

**PART C – Decision under Appeal**

The decision under appeal is the Ministry of Social Development and Social Innovation's (the ministry) reconsideration decision dated December 9, 2014 in which the ministry determined that the appellant was not eligible for a Child Care Subsidy for the period September 1, 2014- September 30, 2014 because her previous authorization for a child care subsidy expired August 31, 2014 and she did not submit her next application until October 16, 2014, which pursuant to Child Care Subsidy Regulation 13(1) limited her eligibility to the first day of the month in which her application was submitted.

**PART D – Relevant Legislation**

Child Care Subsidy Act Section 4  
Child Care Subsidy Regulation Sections 4 and 13

## PART E – Summary of Facts

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

- The appellant's Request for reconsideration (RFR) dated November 13, 2014 in which the appellant states:
  1. her application is always delayed because she is required to submit two recent pay slips with the application and she does not receive second pay slip until September 30<sup>th</sup> or early October;
  2. in the past, the application has been back dated to September and she was unaware that this practice has changed.
  3. this year there was a slight delay with the application due to the appellant's ill health;
  4. she cannot afford to pay for the full amount for child care as she relies on the subsidy;
  5. in the future she will send in the application in September or before and send the pay slips when she receives them.
- The appellant's application for Child Care Subsidy dated October 3, 2014 in which the appellant indicates she starts work on September 1, 2014 and requires child care for two children for two hours a day, five days a week.
- Pay slips dated September 15<sup>th</sup> and September 30, 2014.

In the Notice of Appeal (NOA) dated December 16, 2014 the appellant states that every year she applies in October when she has her pay slips and it has been treated by the ministry as retroactive back to September. She cannot afford to pay the childcare provider the subsidy portion for September, especially the special needs portion, and as a result she is afraid that she will lose her child care provider.

At the hearing the appellant stated that she has been receiving Child Care Subsidy for at least 3 or 4 years and she has always waited until the end of the month to submit the completed package. She further stated that, "Since reading the information more closely, I understand that the application needs to be signed in September for payment that month." She recalls in the past her child care provider has signed the application and dated it during the month of September.

At the hearing, the ministry stated that the appellant has been receiving Child Care Subsidy since 2010 and every application up until 2014 has been sent in signed and on time to receive the subsidy for the month in which it was submitted. Specific submission dates are:

- 2010: application expired in October, new application submitted and Child Care Subsidy started in November;
- 2011: application expired the end of October, new application submitted and Child Care Subsidy started in November;
- 2012: application submitted September 23<sup>rd</sup> and Child Care Subsidy started in September;
- 2013: application submitted September 20<sup>th</sup> and Child Care Subsidy started in September.

The ministry clarified that the appellant has been approved for Child Care Subsidy starting October 1, 2014.

## PART F – Reasons for Panel Decision

The issue on appeal is whether the ministry's determination that the appellant was not eligible for a child care subsidy from September 1 to September 30, 2014 was a reasonable application of the legislation in the circumstances because her previous authorization for a child care subsidy expired August 31, 2014 and she did not submit her next application until October 16, 2014, which pursuant to Child Care Subsidy Regulation 13(1) limited her eligibility to the first day of the month in which her application was submitted.

The applicable legislation is as follows:

CCS Regulation Sections 4(1) and (4) and Section 13

**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 dependent, 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.

(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.

**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 position is that she is required to submit her two most recent pay slips with her application for Child Care Subsidy and since she does not have two pay slips until the end of September, she cannot complete the application until then. However, she needs childcare for her two school aged children starting September 1<sup>st</sup> when she returns to work. The appellant has applied in October in the past and she has had Child Care Subsidy paid retroactively to cover September.

The ministry's position is that the appellant did not apply for Child Care Subsidy in September and is therefore not eligible for Child Care Subsidy for that month. The ministry provided information confirming that in the past the appellant had always received the child care subsidy for the month in which her application was submitted. The ministry also clarified that while there is some "leeway" with the dates that pay slips can be submitted there is no discretion to pay the subsidy before the first day of the month in which the parent submits the application.

The ministry states that since the appellant signed the current application for Child Care Subsidy on October 3, 2014 and it was received at the ministry on October 16, 2014 she is eligible to receive Child Care Subsidy from October 1, 2014.

#### *Panel Decision*

The appellant's Child Care Subsidy expired on August 31, 2014 and on October 3, 2014 the appellant signed and submitted an application for Child Care Subsidy. Section 4(4) of the CCS provides that a parent ceases to be eligible for a child care subsidy 12 months after the date of the application unless before that date the parent completes a new application under section 4(1). Although the appellant does not recall having sent the application in on time in the past, the ministry provided evidence that the appellant had for the past four years received the subsidy for the month in which she signed the application. By her own admission, the appellant states, "I understand now that it has to be signed in September." The panel finds that the appellant did not meet the timeline as set out in Section 4(4) of the CCS.

CCS regulation Section 13 (1) sets out that a child care subsidy may be paid from the first day of the month in which the parent completes an application. The appellant signed and submitted the application on October 3, 2014 and not in September 2014. The panel finds that the appellant was not eligible for the child care subsidy for the month of September 2014 because she did not comply with the legislated timelines provided in CCS regulation Section 13(1).

Section 13(2) of the CCS Regulation sets out that if an administrative error has been made a child care subsidy may be paid for child care in the thirty days before the application is made. The panel finds that there is no evidence of an administrative error in the circumstances of the appellant.

#### **Conclusion**

The panel finds that the ministry's determination that the appellant was not eligible for Child Care Subsidy for September 1, 2014- September 30, 2014 as set out in the Child Care Subsidy (CCS) Regulation Sections 4 and 13 is a reasonable application of the applicable legislation in the appellant's circumstances. The panel confirms the ministry's decision.