

PART C – Decision under Appeal

The decision under appeal is the reconsideration decision of the Ministry for Children and Family Development (the “ministry”) dated September 18, 2014 which held that the appellant was not eligible for a Child Care Subsidy for March 1, 2014 to March 31, 2014 because the ministry determined that the appellant did not meet the eligibility requirements set out in section 13 of the Child Care Subsidy Regulation. Specifically, the ministry held that the appellant’s eligibility for the Child Care Subsidy began on April 1, 2014 because her application was signed and dated on April 14, 2014, and there was no evidence to establish that the ministry made an administrative error.

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

With the consent of both parties, the hearing was conducted as a written hearing, pursuant to section 22(3)(b) of the *Employment and Assistance Act*.

The documentary evidence before the minister at reconsideration was the following:

1. The appellant's payslips for March 10, 2014 to March 23, 2014 and for March 24, 2014 to April 6, 2014.
2. The appellant's *Child Care Subsidy Application* dated April 14, 2014.
3. The appellant's *Request for Reconsideration* which included the following reason for requesting reconsideration:

"I got wrong information and direction from representative at Child Care Subsidy Service Centre regarding pay slip. Please see attached letter for your reference."

Attached was a letter from the appellant dated August 27, 2014 which read as follows:

"I'm writing to request your reconsideration. I've sent my son to chile (sic) care since March 2014 and I am eligible for Child Care Subsidy for the period between April 1, 2014. I called to Child Care Subsidy Centre and the representative said because I applied Child Care Subsidy in April 2014 not in March.

The reason why I sent application in April 2014 because of my pay slip. I started working on 10th of March 2014 and I receive my pay slip bi weekly. So, in March I had only one pay slip on me. So, I asked HR at our company to get 2nd pay slip earlier but in company system they can't give you the slip before pay day HR manager said.

Therefore, I called to Child Care Subsidy Service Centre and explained my situation regarding bi weekly pay slip and started working on 10th of March and only have one pay slip on hand. The representative said I must provide at least two pay slips no matter what I can reimburse my money after I send application to the centre late. That's why I felt free to send application in April 2014 after I received my 2nd pay slip.

Recently I realized that there is no subsidy for March 2014 and I called the Child Care Subsidy Service Centre again. But another representative said I should have applied in March with 1 pay slip because every company is different. Some company pay bi weekly and some company pay every week.

I totally got wrong information from the 1st representative. My husband started going to school from March 2014 and we had financial difficulty from that point and there is no way I delayed the application to April 2014 if I had known I could send one pay slip to apply.

I tried to find the person who spoke with me and gave me wrong information but I couldn't find her.

I truly need your reconsideration of your decision and \$600 is hugh (sic) amount for our family. Thank you for your time. I'm looking forward to hearing from you."

The appellant submitted a letter dated October 18th, 2013 (which should have read "2014") together with her *Notice of Appeal*. In her *Notice of Appeal* she stated that she disagreed with the Ministry's reconsideration decision because:

"The representative told me I must provide 2 pay slips and Child Care Subsidy Service Centre doesn't accep (sic) only 1 pay slip. Thurs, I waited for my 2nd pay slip and it caused that I sent application in April. I attach my letter for your reference."

The attached letter of October 18, 2014 read as follows:

"I'm writing to advise I received letter from Employment and Assistance Appeal Tribunal (see attached 1).

I am ready to go to next steps for a written hearing. As I've been insisting I got wrong information and direction form (sic) representative in Child Care Subsidy Centre and I cannot accept that I'm not eligible for Child Care Subsidy for the period between March 1, 2014 and March 31 2014.

Because representative asked me to wait until I get 2 pay slips as supporting documents I submitted it after the submission deadline. She also told me even though I applied Child Care Subsidy late I can get reimburse later on. For the detail explanation I attach the letter I sent to Child Care Subsidy Service Centre.

I tried to find the person who gave me wrong information and direction but Subsidy Service Centre said there is no recode (sic) for that. And, I really need the information. I believe someone may still get wrong information and wrong direction for the payslip and submission deadline as me.

Your reconsideration of my subsidy would be appreciated."

The panel finds that the appellant's statement in her Notice of Appeal and her attached letter go to argument (see Part F below).

