



PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the “ministry”) reconsideration decision of November 24, 2015 wherein the ministry determined the appellant was not eligible for child care subsidy (“CCS”) for the period between April 1, 2015 and July 31, 2015 because the appellant did not meet the criteria set out in section 4(1)(a) of *Child Care Subsidy Regulation* (“CCSR”) until August 2015 by submitting a complete application form required by the minister.

Further, since no administrative error by the ministry had been determined, the child care provided in the 30 days before the appellant’s application could not be paid, as set out in section 13(2) in the CCSR legislation.

PART D – Relevant Legislation

CCSR – 4, 13

PART E – Summary of Facts

The evidence before the ministry at the time of reconsideration:

- Child Care Subsidy Child Care Arrangement (“CCSCCA”), Form CF2798, signed by the appellant on June 6, 2015 and signed by the Child Care Provider on August 26, 2015.
- Child Care Subsidy Application (“Application”), Form 2900, signed by the appellant on August 27, 2015;
- Application, signed by the appellant on September 14, 2015;
- Letter from the ministry to appellant dated October 15, 2015 stating that the appellant is eligible for CCS for the period between August 1, 2015 and July 31, 2016. The ministry determined the appellant’s application was completed on August 27, 2015 and therefore she was only eligible for CCS from August 1, 2015.
- Request for Reconsideration dated October 30, 2015.

The following is a summary of the process of the appellant’s renewal application:

- On May 7, 2015 the Child Care Subsidy Service Center (“CCSSC”) received a CCSCA form, CF2798, signed and dated June 6, 2015.
- On June 9, 2015 the CCSSC advised the appellant the center was unable to process her application and that she was required to submit a completed Application along with two most recent pay stubs and a CF2044 so the ministry could process her renewal application.
- On June 10, 2015 the ministry advised CCSSC that no further CF2044 would be forthcoming. The CCSSC still required the appellant to submit the completed Application and two most recent pay stubs to process her renewal.
- On July 3 the appellant inquired with CCSSC about the status of her application for renewal. She confirmed that she had submitted a completed Application and two paystubs to the ministry two weeks previously.
- On June 22, 2015 CCSSC received a copies of the appellant’s pay stubs, however, in a letter sent to the appellant by the ministry, the appellant was advised the ministry still required her to submit a completed Application.
- On September 28, 2015 the CCSSC received, by fax, the appellant’s completed Application, Form 2900, signed and dated on August 27, 2015.

The appellant had been receiving CCS for her child and that authorization ended on March 31, 2015. The ministry determined the appellant was not eligible for CCS between April 1, 2015 and July 31, 2015 because the application that she submitted on May 7, 2015 was incomplete and the ministry did not receive the completed application, which was signed and dated on August 27, 2015, until September 28, 2015.

On appeal, the appellant submitted the following documents to the Tribunal which were disseminated to the panel and the ministry.

1. Release of Information (ROI) authorizing a representative to be present on behalf of the appellant and to speak and make decisions on her behalf.
2. CCSCCA form signed by the appellant and the child care provider on November 26, 2014.
3. Letter from Child Care Provider to appellant dated August 21, 2015.
4. A single page of Case notes by a social worker titled Progress Note” in name of appellant’s child which are dated December 3 , 2014 and February 10, 2015, respectively.

The ministry stated the documents are not relevant to the issue under appeal but did not object to the

panel receiving them consideration.

The appellant was not in attendance and since the ROI, listed as #1 above, provided the authority for the advocate to represent the appellant at the hearing, the hearing proceeded.

The panel finds the documents, 2, 3, and 4 listed above, are not related to the issue under appeal and do not support the record and information that was before the ministry at the time the Reconsideration decision was made. Therefore the panel finds the documents are not admissible as evidence under section 22(4) of the *Employment and Assistance Act*.

At the hearing the advocate stated that in reference to section 4(4) CCSR, the appellant ceases to be eligible for the CCS on the date that is 12 months after the date of the application and her last application was dated November 26, 2014. He stated that she changed the child care provider and submitted a new application in January 2015. The advocate stated that the appellant thought she had sent in the proper documents and he questioned why the Form 2798 was not adequate for the CCS approval. The advocate stated, it was his understanding, that the appellant submitted the Application form with the pay stubs requested by the ministry. The advocate also stated that it seems the day care providers cannot be relied upon to submit the Forms the ministry requires.

