

PART C – Decision under Appeal

This is an appeal of the June 2, 2014 reconsideration decision of the Ministry of Children and Family Development (“Ministry”) in which the Ministry denied the Appellant’s request for the child care subsidy for the period between February 1, 2014 and March 31, 2014 in accordance with sections 4 and 13 of the *Child Care Subsidy Regulation*. The Ministry determined that the Appellant was not eligible for the subsidy as her authorization for the child care subsidy ended on January 31, 2014, and her application for the child care subsidy was submitted to the Ministry on April 17, 2014.

PART D – Relevant Legislation

Child Care Subsidy Act, section 4.
Child Care Subsidy Regulation, sections 4 & 13

PART E – Summary of Facts

The evidence before the Ministry at reconsideration included the following documents:

- A copy of a Ministry child care subsidy child care arrangement form ("Care Arrangement Form"), signed by the child care provider supervisor on February 18, 2014 and by the Appellant on February 28, 2014;
- A copy of a Ministry child care subsidy medical condition form ("Medical Condition Form") completed by the Appellant's physician, but not dated;
- A copy of the deposit slip for the Appellant's disability assistance dated February 26, 2014;
- A copy of the Ministry child care subsidy application form ("Subsidy Application Form") signed by the Appellant dated April 10, 2014;
- A copy of the Care Arrangement Form signed by both the child care provider supervisor and the Appellant on April 10, 2014;
- A copy of a computer printout of the Appellant's enrollment verification for Spring 2014 from a post-secondary institution, together with a printout of the Appellant's account balance for the institution, both dated April 10, 2014;
- A copy of an email to the Appellant from the registrar of the post-secondary institution together with a letter to the Appellant from the post-secondary institution, both dated March 10, 2014, confirming that the Appellant had received two bursaries; and
- The Appellant's 3-page written submissions on reconsideration dated May 16, 2014.

Prior to the hearing, the Appellant provided the panel the following documents:

- A copy of a Ministry Subsidy Application Form signed by the Appellant dated April 26, 2013;
- Two copies of a Ministry Medical Condition Form signed by the Appellant's physician on April 26, 2013 – the second version contains additional information regarding the Appellant's disability;
- A copy of a Ministry Subsidy Application Form signed by the Appellant dated January 9, 2013; and
- A copy of a Ministry Medical Condition Form signed by the Appellant's physician on September 7, 2010.

At the hearing, the Appellant provided the panel with a copy of the same Medical Condition Form that was before the Ministry at reconsideration, but on which were handwritten notes stating, "I completed this form Dec. 10/2013" and "revised May 9, 2014," together with the signature of the Appellant's physician. The Ministry representative did not object to the admission of the Appellant's additional information. The Appellant said that the additional information was relevant to her appeal because it showed that she had previously submitted an application for the child care subsidy late and with mistakes – the subsidy ended in January 2013, but her forms were not correctly submitted until April 2013. The Appellant said on that previous occasion, the Ministry had approved her child care subsidy retroactively to January 1, 2013. She also wanted to provide the panel with the dated Medical Condition Form. The panel admits as evidence under subsection 22(4) of the *Employment and Assistance Act* the additional information provided by the Appellant prior to and at the hearing as it is information that was before the Ministry at the time the decision under appeal was made.

The Appellant is designated as a person with disabilities and receives disability assistance. She is the single mother of one child. The Appellant has received the child care subsidy for her child for several years. The Appellant told the panel that because she knew that her child care subsidy would end January 31, 2014, in December 2013, she went to her doctor's clinic to get the Medical Condition

Form completed. She said that a doctor completed the form on December 10, 2013, but forgot to date it and she did not get the dated Medical Condition Form until May 9, 2014 (it is the Medical Condition Form she provided at the hearing). The Appellant said that she also contacted the supervisor of her child's daycare in December 2013 and advised that her child care subsidy would end on January 31, 2014 and she needed to complete the Ministry forms to renew her child care subsidy. The Appellant told the panel that she and the supervisor were not able to meet until February 2014.

The Appellant told the panel that she contacted the Ministry by telephone in February 2014 and told a worker that she was meeting with the supervisor of her child's daycare to renew the child care subsidy. This is also stated in the Appellant's submissions on reconsideration. The Appellant told the panel that she was told by the Ministry worker that her child care subsidy would be back-dated to February 1, 2014 if she forwarded her completed form in February. In her written submissions on reconsideration, the Appellant wrote that she told the worker that she was meeting with her child's child care senior supervisor to fill out the forms to renew the child care subsidy and the worker told the Appellant that all she needed to do "was send the forms along with [her] most recent disability cheque stub."

The Appellant told the panel that she and the supervisor of her child's day care completed the Care Arrangement Form when they met in February 2014 – the supervisor signed it on February 18, 2014 and the Appellant signed it on February 28, 2014. The Appellant submitted the Care Arrangement Form together with a copy of her disability cheque stub for February 2014 to the Ministry in early March 2014. The Appellant said that the supervisor of her child's day care never provided her with a copy of the Subsidy Application Form when they met in February 2014. On March 18, 2014, the Ministry sent the Appellant a letter in which it advised her that it could not process her request for child care subsidy as the Ministry had not received the Appellant's Subsidy Application Form. The Appellant told the panel she met with the supervisor of her child's day care in early April 2014 and they completed the Subsidy Application Form, which they both dated April 10, 2014, and which she mailed to the Ministry. The Ministry notes in the reconsideration decision that the Appellant's Subsidy Application Form was submitted on April 17, 2014.

