



PART C – Decision under Appeal

The decision under appeal is the Ministry of Children and Family Development (ministry) reconsideration decision dated March 30, 2016 which denied the appellant's request for a Child Care Subsidy pursuant to the Child Care Subsidy Regulation (CCSR) sections 7, 8, 9 and 10 because the family unit's monthly income exceeds the child's income threshold as set out in legislation.

PART D – Relevant Legislation

Child Care Subsidy Regulation (CCSR) – sections 7, 8, 9 and 10.

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 December 29, 2015;
2. CCS: Application signed and dated January 18, 2016;
3. 2-page illegible pay period time record;
4. 2-pages of largely illegible pay stubs that show \$1644.48 income for January 01 – January 15, 2016 and \$1644.48 income for January 16- January 31, 2016 ;
5. Residential lease agreement signed and dated August 27, 2014 by the appellant and with no signature from the landlord; and
6. Request for Reconsideration (RFR) signed but not dated, which states in part that:
 - His child receives child care in his home in addition to the daycare and that this has not been considered by the ministry;
 - His pay is not enough to cover the costs of daycare and rent, utilities, cell phone and cable;
 - Rent and utilities are factors and should be considered when deciding eligibility for subsidies; and
 - Each family circumstance must be considered on an individual basis.

A Notice of Appeal signed and dated April 9, 2016, which states in part:

- He cannot afford to continue daycare without subsidy;
- It is important for his child to be in a social environment; and
- Due to the conflict between his work schedule and the hours of operation for the daycare, it is necessary for his child to receive in home care from family as well and this is also at a cost for which he has receipts.

Prior to the hearing the appellant submitted 2 receipts, which are signed, for child care payments:

- The first receipts is for \$4200.00 for in-home child care for 2015 (Jan-Dec) at \$350 per month;
- The second is for \$1040.00 for in-home child care from January 2016 for 17 full days = \$340.00, February 2016 for 17 full days = \$340.00, March 2016 for 18 full days for \$360.00.

At the hearing the appellant stated:

- He understands that legislation sets out how much money can be given for CCS, however he still needs it regardless of his income because daycare is not affordable;
- He cannot get out of his lease because he is in a rent-to-own lease for 15 years therefore cannot reduce his living expenses;
- Currently he has managed to care for his child through the licensed daycare, in-home care and baby sitter once per week at \$30 per day but his child needs consistency and socialization;
- When his child attends daycare fulltime next year the cost increases by \$1000;
- The ministry has not considered that living expenses in the area he lives in are much higher;
- His expenses exceed his income and the ministry must consider this; and
- If his child does not attend a proper daycare it will bad for his child's early education.

At the hearing the ministry relied on its reconsideration decision and added:

- The legislation sets out how much CCS individuals are eligible for. If a shortfall occurs, it's up to the recipient to make up the difference not the ministry;
- In the case of the appellant, he makes too much money to even be considered for a CCS;
- Pursuant to legislation, additional household expense are not taken into consideration just income; and
- To calculate the appellant's eligibility, the maximum rate for a licensed daycare that his child would be eligible for, according to age and need, was considered. The appellant's in-home daycare costs were not considered, however, the rate for unlicensed daycare is less than that of a licensed daycare. Even when the appellant's in-home daycare cost and licensed daycare costs are considered, he still is not eligible for CCS because his income is too high.

Admissibility of New Information

The panel found that the 2 receipts for in-home child care payments provided additional detail or disclosed information that was in support of the information addressed in the reconsideration. Specifically, in his RFR the appellant stated that he pays for in-home daycare. 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*.

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 pursuant to the Child Care Subsidy Regulation (CCSR) sections 7, 8, 9 and 10 because the family unit's monthly income exceeds the child's income threshold as set out in legislation, is reasonably supported by the evidence or a reasonable application of the applicable enactment in the circumstances of the appellant.

The legislation states:

Income test

7 (1) An applicant is not eligible for a child care subsidy for a child receiving a type of child care if

- (a) the family's monthly net income exceeds the child's threshold, and
- (b) the result of the calculation under section 8 (2) for the child is not more than zero.

(2) Subsection (1) does not apply to an applicant if the child care is for a child

- (a) in relation to whom the applicant has entered into an agreement with a director under section 8 of the *Child, Family and Community Service Act*,
- (b) in relation to whom the applicant, by agreement under section 94 of the *Child, Family and Community Service Act*, exercises a director's rights or carries out a director's responsibilities,
- (c) of whom the applicant has interim or temporary custody under an order of the court under section 35 (2) (d), 41 (1) (b), 42.2 (4) (c), 49 (7) (b) or 54.01 (9) (b) of the *Child, Family and Community Service Act*,
- (c.1) of whom the applicant has been permanently transferred custody under an order of the court under section 54.01 (5) or 54.1 (3) of the *Child, Family and Community Service Act*,
- (d) of whom the applicant has custody under an order of the court under section 42.2 (4) (a) of the *Child, Family and Community Service Act*, if the applicant is the other person referred to in section 42.2 (4) (a) (i),
- (e) who is receiving assistance under the authority of the Child in the Home of a Relative Program Transition Regulation, B.C. Reg. 48/2010, and the applicant is the relative with whom that child resides, or
- (f) who is receiving assistance under a program, similar in nature to the program referred to in paragraph (e), provided
 - (i) on a reserve, within the meaning of the *Indian Act* (Canada), by the government of Canada, or

(ii) by the Nisga'a Nation or a treaty first nation

Amount of subsidy

8 (1) If a family's monthly net income does not exceed a child's threshold, the amount of child care subsidy for the child in respect of a type of child care is the amount set out in Schedule A or the parent fee, whichever is less, for the type of child care.