The ministry provided a response dated November 4, 2014 that advised that the ministry would not provide a written submission as it is relying upon the reconsideration decision.

PART F – Reasons for Panel Decision

The issue in this appeal is whether the ministry reasonably denied the appellant's request for a Child Care Subsidy for March 1, 2014 to March 31, 2014 based upon section 13 of the Child Care Subsidy Regulation because it determined that the appellant's eligibility for the Child Care Subsidy began on April 1, 2014 because her application was signed and dated on April 14, 2014, and there was no evidence to establish that the ministry made an administrative error. Specifically, the issue is whether the ministry's decision is reasonably supported by the evidence, or is a reasonable application of the legislation in the circumstances of the appellant.

The relevant legislation is the following:

From the CCSA:

Child care subsidies

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

From the CCSR:

How to apply for a subsidy

- 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.

Will a subsidy be paid for child care provided before completion of the application?

- 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 appellant's submission claims that she was given incorrect information in a phone call to the ministry regarding the process for applying for the child care subsidy. No date for the phone call was given. She states that she delayed submitting her application for the child care subsidy because a ministry representative had told her that the application had to be accompanied by two pay slips. Since she had started work on March 10 she did not receive her second (biweekly) payslip until some time in early April. Consequently, she submitted the *Child Care Subsidy* application signed and dated

on April 14, 2014 and became eligible to receive the child care subsidy as of April 1, 2014. But the appellant claims in her letter of August 27, 2014 that she had “recently” contacted the ministry and was advised by another ministry worker that she should have submitted her application in March accompanied by the one pay slip she had received by that time. The appellant claims that she tried to find the ministry representative who had given her the wrong information but she was unable to find her.

While the appellant does not specifically say so, the inference is that she did not submit the application in March with the one payslip because of information provided during her phone call with the ministry and she otherwise would have submitted an application in March with one pay slip and that this would have resulted in her receiving the child care subsidy for the month of March 2014. Moreover, the appellant seems to be implying that the ministry made an administrative error in giving the appellant the wrong information. Section 13(2) of the CCSR states that a child care subsidy may be paid for child care provided in the 30 days before the parent completes the (*Child Care Subsidy*) application if an administrative error has been made.

In the Reconsideration Decision, the ministry noted that the appellant had a telephone conversation on April 30, 2014 with a ministry representative in which the appellant was advised that she was required to submit information regarding her spouse’s course confirmation and school schedule. In addition, ministry records showed that the appellant’s spouse had phoned the ministry on July 31, 2014 to inquire why the appellant had not received the child care subsidy for March 2014. The ministry did not specify any other recorded contacts with the appellant or her spouse. The ministry concluded that there was no evidence to establish that the ministry had made an administrative error, and that the appellant’s eligibility for the child care subsidy began on April 1, 2014 because her application was signed and dated on April 14, 2014 and submitted on April 22, 2014.

The panel’s decision

The panel notes that the appellant states in her letter of August 27, 2014 that she “Recently (I) realized that there is no subsidy for March 2014 . . .” The panel is unclear how the appellant had not realized this earlier since she also notes that the child care subsidy payment for March is a “huge (sic) amount for our family.” Moreover, the panel notes that the appellant has provided no information to substantiate her claim that she spoke with a ministry representative prior to April 1, 2014 regarding the pay slip documentation that was required with the *Child Care Subsidy* application – not the name of the ministry representative, the date of the call, or the phone number she called. As noted above, ministry records do detail two telephone conversations – one with the appellant and one with her spouse. But no other conversations between the appellant (or her spouse) and the ministry were noted by the ministry. Accordingly, the panel concluded that the ministry had reasonably determined that there was no evidence to establish that the ministry made an administrative error. Further, the panel concluded that the ministry reasonably determined that the appellant’s eligibility for the child care subsidy began on April 1, 2014 since the appellant’s *Child Care Subsidy* application was signed and dated on April 14, 2014 and CCSR section 13(1) specifies that the subsidy may be paid from the first day of the month in which the parent completes an application.

Having reviewed and considered all of the evidence and the relevant legislation, the panel finds that the ministry’s decision that the appellant was not eligible for the child care subsidy for March 2014 was a reasonable application of the legislation in the circumstances of the appellant.

APPFAI #

The panel therefore confirms the ministry decision.