The Appellant told the panel that for all of her previous child care subsidies, she went to the child care providers where her child was at day care and the providers completed the forms for her – she signed and dated them – and sent them to the Ministry. The Appellant's representative – a worker at the previous child care facility – confirmed that the child care providers completed the necessary forms with the Appellant in the past and faxed them to the Ministry on her behalf. The Appellant explained that her child started at a different day care in August 2013 and when she met with the child care supervisor, she expected that the supervisor would have all of the necessary forms and complete them with her as had been her past experience.

The Appellant told the panel that in 2013 she submitted her completed Subsidy Application Form in April 2013 although her authorization had ended in January 2013, the Ministry back-dated her child care subsidy to January 2013. The Ministry confirmed this decision to back-date the Appellant's subsidy was made by a supervisor and was an exception.

PART F – Reasons for Panel Decision

The issue on this appeal is the reasonableness of the Ministry's reconsideration decision of June 4, 2014, denying the Appellant's request for the child care subsidy for the period from February 1, 2014 through March 31, 2014 on the basis that the Appellant was not eligible for the subsidy because her authorization for child care subsidy ended on January 31, 2014 and she submitted an application for the child care subsidy on April 17, 2014.

The relevant provisions of the *Child Care Subsidy Act* and the *Child Care Subsidy Regulation* provide as follows:

Child care subsidies (Act, section 4)

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

How to apply for a subsidy (Regulations, section 4)

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

(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.

Will a subsidy be paid for child care provided before completion of the application? (Regulations, section 13)

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.

Submissions

The Appellant's position is that the reconsideration decision denying her child care subsidy for the period from February 1 through March 31, 2014 is unreasonable. The Appellant says that she made every effort to get the correct forms to the Ministry for her child care subsidy. She said that she relied on the supervisor at her child's day care to provide her with the necessary forms because at her child's previous day care, the day care providers had the necessary forms and helped her fill them out and send them to the Ministry. The Appellant did not dispute that she did not complete and submit the Subsidy Application Form to the Ministry until some time in April, 2014 (she signed the Subsidy Application Form April 10, 2014 and the Ministry confirmed it was submitted on April 17, 2014). The Appellant argued that because the Ministry had previously provided her child care subsidy retroactively to January 1, 2013 when she submitted her completed forms late in April 2013, the Ministry should make another exception for her and provide her child care subsidy retroactive to February 1, 2014 this time.

The Ministry says that section 13(1) of the *Child Care Subsidy Regulations* clearly sets out that the Ministry will provide a child care subsidy from the first day of the month in which the parent completes the child care subsidy application. The Ministry says that in the Appellant's case, although she completed and submitted the Care Arrangement Form in February 2014, the Ministry advised her in March 2014 that she needed to submit the Subsidy Application Form to receive the child care subsidy, and the Appellant did not complete and submit the Subsidy Application Form until April 17, 2014. The Ministry says that there is no evidence that the Ministry made an administrative error in the processing of the Appellant's Subsidy Application and subsection 13(2) of the *Child Care Subsidy Regulation* does not apply in this case.

Panel's findings and decision

The Appellant argues that the Ministry should make an exception for her because it had previously provided her child care subsidy retroactively to January 2013 when her application materials were submitted in April 2014 and she says she should receive the same exception again. However, the panel notes that on the Ministry Subsidy Application Form provided prior to the hearing, although the Appellant signed and submitted incomplete supporting documents for her application in April 2013, the Ministry had received the Appellant's signed and dated Subsidy Application Form in January 2013. In the present circumstances, the Appellant did not sign and submit the Subsidy Application Form until April 17, 2014 – only the Care Arrangement Form was submitted in February 2014.

Section 4 of the *Child Care Subsidy Regulation* sets out that, in order to be eligible for a child care subsidy, the parent must complete an application in the form required by the minister. The Subsidy Application Form is the form required by section 4(1)(a) of the *Child Care Subsidy Regulation*. Although the Appellant completed and submitted the Care Arrangement Form to the Ministry in February 2014, the Care Arrangement Form is not the application form required by section 4(1)(a) and the Ministry advised the Appellant of this fact in March 2014. The panel finds that the Appellant completed her Subsidy Application Form on April 10, 2014 and submitted it to the Ministry on April 17, 2014 – the Appellant does not dispute this.

As the panel finds that the Appellant completed the Subsidy Application Form on April 10, 2014 and submitted it to the Ministry on April 17, 2014, the panel finds the Ministry's determination that the Appellant was eligible for the child care subsidy starting April 1, 2014, the first day of the month in which she completed the Subsidy Application Form, is reasonable based on the evidence. The panel also finds that the Ministry's denial of the Appellant's request for the child care subsidy for the period from February 1, 2014 through March 31, 2014 because her authorization for child care subsidy ended on January 31, 2014 and she submitted an application for the child care subsidy on April 17, 2014, is a reasonable application of the legislation (in particular, subsection 13(1) of the *Child Care Subsidy Regulation*) in the circumstances of the appellant. Accordingly, the panel confirms the reconsideration decision of June 4, 2014.