

PART C – Decision under Appeal

The decision under appeal is the Reconsideration Decision dated 26 March 2014 of the Ministry of Children and Family Development (ministry) in which the ministry determined that the appellant was not eligible for a child care subsidy for the period between August 1, 2013 and September 30, 2013 because the ministry found that the appellant's eligibility for the subsidy began on October 1, 2013 in accordance with Section 4 and Section 13 of the Child Care Subsidy Regulation, and further, that there was no evidence to establish that the ministry had made an administrative error such that the commencement of the appellant's child care subsidy could be backdated to September 1, 2013.

PART D – Relevant Legislation

Child Care Subsidy Act (CCSA) Section 4
Child Care Subsidy Regulation Section (CCSR) 4(1), and Section 13

PART E – Summary of Facts

The evidence before the ministry at reconsideration consisted of the following:

- i. an application for child care subsidy signed by the appellant and dated October 8, 2013 with a fax transmission record Service BC dated October 17, 2013
- ii. a Child Care Subsidy Child Care Arrangement form, signed by a child care provider on August 5, 2013, and signed by the appellant on October 17, 2013
- iii. a separate Child Care Subsidy Child Care Arrangement form, signed by a child care provider on October 13, 2013 but not completed by the appellant
- iv. a Child Care Subsidy Application submitted on January 31, 2014 but dated August 1, 2013
- v. the appellant's request for reconsideration, wherein she asked the ministry to start her child care subsidy on August 1, 2013, writing that she had faxed the original application from the Service BC office in early August, and mailed another copy to the ministry a month or so later after finding out that the ministry had not received the original faxed application.

In her notice of appeal dated April 4, 2013 (received April 16, 2014) the appellant wrote that she had submitted her original application for child care subsidy in August 2013, and had subsequently called to determine the status of her application, rather than resubmitting it right away. She wrote that she had changed the date on her application received by the ministry on October 17, 2013, from August to October on the instructions of the Service BC staff.

At the hearing the appellant stated that she had tried to submit her child care subsidy application three times between August and October 2013 through the Service BC office in the town where she lives. She said that she first faxed the child care subsidy application to the ministry in August 2013. She told the panel that she sent a second child care subsidy application to the ministry in September 2013 and that she called the ministry and left a message to find out if her application had been received. She also told the panel that when she realized her application had not been processed in September she sent another child care subsidy application to the ministry in October 2013. She told the panel that a worker at the Service BC office in her town told her to change the date on her child care subsidy application to October 8, 2013.

The ministry representative told the panel that the ministry had no record of the appellant's child care subsidy application for August or September 2013 and that the first child care subsidy application the ministry received from the appellant was dated October 8, 2013.

PART F – Reasons for Panel Decision

The issue under appeal is whether the ministry's decision to deny the appellant child care subsidy for the period between August 1, 2013 and September 30, 2013 under sections 4 and 13 of the CCSR was reasonably supported by the evidence or was a reasonable application of the legislation in the circumstances of the appellant.

The relevant legislation is set out in the *Child Care Subsidy Regulation*:

Section 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.

Section 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 position of the appellant is that she attempted to submit her application for child care subsidy together with the supporting documents three times: first by fax from her local Service BC office in mid-August 2013, and again by mail, between late August 2013 and October 2013; and a third time by fax through the Service BC office on October 17, 2013. The appellant argues that she should be eligible for her child care subsidy as of August 1, 2013 as the original date on the child care subsidy application she first tried to submit by fax is August 8, 2013. The appellant says that when she realized that her application was not reaching the ministry, the Service BC worker instructed her to change the date on her application to October 8, 2013, the date she was faxing the application to the ministry again.

The position of the ministry is that it did not receive an application for child care subsidy from the appellant until October 17, 2013, and that there is no evidence before the ministry to support the appellant's statement that she made three separate attempts between August 2013 and October 2013 to submit her child care subsidy application to the ministry. The ministry says that the appellant's application for child care subsidy could not be backdated to August 1, 2013 because there had been no administrative error made by the ministry as there is no record that the appellant's application was delayed at the ministry's offices as the ministry had no record of receiving the appellant's application until October 17, 2013, the fax transmission date on the application.

The panel notes the absence of any evidence to support the appellant's assertion that she made repeated attempts to submit her child care subsidy application between August 2013 and October 2013 – the appellant did not provide the ministry or this panel a copy of her child care subsidy applications with a 'received stamp' or a fax machine report confirming successful transmission of the documents, or a proof of delivery from Canada Post. Accordingly, the panel finds that the appellant has not demonstrated that she submitted her application for child care subsidy prior to October 17, 2013, or that the ministry made an administrative error.

On the basis of the foregoing, the panel finds that the ministry's decision to deny the appellant child care subsidy for the months of August and September 2013 was reasonably supported by the evidence. The panel therefore confirms the ministry's reconsideration decision.