiences he had with government people in the course of his separation from his ex-wife.

The panel finds that the first 2 forms (the CCS Application and the CCS Child Care Arrangement) were not completed on 8 June 2013 but later, probably around 30 July 2013, when the child care provider signed the second form. Yet, the appellant did not witness the signing of the form or the changes made by the third party and got hold of those documents only at the end of August or September. Thus, those 2 forms were not completed on 8 June 2013.

Further, the panel finds that none of these forms were sent to the ministry until 24 February 2014 and that the third form that needed to be completed by the appellant to be eligible for CCS was only completed on that day. Thus, the appellant's full application was not completed until 24 February 2014 and the panel finds it was reasonable for the ministry to determine the starting date of eligibility

for CCS was 1 February 2014, the first day of the month in which the parent completes the application, as stated in s. 13(1) of the CCSR. The panel also finds no administrative error was made since the erroneous information the appellant received was from third parties and not from the ministry.

Therefore, the panel finds the ministry's decision was a reasonable application of the applicable enactment in the circumstances of the appellant and confirms the decision.