



PART C – Decision under Appeal

The decision under appeal is the reconsideration decision dated August 30, 2016 made by the Ministry of Children and Family Development (the ministry) which determined that the appellant does not qualify to receive the Child Care Subsidy (CCS) retroactively to December 2015 in accordance with sections 4 and 13 of the *Child Care Subsidy Regulation (CCSR)*.

PART D – Relevant Legislation

The relevant legislation is sections 4(1) and 13 of the CCSR.

PART E – Summary of Facts

On December 16, 2015 the ministry received a CCS application from the appellant. The ministry sent a letter to the appellant informing her that the application was incomplete as it did not include the identification required for her and her child and a completed Child Care Arrangement form (CCA).

On March 4, 2016 the appellant called the ministry to inquire about the missing documents and was advised to submit her and her child's identification and a completed CCA. The appellant informed the ministry that she had lost her job, was looking for work and was on vacation during the month of March.

On March 11, 2016 the ministry received the required identifications and an incomplete CCA.

On July 15, 2016 the appellant again called the ministry, informed the ministry that she had found work and asked that the CCS be backdated to December 2015. The ministry advised the appellant that as it had not yet received a completed CCA she did not qualify for the CCS. The ministry also advised the appellant that once they did receive a completed CCA the SSC could not be backdated any farther than the beginning of the month in which the completed form was received.

On August 2, 2016 the ministry sent a letter to the appellant informing her that she did not qualify for CCS backdated to December 2015.

PART F – Reasons for Panel Decision

The issue under appeal is the reasonableness of the ministry's decision that the appellant does not qualify to receive the CCS retroactively to December 2015 in accordance with sections 4(1) and 13 of the CCSR.

The relevant legislation is sections 4(1) and 13 of the 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.

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

At the hearing, the appellant stated that she had been told by a ministry employee in November 2015 that she should submit her application for CCS as soon as possible even if it was not complete because so long as she was assigned a case number her CCS could be backdated to the month in which her application was received.

The appellant also stated that she did not receive the letter the ministry sent her in December 2015, so did not know that her application was incomplete until she called the ministry on March 4, 2016 at which point she submitted the required identification and the CCA. She then heard nothing from the ministry until she called on July 15, 2016 and was informed that her CCA was incomplete.

The appellant stated that she recognized that there were considerable delays in her following-up on her application and this was due to her being away in March, being stressed at losing her job, spending considerable time and energy looking for work and the difficulty she had in contacting the ministry by phone. Concerning this latter issue, the appellant stated that she called the ministry "a few times a week" between April and July 2016 but was constantly hung-up on due to call volumes.

The appellant acknowledges that the legislative provisions allowing for retroactive provision of the CCS do not apply in her case, but is asking the ministry to make an exception in her case as it was a minor error on her part in completing the CCA, she did not receive the ministry's letter explaining the mistake and she was not able to contact the ministry over the phone because the ministry did not answer.

The Ministry's Position

The ministry maintains that it is not able to backdate the appellant's CCS because the legislation does not allow it to do so. Specifically, the only provisions allowing for retroactive provision of the CCS, found in section 13 of the CCSR, do not apply in this case as neither of them allows for backdating beyond 30 days before a completed application is received by the ministry and there was no administrative error. The ministry cannot make an exception as it is bound by the legislation.

The Panel's Decision

Section 13 of the CCSR sets out the circumstances in which a CCS may be provided retroactively. Those circumstances are: (1) when the parent completes the application under section 4 the CCS may be backdated to the beginning of the month; and (2) when an administrative error has been made the CCS may be backdated 30 days before the parent completed the application under section 4. These are the only circumstances under which the ministry may provide the CCS retroactively.

In this case, the appellant completed the application in August 2016 and is asking that the CCS be backdated to December 2015. Under section 13(1) she is eligible to receive the CCS beginning August 1, 2016. As there is no evidence of an administrative error, and the appellant did not allege any such error, section 13(2) does not apply. Even if there had been an administrative error, section 13(2) limits the retroactive provision of the CCS to 30 days before the applicant completed her application, which would be July 1, 2016.

Accordingly, the panel concludes that the ministry's decision that the appellant does not qualify to receive the CCS retroactively to December 2015 was a reasonable application of the legislation, and confirms the ministry's decision.