



PART C – Decision under Appeal

The decision under appeal is the Ministry of Children and Family Development (Ministry) Reconsideration Decision dated February 9, 2016, which denied the Appellant's request for the Child Care Subsidy (CCS) for the period between September 8 and October 31, 2015. The Ministry found that the Appellant completed the application for the CCS on November 4, 2015; therefore her eligibility for the CCS began on November 1, in accordance with section 13(1) of the Child Care Subsidy Regulation.

PART D – Relevant Legislation

Child Care Subsidy Act (CCSA) section 4

Child Care Subsidy Regulation (CCSR) sections 4, 13

PART E – Summary of Facts

Information before the minister at reconsideration included:

- The Ministry's letter to the Appellant dated January 5, 2016, advising her of their decision.
- A copy of a facsimile cover sheet from the Appellant to the Ministry dated December 3, 2015, stating "Sorry very late. I hope it will all be OK. Thank you. Attached are pay stubs from September to November 2015."
- A copy of a note from the Appellant To Whom It May Concern, dated November 30, 2015, stating "I am very sorry for the delay. I could not print out the pay stubs, needed new password, and there was a change in location, I was on sick leave, and then there was problem with increase in hours and getting paid for the extra hours," with page 4 "Declaration" of the CCS application form, signed and dated November 20, 2015 and pay stubs in the Appellant's name for the period August 29 to November 20, 2015.
- The Appellant's CCS Child Care Arrangement form signed by the Appellant December 5, 2015.
- The Appellant's CCS Application, signed November 20, 2015.
- The Appellant's Request for Reconsideration, signed January 20, 2016, with the Appellant's note stating that she has been receiving CCS for 8 years and always needs to wait until she receives her pay stubs to submit the application. This year she had to wait.
- A letter from the Appellant's physician dated January 21, 2016 stating that the Appellant was going through personal illness/stress and as a result missed the due date to submit the childcare subsidy form.

At the hearing, the Appellant stated that she is hoping for extenuating circumstances. She stated that she has never had a problem with the CCS application before, however because she works for a school board and she did not work in July and August, she had to wait until September for her pay stubs, and then had difficulty accessing her employer's computer system. She stated that she was on pay in September, but she had been told to go on sick leave while a position was found for her. She stated that she submitted her application when she received the pay stubs in November. In response to questions from the Ministry, the Appellant stated that she could not remember whether she told the Ministry she was having problems obtaining the pay stubs or whether she had ever been told by the Ministry that an application would not be accepted without pay stubs, although she may have been told that in the past. In response to questions from the Panel, the Appellant stated that she did not tell the Ministry she was suffering from stress and had problems completing the application prior to applying or that she was told to go on stress leave by her employer until a position could be found for her.

The Ministry responded that s. 4(1) of the CCSR refers to eligibility for CCS and s. 13 refers to when it will be paid.

PART F – Reasons for Panel Decision

The issue in this appeal is the reasonableness of the Ministry decision which denied the Appellant's request for the Child Care Subsidy (CCS) for the period between September 8 and October 31, 2015. The Ministry found that the Appellant completed the application for the CCS on November 4, 2015; therefore her eligibility for the CCS began on November 1, in accordance with section 13(1) of the Child Care Subsidy Regulation.

Legislation

CCSA

Child care subsidies

4 Subject to the regulations, the minister may pay child care subsidies.

CCSR

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.

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.

The Appellant's position is that she is aware that her application was submitted late, but she asks for an exception due to extenuating circumstances.

The Ministry position is that the Appellant's application was paid from the first day of the month in which it was completed, and the legislation does not contain any provision for exceptions. The Ministry stated that there was no administrative error, as provided for in s. 13(2) CCSR and there is no provision for exceptions in the legislation. The Ministry noted that s. 4 CCSR lists the requirements for applying for a CCS, but it does not

mention pay stubs, which could have been provided after a signed application was submitted. The Ministry stated that the Appellant submitted part of an application for CCS on December 3, 2015 which had been signed on November 4. Subsequently a letter was sent to the Appellant requesting the missing information which was received in December, but the effective date of the application was November 1, the first day of the month in which the application was received.

The Panel considered the Appellant's argument that she submitted her application for CCS late because she was unable to obtain pay stubs from her employer due to an inability to access the employer's computer system and the effect of her sick leave. The Panel notes that the Appellant submitted an incomplete application for CCS in early December, 2015 that was dated November 4 and did not submit her pay stubs until late December. The Appellant did not, in fact, wait until she had her pay stubs to submit an application for CCS. With respect to the Appellant's argument that she was on sick leave, she stated in the hearing that she was told to go on sick leave by her employer while she waited for a position to be found, and she subsequently returned to work. The evidence provided is not sufficient to demonstrate that the Appellant was unable to submit an application for CCS within the period necessary to continue the subsidy.

Section 13(1) CCSR states that a child care subsidy may be paid from the first day of the month in which the parent completes an application under section 4 of the Regulation. There is no provision for an application to be backdated. The Panel finds that the Ministry reasonably applied the applicable legislation in the circumstances of the Appellant and that the Ministry decision was reasonably supported by the evidence.

The Panel therefore confirms the Ministry decision.