The ministry relied on the facts stated in the Reconsideration decision. In response to a question from the panel the ministry advised the appellant had been in receipt of a CCS since 2012.

Admissibility of additional oral information:

The oral statement(s) from the advocate and the ministry tended to reiterate, corroborate or support the information that had been before the ministry at reconsideration. The panel admitted these statements as being oral testimony in support, in accordance with section 22(4) of the *Employment and Assistance Act*.

PART F – Reasons for Panel Decision

The issue under appeal is the reasonableness of the ministry's reconsideration of November 24, 2015 wherein the ministry determined the appellant was not eligible for CCS for the period between April 1, 2015 and July 31, 2015 because the appellant did not meet the criteria set out in section 4(1)(a) CCSR until August 2015 by submitting a complete application form required by the minister.

Further, since no administrative error by the ministry had been determined, the child care provided in the 30 days before the appellant's application could not be paid, as set out in section 13(2) in the CCSR legislation.

The legislation considered: CCSR

How to apply for a subsidy

Section 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?

Section 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 is that on May 7, 2015 the CCSSC received the appellant's application for CCS and that on June 9, 2015 the CCSSC sent the appellant a letter advising her that her application could not be processed and that she needed to submit a completed CCS application. The ministry argued that appellant did not submit (fax) her completed application for a CCS until September 28, 2015; that the application was signed and dated August 27, 2015.

The ministry argued that although the appellant may have submitted a Form 2798 (Child Care Subsidy Child Care Arrangement) advising of a change in her child care provider the only application form that is accepted by the ministry for a CCS is a CCS application, Form 2900. The ministry argued there is no evidence/information on file that the appellant submitted a completed Application when the CCSSC received copies of her pay stubs on June 22, 2015. The ministry argued that the responsibility rests with the applicant (appellant) to ensure all the proper documentation is submitted to the ministry on time so that the ministry can make an informed decision. The ministry argued that the legislation governing CCS is very clear and the appellant's previous application for CCS expired

on March 31, 2015 and the ministry did not receive a completed application until September 28, 2015.

The appellant's position is that she thought she had submitted all the forms the ministry needed to approve her application for a CCS. The advocate argued that the ministry requires numerous forms to be submitted which obviously lead to some confusion and the benefit of the doubt, in this case, should be given to the appellant since she had submitted the Child Care Subsidy Child Care Arrangement (CCSCCA) Form 2798 dated June 6, 2015. The advocate requested that the ministry and the panel exercise some compassion and if there is a finding that the appellant did not submit the required Form in time that the appellant be paid at least ½ the difference that was not approved (2 months) and be paid from June 1, 2015 because she is out of pocket for those expenses.

Panel Decision

The evidence before the panel supports the ministry's position. There is no evidence before the panel that the appellant had submitted a completed application before her Application dated August 27, 2015 was received by CCSSC. Also there is no evidence before the panel that the ministry received or that the appellant submitted another Application with her pay stubs in June 2015. The evidence is that the pay stubs were received by CCSSC but not a completed Application. The panel understands and sympathizes with the appellant that there may be a number of different forms that need to be submitted for different approvals but panel finds the onus is upon the applicant to ensure all the proper documentation is submitted to the ministry, within the timelines required by the legislation, so the ministry can make an informed decision. The evidence is that the appellant was in receipt of a CCS since 2012 and therefore should be familiar with the CCS application process.

Therefore, based on the evidence, the panel finds that the ministry's decision to determine the appellant was not eligible for a CCS subsidy between April 1, 2015 and July 31, 2015 was reasonable because section 13(1) of the CCSR provides that a CCS for a child may be paid from the 1st day of the month in which the parent completes the application which was not until August 2015.

In reference to Section 13(2) CCSR – child care provided in the 30 days before the appellant's application.

The evidence is that the appellant was informed on June 9, 2015 that her application for a CCS could not be processed until a completed application was received. The evidence is that her application for a CCS, which was dated August 27, 2015, was not received by CCSSC until September 27, 2015. The panel finds the ministry did not make an administrative error in processing the appellant's CCS application and therefore the appellant is not entitled to a CCS prior to August 1, 2015.

The panel finds the ministry's decision to provide the appellant a CCS commencing August 1, 2015 was reasonable.

The panel finds that the ministry's decision is supported by the evidence and confirms the decision pursuant to section 24(1)(a) and section 24(2)(a) of the Employment and Assistance Act.