

### PART C – Decision under Appeal

The decision under appeal is the January 26, 2015 reconsideration decision of the Ministry of Children and Family Development (“the ministry”) in which the ministry determined that the appellant was not eligible for a child care subsidy (“CCS”) for the period June 1, 2014 – November 30, 2014 because her previous authorization for a CCS expired May 31, 2014 and her subsequent CCS application was not received by the ministry until December 4, 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 (CCSA), Section 4  
Child Care Subsidy Regulation (CCSR), Sections 4 and 13

## PART E – Summary of Facts

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

- CCS application form signed by the appellant on December 4, 2014;
- CCS child care arrangement form signed by the child care provider on December 3, 2014 and by the appellant on December 4, 2014;
- December 18, 2014 letter from the ministry to the appellant notifying the appellant that she was ineligible for CCS for the period June 1, 2014 – November 30, 2014;
- statement of earnings and deductions from the appellant's employer for pay periods ending October 9, October 23, November 6 and November 20, 2014;
- December 4, 2014 fax message from the appellant to the ministry informing the ministry that she began a new job on November 25, 2014;
- appellant's request for reconsideration dated January 13, 2015 in which the appellant stated the following:
  - she mailed a CCS application to the ministry during the first week of June 2014;
  - at the end of November 2014 she received a letter from her child's child care provider informing her that the child care provider had not received a CCS from the ministry since May 2014;
  - she immediately contacted the ministry and was informed that her CCS application had not been received;
  - throughout 2014 she was a working single parent and a student and required day care for her child;
  - she feels that if the ministry had received the CCS reapplication it would have been approved because it has always been approved in the past.

In her Notice of Appeal dated February 3, 2015 the appellant stated that she disagreed with the ministry's finding that no administrative error had occurred because:

- she submitted her CCS application at the end of May or beginning of June 2014;
- her child care provider did not inform her until late November 2014 that the CCS had ceased in May 2014;
- when the appellant called the ministry office a ministry worker told her that the application had obviously been misplaced or lost, and she was told to submit a new application;
- 2 of her 3 CCS applications had previously been approved, but the only one refused was the one that was misplaced by the ministry office, which is an administrative error.

### New Evidence at Hearing

At the hearing the appellant introduced her mother ("J") as a witness. J told the panel that she distinctly remembers that on May 16, 2014 she mailed a large envelope addressed to the ministry. J remembers the specific date because it was the Friday of the May long weekend and she and the appellant were departing on a weekend trip to another part of the province in the appellant's vehicle. J also stated that the appellant told her that it was important to mail the envelope that day because it contained the forms and documents necessary to reapply for CCS. In response to a question from the ministry representative J added that she was certain that the envelope contained sufficient postage, and that she is familiar with postage costs because she handles a lot of mail as part of her job responsibilities.

At the hearing the appellant clarified that although she stated that she mailed her CCS application during the first week of June in her request for reconsideration she now recalls that on May 16, 2014 J mailed the application for her while she was a passenger in the appellant's vehicle. She added that in July 2014 her child care provider contacted her to advise that she had not received a CCS for the appellant's child since May. The child care provider did not contact the appellant again regarding the non-payment of CCS by the ministry until November 2014. In reply to a question from the ministry representative the appellant admitted that she had not contacted the ministry regarding the unpaid CCS and had not followed up with the child care provider to ensure that the CCS was now being paid.

The ministry did not object to the admission of the new evidence given by J or the appellant.

The panel determined that the additional oral evidence of J was admissible under Section 22 (4) of the Employment and Assistance Act (EAA) as evidence in support of the information that was before the ministry at the time of reconsideration because J identified a precise date on which the appellant mailed the reapplication to the ministry in May 2014 and thereby corroborated the appellant's assertion that she mailed the application to the ministry in the spring of 2014. The panel also determined that the appellant's oral evidence was admissible under EAA Section 22 (4) because it revised the information before ministry at the time of reconsideration concerning the month in which she mailed the application and the month in which she first received notice from the child care provider that the CCS was not being paid.

At the hearing the ministry representative relied on the reconsideration decision, which determined that:

- pursuant to CCSR Section 4 (4) the appellant's eligibility for a CCS ended on May 31, 2014 which was 12 months after the date of her previous application;
- the appellant's eligibility for a CCS commenced December 1, 2014, the first day of the month in which the ministry received the appellant's completed application;
- there was no evidence to establish that an administrative error had been made by the ministry.

The ministry representative added that the ministry had no way of knowing that the appellant had applied for a CCS until her application was received by the ministry. She described the ministry's intake procedures for incoming mail: the envelope is opened, its contents date-stamped and recorded by the ministry worker, and then forwarded to the appropriate person or department.

## PART F – Reasons for Panel Decision

The issue before the panel is the reasonableness of the reconsideration decision dated January 26, 2015 in which the ministry determined that the appellant was not eligible for a child care subsidy (“CCS”) for the period June 1, 2014 - November 30, 2014 because her previous authorization for a CCS expired May 31, 2014 and her subsequent CCS application was not received by the ministry until December 4, 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 argues that she mailed her application for a CCS subsidy on May 16, 2014, that the envelope was properly addressed to the ministry and that it contained sufficient postage. She believes that after July 2014 it was the responsibility of the child care provider to inform her that CCS was no longer being paid by the ministry, and that she was under no obligation to pursue the non-payment of CCS with either the child care provider or the ministry. The appellant also argues that because Canada Post did not return her mailed reapplication an administrative error must have been made by the ministry, and pursuant to CCSR 13 (2) she should be paid a CCS from the ministry due to administrative error.

The ministry argues that pursuant to CCSR Section 4 (4) the appellant’s eligibility for a CCS ended on May 31, 2014 which was 12 months after the date of her previous application, and that the appellant’s eligibility for a CCS commenced December 1, 2014, the first day of the month in which the ministry received the appellant’s completed application. The ministry also argues that there was no evidence to establish that an administrative error had been made by the ministry.

*Panel Decision*

The appellant's CCS expired on May 31, 2014 and the ministry received an application for CCS dated December 4, 2014 from the appellant. Section 4(4) of the CCSR 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 mailed an application to the ministry on May 16, 2014 the application was not received by the ministry. By July 2014 the appellant knew or ought to have known that the ministry had ceased payment of the CCS to the child care provider, but the appellant failed to make further enquiries until the child care provider again contacted her in late November 2014. The panel therefore finds that the ministry reasonably determined that the appellant ceased to be eligible for a child care subsidy until December 1, 2014, the month in which the ministry received the appellant's completed application.

The panel also finds that the ministry reasonably determined that there was no evidence to establish that the ministry made an administrative error under CCSR Section 13 (2) that would result in payment of CCS in the 30 days before the appellant completed her application. It is possible for an item of mail to fail to reach its intended recipient and it is not reasonable to conclude that because the envelope was not returned to the appellant by Canada Post it must have been lost or misplaced by the ministry.

*Conclusion*

The panel finds that ministry's determination that the appellant was not eligible for a CCS for the period June 1, 2014 – November 30, 2014 because her authorization for CCS ended May 31, 2014 and her new application was received on December 4, 2014 was a reasonable application of the applicable application legislation in the appellant's circumstances. The panel also finds that the ministry reasonably determined that there is no evidence to establish that an administrative error was made by the ministry.

In conclusion, the panel confirms the ministry's reconsideration decision.