

**PART C – Decision under Appeal**

The decision under appeal is the Ministry of Children and Family Development (the ministry) reconsideration decision of September 23, 2014, which found the appellant eligible for Child Care Subsidy up to a maximum amount of \$301.93 per month beginning September 1, 2014; pursuant to section 1(2) of the Child Care Subsidy Regulation the appellant's child is considered "school age" beginning September 1, 2014, and as a result the amount of Child Care Subsidy is reduced and has to be recalculated based on the decreased threshold income level.

**PART D – Relevant Legislation**

Child Care Subsidy Regulation (CCSR) sections 1(2)(a), 3, 7, 8, 9, 10, and Schedule A.

## PART E – Summary of Facts

The information before the ministry at the time of reconsideration included the following:

- From ministry records:
  - The appellant is a 1 parent, 2 unit family.
  - The ministry's calculation:
    - The appellant's monthly total net income is \$2,348.13 according to section 9 – it is the combined income of the appellant's monthly employment income of \$1,802.13 and her child support of \$546 monthly. The appellant's monthly employment income is determined by calculating the average of \$855.14 and \$808.36 [the amounts are taken from the 2 bi-weekly statements of earnings], and multiplying the result by 26/12, which equals \$1,802.13.
    - Per section 10 the child's threshold income level is \$1,822 per month. It is calculated by adding \$515 for a child of school age who is receiving child care and \$225 (\$125 + \$100 for a child with special needs) to the child's base threshold income level of \$1,082.
    - The amount of child care subsidy according to section 8 is \$151.93 (A – B):  
A = the amount set out in Schedule A = G4 rate of \$415  
B = 50% of the amount by which the family's monthly net income exceeds the child's threshold: 50% of (2,348.13 - 1,822) = \$263.07  
\$415(A) - \$263.07(B) = \$151.93.
    - A "special needs subsidy of \$150 per month" is added and brings up the total amount to \$301.93 per month. [The panel notes that is unclear under what authority or legislation these extra \$150 were awarded.]
- A ministry letter dated August 27, 2014, informing the appellant that her eligibility has been recalculated, and that beginning September 1, 2014 she will be eligible for a reduced maximum amount of \$ 301.93 per month because her child is considered school age as of September 1, 2014.
- The appellant's Child Care Subsidy Application dated August 7, 2014 for her child born in November 2009.
- A Special Needs Application dated July 16, 2014 and signed by a representative of a Children's Association; it confirms that the appellant's child has a physical, intellectual, emotional, communicative or behavioral impairment and requires additional support services because of that impairment.
- A statement of the appellant's earnings of \$855.14, for the pay period ending July 26, 2014.
- A statement of the appellant's earnings of \$808.36, for the pay period ending July 12, 2014.
- The appellant's Request for Reconsideration dated September 11, 2014.

In her request for reconsideration the appellant states that her daughter has been diagnosed with Global Mental Delay and Autism and attends occupational therapy, speech and language therapy, and behavioral therapy. The appellant writes that all professionals recommend that her daughter should not be placed in school as she is far from ready. She attends daycare 5 days a week with an aide and has made incredible progress.

In her Notice of Appeal the appellant states that her bi-weekly paychecks are often as low as \$668.

The ministry relied on its reconsideration decision.

Pursuant to section 22(4) of the Employment and Assistance Act the panel does not admit the appellant's statement about her paychecks being as low as \$668 because this is new information that is not in support of the information that was before the ministry at reconsideration.

**PART F – Reasons for Panel Decision**

The issue under appeal is the whether it was reasonable of the ministry to find the appellant eligible for Child Care Subsidy up to a maximum amount of \$301.93 per month beginning September 1, 2014.

**CHILD CARE SUBSIDY REGULATION**

[includes amendments up to B.C. Reg. 171/2014, September 8, 2014]

**Definitions**

**1** ...

(2) A person is deemed

(a) to be of school age beginning on September 1 in a school year if the person will have reached age 5 on or before December 31 of that school year, ...

