

PART C – Decision under Appeal

The decision under appeal is the Ministry of Children and Family Development (the ministry) reconsideration decision dated December 14, 2015, which found that the appellant was not eligible for child care subsidy for the period from April 1, 2015 to May 31, 2015 because her application was submitted on June 12, 2015 and her eligibility began on June 1, 2015, pursuant to Sections 4 and 13 of the *Child Care Subsidy Regulation* (CCSR).

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) Undated letter in which the appellant wrote that:
 - She registered their child in day care since April 17, 2015 and she has been informed that her eligibility for the child care subsidy was confirmed since June 5, 2015.
 - She is concerned regarding the day care fee for the period between April 2015 and May 31, 2015.
 - Her husband explained on the phone that the first day they arrived in Canada they had a motor vehicle accident (MVA). Her shoulder and back were injured and her husband's neck was fractured.
 - During this time, they were not able to take care of their child because of their health conditions related to the accident.
 - They spent much of their time attending physical therapy sessions, visiting the hospital, family doctor, and looking for medicine.
 - With no health care coverage, they spent lots of money to cover their family health expenses. They were facing many difficulties and stress.
 - She started work and also participated in English classes.
 - They had many barriers, being unfamiliar with the system and with low English skills, which significantly added to their stress.
- 2) One page of 2-page Employment Plan dated March 9, 2015 for the appellant;
- 3) Child Care Subsidy, Child Care Arrangement form signed by the child care provider on April 20, 2015 and signed by the appellant on June 4, 2015;
- 4) Child Care Subsidy, Medical Condition form dated April 23, 2015 indicating the child's father is unable to care for the child for the next 6 months;
- 5) Prescription dated April 23, 2015 for the child's father for a referral to a psychologist;
- 6) Prescription dated May 13, 2015 for the appellant for PT [physiotherapy] for mid back sprain;
- 7) Receipts issued by the day care to the child's father for a total of \$286 in April 2015 and \$460 for May 2015;
- 8) Letter dated June 3, 2015 confirming the appellant's part-time employment since April 2015;
- 9) Child Care Subsidy Application signed by the appellant and the child's father on June 5, 2015;
- 10) Undated note in which a Kinesiologist wrote that the child's father has been engaging in active rehab sessions three times per week since August 16, 2015 and he is still in a lot of pain;
- 11) Work Schedules for the child's father for September and October 2015;
- 12) Pay Statements dated September 3 and 17, 2015 for the child's father;
- 13) Letter dated October 2, 2015 in which a college representative confirmed that the appellant is currently attending workplace language instruction;
- 14) Letter dated October 13, 2015 in which the appellant's case manager confirmed that she is receiving employment services and is registered for workshops;
- 15) Prescriptions dated October 14, 2015 for the appellant for rehab and home assistance for 2 months;
- 16) Prescription dated October 14, 2015 for the child's father for PT and RMT [Registered Massage Therapy], rehab for 2 months and a gym membership for 3 months;
- 17) Letter dated November 10, 2015 to the appellant in which the ministry wrote that the ministry found she is eligible for the child care subsidy for the period from June 1, 2015 to October 31, 2015; and,
- 18) Request for Reconsideration dated November 29, 2015 with attached explanation letter.

In her letter attached to the Request for Reconsideration, the appellant wrote that:

- Under Section 13(2) of the CCSR, if there is undue delay in scheduling the appointment for application, a child care subsidy may be paid for child care provided in the 30 days before the parent completes an application under section 4.
- Factors that show there was undue delay in their case include: they had the shock of a terrible accident that occurred on the first day in Canada, she had to take care of a child who was also involved in the accident, she was supposed to look after her husband with his injury, she had to do household activities and find doctors and book appointment for herself and her family, she attended English language classes, she worked to pay expenses including medical coverage, she followed up regarding her ICBC case, she dropped off and picked up her child from day care, and she had to get documents together for the ministry without the use of a vehicle.

In her Notice of Appeal dated December 22, 2015, the appellant expressed her disagreement with the ministry's reconsideration decision and wrote that they are newcomers to Canada and are not familiar with the rules and regulations. They had a terrible accident upon arrival in Canada and both she and her husband were injured. They could not take care of their child and registered her in daycare in April 2015 but did not receive a subsidy for April and May 2015.