(1.1) If a parent is eligible for a subsidy for more than one type of child care set out in Schedule A, the minister may determine which subsidy rate applies.

(2) If a family's monthly net income exceeds a child's threshold, the amount of child care subsidy for the child in respect of a type of child care is

$$A - B$$

where

A = the amount set out in Schedule A or the parent fee, whichever is less, for the type of child care;

B = the amount of A for the child, divided by the sum of the amounts of A for all children in the family receiving child care described in section 2, multiplied by 50% of the amount by which the family's monthly net income exceeds the child's threshold.

(2.1) Repealed. [B.C. Reg. 388/2004.]

(2.2) The child care subsidy for a child described in section 7 (2) is the amount set out in Schedule A or the parent fee, whichever is less, for the type of child care the child is receiving.

(3) If child care is required for less than 20 days per month, the child care subsidy will be prorated based on the daily rate set out in Schedule A or the daily parent fee, whichever is less.

(4) If the child care is

(a) arranged or recommended by staff delegated under the *Child, Family and Community Service Act*, after staff have

(i) offered support services or agreements to the child and family under section 16

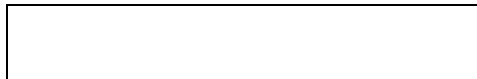
(2) (a) of that Act,

(i.1) commenced an assessment under section 16 (2) (b.1) of that Act, or

(ii) commenced an investigation under section 16 (2) (c) of that Act, or

(b) provided through a Young Parent Program, and the child care provider operating the Young Parent Program confirms, in the form and manner specified by the minister, that the parent is participating in the Young Parent Program,

the minister may pay any increase in the amount of the child care subsidy that the minister considers



necessary to ensure that the child care is provided.

(5) In this section, "**parent fee**" means the payment made by the parent for a child care space

How monthly net income is calculated

9 (1) The monthly net income of a family is calculated by adding the income that each person in the family receives per month, including, but not limited to, the following:

(a) employment income;

How child's threshold is calculated

10 (1) The threshold income level for a child receiving a type of child care is calculated by adding

(a) the base threshold income level applicable under subsection (2) for the child's family, and

(b) the amounts applicable to the child under subsection (3).

(2) The base threshold income level for a child's family is the amount set out in Column 2 opposite the family's size in Column 1:

Column 1 Family Size	Column 2 Base Threshold Income Level
2 persons	\$1 082
3 persons	\$1 275
4 persons	\$1 418
5 persons	\$1 571
6 persons	\$1 704
7 persons	\$1 837
8 persons	\$1 960
9 persons	\$2 083
10 persons	\$2 206
more than 10 persons	\$2 206 for the first 10 plus \$123 for each additional person

(3) The base threshold income level for a child is increased as follows:

(a) by \$125 per month for each person in the child's family who

(i) is a child with special needs,

(ii) is a person with disabilities, or

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- (iii) has reached 65 years of age;
 - (b) by \$515 per month for a child who
 - (i) has not reached school age and is receiving child care
 - (A) in a licence-not-required child care setting, or
 - (B) in the child's own home as described in section 2 (c), or
 - (ii) is of school age and is receiving child care in any child care setting;
 - (c) by \$1 500 per month if the child has not reached school age and is receiving child care
 - (i) in a licensed child care setting, or
 - (ii) in a registered licence-not-required child care setting;
 - (c.1) Repealed. [B.C. Reg. 145/2011, s. 3 (d).]
 - (d) by \$100 per month if the child
 - (i) is a child with special needs, and
 - (ii) receives a type of child care described in section 2.

The Appellant's Position

The appellant argues that his income is not enough to manage daily living expenses plus daycare for his child, and that the ministry should consider a family's other expenses such as rent, utilities, phone and cable when determining eligibility for CCS. He also argues the absence of daycare is bad for his child's early education and socialization.

The Ministry's Position

The ministry argues that the appellant's monthly income exceeds the child's income threshold of \$1597 while his child attends in-home care and the appellant's monthly income exceeds the child's income threshold of \$2582 while his child attends care in a licensed facility. Therefore, pursuant to section 7 for the CCSR, he is not eligible for a CCS. The ministry also argues that income thresholds are set in legislation, which means that the ministry does not have any discretion to grant CCS if an applicant's income is higher than regulations permit.

The Panel's Decision

Section 7 of the CCSR states that an applicant is not eligible for CCS for a child receiving a type of child care if the family's monthly net income exceeds that child's threshold. The appellant argues that despite his income, he cannot afford daily living expenses, such as rent, utilities, food, cable and phone, and the cost of daycare for his child. The ministry argues that to be eligible for CCS, one's income cannot exceed the threshold amount. In the case of the appellant it is either \$1597 for in-home care or \$2582 for care in a licensed facility. The appellant does not refute that his income exceeds both the in-home care and licensed facility care threshold. The panel finds that the ministry

reasonably determined that the evidence establishes that the appellant's income exceeds the child's income threshold as set out in legislation and therefore, pursuant to section 7 of the CCSR, he is not eligible for a CCS.

Conclusion

The panel finds that the ministry's reconsideration decision, which concluded that the appellant was not eligible for a child care subsidy pursuant to sections 7, 8, 9 and 10 of the CCSR, was a reasonable application of the applicable enactment in the appellant's circumstances and confirms the decision.