**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.

**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,

(i.1) commenced an assessment under section 16 (2) (b.1) 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 monthly net income is calculated**

9 (1) The monthly net income of a family is calculated by adding the income that each person in the family receives per month, including, but not limited to, the following:

- (a) employment income;
- (b) self-employment income;
- (c) spousal or child support paid to a spouse or child in the family;

...

(3) If the monthly net income of the family varies during a calendar year, the minister may calculate their monthly net income by

- (a) estimating the annual net income that everyone in the family, other than a dependent child, will receive in the calendar year, and
- (b) dividing the estimated annual net income by 12.

**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:

<b>Column 1</b>	<b>Column 2</b>
<b>Family Size</b>	<b>Base Threshold Income Level</b>
2 persons	\$1 082

(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;
- (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.

**Schedule A**

Item	Column 1	Column 2A	Column 2B	Column 3A	Column 3B
	<b>Type of Child Care</b>	<b>4 Hours or Less Daily</b>		<b>More than 4 Hours Daily</b>	
		unless both before and after school care provided		or both before and after school care provided	
		<b>\$ Per Day</b>	<b>\$ Per Month</b>	<b>\$ Per Day</b>	<b>\$ Per Month</b>
<b>Subsidy Rates for Licensed Child Care Settings</b>					
<b>Licensed Group Care and Multi-Age Child Care</b>					
1	G1 – Group (children under 19 months)	18.75	375.00	37.50	750.00
2	G2 – Group (children 19 months and over but under 37 months)	15.90	317.50	31.75	635.00
3	G3 – Group (children who have reached 37 months of age but who have not reached school age)	13.75	275.00	27.50	550.00

4	G4 – Group (children of school age)	10.38	207.50	20.75	415.00
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The appellant argues that her child care subsidy should not be reduced because even though her daughter will turn 5 this calendar year she is unable to attend school because she is not a neuro-typical child: she is diagnosed with Global Mental Delay and Autism, attends different therapies and is not ready for school. As a single mom the appellant works to support her daughter to the best of her ability, but, faced with a reduction in her Child Care Subsidy, she will not be able to afford the extra cost of child care and will probably have to quit her job, take her daughter out of daycare and live on welfare. Without daycare her daughter will no longer be able to develop and improve her social skills. Her daughter should be allowed to continue her progress, and a special exception should be made for children who are not ready for school despite the fact that they are classified as “school age”.

The appellant argues further that her income was calculated incorrectly; the amounts of \$855.14 and \$808.36 on her statements are misleading because her bi-weekly earnings are often as low as \$668.

The ministry argues that it does not have the authority to overturn legislation. Per section 1 of the CCSR the appellant’s daughter is considered school age on September 1, 2014, and as result the child’s base threshold income level is no longer increased by \$1500 but only by \$515; therefore the appellant is only eligible to receive a Child Care Subsidy maximum amount of \$301.93 per month beginning September 1.

*Panel’s Decision:*

Legislation clearly regulates how Child Care Subsidy is calculated. Section 10 and Schedule A of the CCSR differentiate between amounts for a child who is of school age and amounts for a child who has not yet reached school age. As the appellant’s daughter has now reached school age, her Child Care Subsidy has to be re-calculated accordingly. “School age” is defined in section 1(2)(a): A person is deemed to be of school age if the person will have reached age 5 on or before December 31 of that school year. Since the appellant’s daughter was born in November 2009 she is considered to be of school age on September 1, 2014. While the appellant argues that an exception should be made and her Child Care Subsidy should not be reduced because her daughter is not ready for school, the panel finds that legislation is clear and does not include provisions for children who are not ready for school.

The panel further finds the ministry’s calculations to be accurate and in accordance with section 8 of the CCSR.

The panel finds, therefore, that the ministry was reasonable in concluding that pursuant to section 1(2)(a) of the CCSR the appellant was eligible to receive Child Care Subsidy up to a maximum amount of \$301.93 per month beginning September 1. The panel finds the ministry’s reconsideration decision was reasonably supported by the evidence and was a reasonable application of the applicable regulation in the circumstances of the appellant. Therefore the panel confirms the ministry’s reconsideration decision.