At the hearing the appellant's husband stated that:

- The first day they arrived in Canada, they were in an accident, which was one year ago.
- A CT Scan of his neck showed that the C-5 disc was fractured and the appellant had bruising on her body. He had to wear a collar on his neck and could not help with shopping or taking care of their child during that time. Their child was also in the accident.
- They had to pay for all their medical expenses out of pocket.
- There were many other difficulties such as finding a place to live. They were staying with friends but they were asked to leave after 3 days because their child was screaming.
- They moved to an apartment that was above the market rent but they had no choice.
- They attend workshops for newcomers to Canada.
- They did not have a family doctor. It was a problem to gather the needed information.
- The appellant found a job and took courses to learn English.
- They were advised that they could register their child in day care and receive a subsidy but their child did not want to go to day care and it took a long time for her to relax and settle in.
- The manager at the day care told them that they could apply for a subsidy and directed them to the website to print an application. No one told them about a time frame or deadline or suggested they could register and gather the information later. They had trouble reading the documents and got help from a community service for new comers to Canada.
- He is still recovering and going to PT and seeing the family doctor.
- The ministry wrote a letter to them and said that if there is undue delay in scheduling the appointment for an application the child care subsidy can be paid prior to the date of the application.

The ministry relied on its reconsideration decision, as summarized at the hearing. The ministry clarified that an undue delay by the ministry in scheduling an appointment to receive an application may be seen as an administrative error but not delay by the applicant in submitting the application. The ministry stated that the completed application form must be provided and then the ministry will wait for further supporting information.

PART F – Reasons for Panel Decision

The issue on the appeal is whether the ministry's decision, which found that the appellant was not eligible for child care subsidy for the period from April 1, 2015 to May 31, 2015 because her application was submitted on June 12, 2015 and her eligibility began on June 1, 2015, was reasonably supported by the evidence or a reasonable application of the applicable enactment in the circumstances of the appellant.

Section 4 of the *Child Care Subsidy Regulation* (CCSR), provides:

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.

Section 13 of the CCSR, provides:

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.

Ministry's Position

The ministry's position is that that the appellant was not eligible for child care subsidy for the period from April 1, 2015 to May 31, 2015 because her application was submitted on June 12, 2015 and her eligibility began on June 1, 2015 pursuant to Sections 4 and 13 of the CCSR. The ministry argued that pursuant to section 4(1) of the CCSR in order to be eligible for a child care subsidy, 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) of the CCSR, the child care subsidy 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 completed an application on June 5, 2015 and is, therefore, eligible from the first day of June 2015. The ministry argued that there is no evidence that an administrative error was made by the ministry pursuant to section 13(2) of the CCSR.

Appellant's position

The appellant's position is that they were told by the ministry that if there is undue delay in scheduling the appointment for an application, 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 argued that there were many factors that show there was reason for undue delay in their case including: they had the shock of a terrible accident that occurred on the first day in Canada, the appellant had to take care of a child and look after her husband with his injury, do the household activities, find doctors and book

appointments for her family, attend English language classes, work to pay expenses, follow up regarding her ICBC case, drop off and pick up her child from day care, and she had to get documents together for the ministry without the use of a vehicle.

Panel decision

Section 4 of the CCSR stipulates that to be eligible for a child care subsidy 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. The appellant does not dispute that her child care subsidy application form was completed on June 5, 2015, and the panel finds that the ministry reasonably determined that the child care subsidy may be paid from June 1, 2015, as the first day of the month in which the parent completed an application, pursuant to Section 13(1) of the CCSR.

The appellant argued that Section 13(2) of the CCSR applies to their situation as the ministry wrote in a letter to them that if there is undue delay in scheduling the appointment for an application, the child care subsidy can be paid prior to the date of the application. The ministry clarified at the hearing that Section 13(2) of the CCSR requires an administrative error to have been made by the ministry in order for the child care subsidy to be paid 30 days before the parent completes an application. The ministry stated that if the ministry caused an undue delay in scheduling an appointment for the purposes of submitting an application, that may be considered an administrative error by the ministry, but Section 13(2) of the CCSR does not cover the situation of undue delay by the parent. While the appellant explained that her family was under stress and faced many barriers, and she was very busy with her many responsibilities when she registered their child in the day care in April 2015, she also stated that the manager of the day care told them about the subsidy program and directed them to the website to print the application form, and the child care provider signed the Child Care Arrangement form on April 20, 2015. The panel finds that the ministry reasonably interpreted Section 13(2) of the CCSR to address administrative errors made by the ministry and that the appellant's delay in completing the application, although understandable, does not constitute an administrative error by the ministry.

Conclusion

The panel finds that the ministry's decision, which concluded that the appellant was not eligible for child care subsidy for the period from April 1, 2015 to May 31, 2015 because her application was submitted on June 12, 2015 and her eligibility began on June 1, 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.