

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (Ministry) reconsideration decision dated September 30, 2014 which held that the Appellant was not eligible for a Child Care Subsidy because the reason the Appellant gave for needing care was not one of the eligible circumstances in which subsidy may be provided as per Child Care Subsidy Regulation section 3(2).

PART D – Relevant Legislation

Child Care Subsidy Act, section 4 (CCSA)
Child Care Subsidy Regulation, section 3 (CCSR)

PART E – Summary of Facts

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

The documents before the Ministry at reconsideration were as follows:

- The Appellant's application for Child Care Subsidy dated May 22, 2014;
- Child Care Subsidy, Child Care Arrangement application dated May 21, 2014;
- Consent to Disclosure of Information dated May 12, 2014;
- Undated letter from salon owner regarding unpaid training for Appellant's spouse in the salon from May 15, 2014 to present, from 9:00 am to 4:00 pm Monday to Friday;
- Letter dated June 8, 2014, from daycare indicating the Appellant has been in training at the daycare centre since May 1, 2014 to present, from 9:00 am to 4:00 pm Monday to Friday;
- Letter dated June 3, 2014, from employer confirming full time employment of Appellant's spouse from 9:00 am to 4:00 pm Monday to Friday, since April 15, 2014; and
- The Appellant's Request for Reconsideration dated September 13, 2014.

The Ministry's information indicated:

- The Appellant is a 2 parent, 5 unit family;
- On August 14, 2014, the Ministry spoke with the Appellant's spouse who stated that:
 - the Appellant was not paid for her work in the daycare and subsequent to the application for subsidy, had stopped volunteering there; and
 - that he no longer works for the organization as set out in the application.

In her Notice of Appeal dated October 10, 2014, the Appellant states that she and her spouse checked their eligibility with the Ministry before submitting their application and explained their situation as "full time job and school for the father and about my training." She claims that they submitted all the documents they were asked to submit and asks for help to pay at least the 2 months they owe the caregiver that they are unable to cover at this time.

The panel finds that the Appellant's spouse was employed at the time of the Child Care Subsidy Application. However, the panel finds that at the time of reconsideration, the Appellant's spouse was no longer employed.

PART F – Reasons for Panel Decision

The issue on appeal is whether the Ministry's decision to deny the Appellant a Child Care Subsidy because the Ministry was not satisfied that the Appellant was eligible for Child Care Subsidy is reasonably supported by the evidence or is a reasonable application of the applicable legislation in the circumstances of the Appellant.

The relevant legislation is sections 4 of the CCSA and 3 of the CCSR:

Child Care Subsidy Act

Child care subsidies

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

Child Care Subsidy Regulation

Circumstances in which subsidy may be provided

3 (1) The minister may pay a child care subsidy only if

(a) the minister is satisfied that the child care is needed for one of the reasons set out in subsection (2),

(b) the child care is arranged or recommended under the *Child, Family and Community Service Act*, or

(c) the child care is recommended under the *Community Living Authority Act* in respect of a child who has a parent approved for or receiving community living support under the *Community Living Authority Act* and the minister is satisfied that the child care is needed.

(2) For the purpose of subsection (1) (a), the child care must be needed for one of the following reasons:

(a) in a single parent family, because the parent

(i) is employed or self-employed,

(ii) attends an educational institution,

(iii) is seeking employment or participating in an employment-related program, or

(iv) has a medical condition that interferes with the parent's ability to care for his or her child;

(b) in a two parent family, because

(i) each parent is employed or self-employed, attends an educational institution or participates in an employment-related program,

(ii) one parent is engaged in an activity listed in subparagraph (i) and the other is seeking employment,

(iii) one parent is engaged in an activity listed in subparagraph (i) and the other parent has a medical condition that interferes with that parent's ability to care for his or her child, or

(iv) Repealed. [B.C. Reg. 57/2002, s. 2 (b).]

(v) each parent has a medical condition that interferes with their ability to care for their child.

(3) Repealed. [B.C. Reg. 57/2002, s. 2 (b).]

(4) The restriction in subsection (1) (a) does not apply in respect of child care provided in a licensed preschool unless the child care is provided to a child of school age.

The Minister may pay a child care subsidy only if, in a two parent family, child care is needed for one of the four reasons set out in section 3(2)(b) of the CCSA, subsections (i), (ii), (iii), and (v).

Section 3(2)(b)(i)

To qualify for subsidy under this section, each parent is employed or self-employed, attends an educational institution or participates in an employment-related program.

In the Application for Child Care Subsidy, Section 3 – Applicant's Need for Child Care, the Appellant indicated that she was currently participating in an employment-related program referred by the Ministry of Social Development. The Appellant did not submit a copy of her Employment Plan as required in the application.

No other boxes were checked to indicate that:

- She was employed or self-employed;
- She was currently looking for work; or
- She currently had a medical condition.

The Ministry determined that the Appellant was volunteering her time at the daycare without pay. At the hearing, the Ministry stated that an employment-related program does not include volunteer work.

In Section 5 of the Application, the Appellant indicates that her spouse is currently employed and had been since April 14, 2014. Photocopies of the last two pay slips were not provided although the application requires them. However, the Applicant did provide a letter from her spouse's employer confirming his employment.

The panel finds that the Ministry reasonably determined that the Appellant does not qualify for child care subsidy under section 3(2)(b)(i) because although her spouse is employed and meets the requirement of Section 3(2)(b)(i), the Appellant does not meet any of the requirements of section 3(2)(b)(i) as she was not employed or self-employed, attending an educational institution or participating in an employment-related program.

Section 3(2)(b)(ii)

To qualify for subsidy under this section, one parent is employed or self-employed, attends an educational institution or participates in an employment-related program and the other is seeking employment.

The panel finds that the Ministry reasonably determined that the Appellant does not qualify for child care subsidy under section 3(2)(b)(ii) because although her spouse is employed, the Appellant is not seeking employment as stated in her application for subsidy.

Section 3(2)(b)(iii)

To qualify for subsidy under this section, one parent is employed or self-employed, attends an educational institution or participates in an employment-related program and the other parent has a medical condition that interferes with that parent's ability to care for his or her child.

The panel finds that the Ministry reasonably determined that the Appellant does not qualify for child care subsidy under section 3(2)(b)(iii) because although her spouse is employed, the Appellant does not have a medical condition that interferes with her ability to care for her child as stated in her

application for subsidy.

Section 3(2)(b)(v)

To qualify for subsidy under this section, each parent has a medical condition that interferes with their ability to care for their child. No evidence was provided to indicate that either parent meets this requirement.

The panel finds that the Ministry reasonably determined that the Appellant does not qualify for child care subsidy under section 3(2)(b)(v) because neither parent has a medical condition that interferes with their ability to care for their children as stated in the Appellant's application for subsidy.

The panel finds the Ministry's determination that the Appellant was not eligible for a child care subsidy was reasonably supported by the evidence as the panel finds that the Appellant and her spouse do not meet the legislated requirements of section 3 CCSR and that the Ministry's reconsideration decision was a reasonable application of the applicable enactment in the circumstances of the Appellant.