



PART C – Decision under Appeal

The decision under appeal is the Ministry of Children and Family Development (ministry) reconsideration decision dated September 29, 2015 which denied the appellant's request for a Child Care Subsidy for the period between June 1, 2015 and July 31, 2015 pursuant to the Child Care Subsidy Regulation (CCSR) sections 4 and 13 because her CCS application was not submitted until August 5, 2015.

PART D – Relevant Legislation

Child Care Subsidy Regulation (CCSR) – sections 4 and 13

PART E – Summary of Facts

The evidence before the ministry at the time of the reconsideration decision included:

1. Child Care Subsidy (CCS): Child Care Arrangement signed and dated May 11, 2015;
2. CCS: Medical Condition signed and dated July 27, 2015;
3. CCS: Application signed and dated August 4, 2015;
4. Pay stubs from May 1, 2015 through to July 15, 2015;
5. CCS: Application signed and dated May 30, 2015; and
6. Request for Reconsideration signed and dated September 14, 2015, which stated in part that she :
 - filled out her paperwork and paystubs and the daycare faxed on June 1, 2015;
 - called the ministry office a few weeks later and was advised to call back in a week or so because the ministry office was behind and not to resend the application or the process would be restarted;
 - she went to Service Canada to get more papers and sent them out;
 - found out 3 weeks later that the papers she sent on June 1, 2015 were the wrong ones and that the ministry only received half of the documents;
 - made multiple calls to the ministry and the office is familiar with the situation;
 - the ministry sent her the papers and she resent them the same day received;
 - has never been denied CCS, has always complied with the ministry's requests, she has 3 children and can barely afford to live;
 - spoke with her mom, a daycare worker for 25 years "and she had some problems with a couple faxes that were not received and no problems fixing that" and
 - found her original paperwork and included it in the reconsideration package.

In the Notice of Appeal, signed and dated October 5, 2015, she stated the daycare faxed the original papers but they were not the right ones and they took a month to receive. Then the correct ones were sent but they did not have the proper date.

At the hearing the appellant submitted a letter from the current daycare provided signed and dated October 21, 2015, which stated that the daycare had faxed the required subsidy documents on May 12, 2015. The ministry objected to the admissibility of this information because the CCS application that was submitted at the time of reconsideration was dated May 30, 2015 and therefore the subsidy application could not have been faxed on May 12, 2015.

Admissibility of New Information

The panel found that the letter dated October 21, 2015 provided additional detail or disclosed information that was in support of the issues addressed in the reconsideration; namely the date that various child care subsidy documents were sent to the ministry. Accordingly, the panel has admitted this new information as being in support of information and records that were before the ministry at the time of reconsideration, in accordance with s. 22(4) of the *Employment and Assistance Act*.

At the hearing the appellant stated that:

- she received the CCS renewal letter in either late April or early May 2015 but at that time she was trying to deal with returning to work after being off for 2 years due to a car accident and an up-coming court case regarding custody;
- due to the car accident the last 2 years have been very difficult and the CCS has made it possible for her to care for her 3 children, without CCS she cannot work;

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- during the application process she was in constant contact with the ministry and there should be a phone log and that she wants to see it;
 - she was advised by a ministry representative that the paper work sent in May 2015 by the daycare was not received but not to resend or it will restart the process from the new date;
 - there is no reason for the ministry to deny CCS as she qualifies financially and she has nothing to gain from intentionally delaying her application;
 - her previous daycare provider helped her complete the CCS paper work and she assumed that the new daycare provider had done the same;
 - her children began attending the new daycare in February 2015 and the new daycare dealt with all of the transfer papers;
 - the completed CCS forms were faxed by the daycare on May 12, 2015 and re-faxed from a local store on July 3, 2015 because the Ministry did not receive it;
 - the CCS application was completed again and sent again but she is not certain of the date and the May 30, 2015 date written on the application should probably have been June 30, 2015 instead;
 - all the faxes were sent from a local store and that she did not keep the receipts; and
 - she did not receive the July 25, 2015 letter from the ministry advising her to submit the missing information for her CCS but was told over the phone to resend the application and that the application would be back-dated.

The ministry relied on its reconsideration decision and added that:

- the CCS application is the most important part of the application process and the CCS starts from the month that the application is received and not when it is signed;
- the other pieces of this process, such as the arrangement forms or medical condition form, are documents that the ministry will wait for;
- in the case of the appellant the application was not received until August 5, 2015 so her CCS starts from that month and there is no proof that she sent the application prior to this date;
- on July 2, 2015 the appellant was advised over the phone to complete and send in the application. A letter stating the same was sent on July 25, 2015 and she was advised of this on the phone on July 25 as well. Had the appellant responded by sending in her application in July her CCS would have started from the month of July 2015;
- it is not common practice for a daycare provider to complete or send the application on behalf of the client. In this case the daycare provider submitted the form (arrangement form) that it was responsible for and it was received by the ministry on May 13, 2015;
- the medical condition form was received July 27, 2015 and the application was received August 5, 2015 therefore the CCS will start in the month of August;
- there is little flexibility in the legislation and the only exception is an administrative error made by the ministry. In this case there is not proof that the ministry made an administrative error and even if it did the legislation is clear that CCS can only be back-dated one month;
- the July 25, 2015 letter was sent to the same address that the renewal letter was sent to and the appellant did receive the renewal letter; and
- the appellant is not a first time applicant so the process should be familiar to her.

PART F – Reasons for Panel Decision

The issue on the appeal is whether the ministry's decision which denied the appellant's request for a Child Care Subsidy for the period between June 1, 2015 and July 31, 2015 pursuant to the Child Care Subsidy Regulation (CCSR) sections 4 and 13 because her CCS application was not submitted until August 5, 2015, is reasonably supported by the evidence or a reasonable application of the applicable enactment in the circumstances of the appellant.

The legislation states:

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.
- 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 Ministry's Position

The ministry's position is that pursuant to section 4(1) of the CCSR in order to be found eligible for CCS, a parent must complete an application in the form required by the ministry and supply the ministry with proof of eligibility for a child care subsidy. Pursuant to section 13(1), the CCS may be paid from the first day of the month in which the parent completes the application under section 4. In the case of the appellant, she failed to provide a complete application, that included a CCS application form with proof of eligibility for a child care subsidy, CCS medical condition form and CCS Child Care Arrangement form, until August 5, 2015, and there is no evidence that an administrative error was made by the ministry pursuant to section 13(2) of the CCSR. Since her previous CCS expired May 31, 2015 and pursuant to section 4(4) of the CCSR she ceases to be eligible for CCS from the month of June 2015, and her new application was received on August 5, 2015, the appellant

is only eligible for CCS from August 1, 2015 and not for June 2015 and July 2015. At the hearing, the ministry acknowledged that the completed CCS Child Care Arrangement form had been received from the daycare by the ministry on May 13, 2015

The Appellant's Position

The appellant's position is that her previous daycare provider helped her with the CCS application process and she assumed that the new daycare provider had done the same. The appellant argued that the October 21, 2015 letter from the daycare establishes that the required subsidy documents were faxed by the daycare on May 12, 2015. She was in constant contact with the ministry and was advised not to resubmit but wait for the back-log to clear up. Her application though dated May 30, 2015 was actually completed on June 30, 2015 and she should be eligible from June 2015.

Panel's Decision

Section 4 of the CCSR stipulates that to be eligible for a CCS a parent must complete an *application* in the form required by the minister, supply the ministry with proof of eligibility for a child care subsidy, and eligibility ceases 12 months after the date of the application unless a new application is submitted before that date. In the case of the appellant, her CCS expired on May 31, 2015. To be eligible for the next 12 months, her CCS application had to be submitted prior to or in the month of June 2015. The appellant argues that the application was submitted by the daycare provider on May 12, 2015. However, the ministry argued that only the CCS Arrangement form was received from the daycare provider on May 13, 2015, which is the form that the daycare provider is responsible for and not the CCS application which the appellant is responsible for.

The CCS application that the ministry did receive is dated August 4, 2015 and the facsimile stamp indicates 8 pages transmitted on August 5, 2015. A second CCS application that was before the ministry at the time of reconsideration is dated May 30, 2015, however the appellant now states that the date should be June 30, 2015 but stated in her request for reconsideration that the CCS "paperwork and paystubs" were faxed on June 1, 2015. The appellant has not provided evidence to demonstrate when the second application, which she states is the original application, was originally sent or faxed to the ministry. In the absence of evidence that the appellant supplied the ministry with the completed application and proof of eligibility for a child care subsidy prior to August 5, 2015, the panel finds that the ministry was reasonable to determine that the appellant's eligibility for CCS begins in August 2015 and that she is not eligible for the months of June and July of 2015 pursuant to section 4 of the CCSR.

Section 13 of the CCSR stipulates that the CCS application can be back-dated 30 days if an administrative error occurs. The panel finds that the evidence does not demonstrate that an administrative error has occurred in the case of the appellant. The panel finds that the ministry was reasonable to determine that an administrative error had not occurred pursuant to section 13 of the CCSR.

Conclusion

The panel finds that the ministry's decision, which concluded that the appellant was not eligible for a child care subsidy for the months of June and July 2015 pursuant to sections 4 and 13 of the CCSR, was a reasonable application of the applicable enactment in the appellant's circumstances and the panel confirms the decision.