



PART C – Decision under Appeal

The decision under appeal is the reconsideration decision dated October 25, 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 for August 2016 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

The appellant is a single mother with three children. She has previously received CCS up until October 15, 2015. She became eligible again to apply for CCS on August 8, 2016. She did not, however, submit her application until September 9, 2016 dated September 3, 2016.

On October 11, 2016 the ministry sent a letter to the appellant informing her that she qualified to begin receiving CCS on September 1, 2016.

The appellant requested a reconsideration asking that she receive CCS from the date she became eligible, August 8. The ministry found that she did not qualify for the period August 8 to 31, because, according to section 13 of the CCSR, CCS cannot be backdated to before the month in which the application is completed unless there is an administrative error and there was no administrative error in this case.

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 August 8, 2016 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 attempted to complete the CCS application in August but her only access to a computer to do so was at work and due to a systems issue she could not access the documents to complete the application. She submitted a request to her employer's information technology department to have this issue addressed, but by the time she was able to access and complete the application it was into September.

The appellant also stated that she is a single mother receiving no help from her children's father, is still nursing her youngest child and has a very low-paying job. In these circumstances, she had to pay \$700 in August for child care which she could not afford to do and is now having difficulty affording food her children as a result.

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, section 13(1) of the CCSR provides that a CCS may be paid from the first day of the month in which the application is completed. In this case, the appellant dated the application September 3 and it was received by the ministry on September 9 and so she is eligible to receive CCS beginning September 1.

The only exception to this provision is found in section 13(2) of the CCSR which allows the ministry to backdate CCS for 30 days where there has been an administrative error. As there is no indication that there was an administrative error made in this case, this provision does not apply.

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 in a given month, the CCS may be backdated to the beginning of that month; and (2) when an administrative error has been made, the CCS may be paid for childcare received in the 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 dated the application September 3 and the ministry received the application on September 9. Under section 13(1) she is eligible to receive the CCS beginning September 1. As there is no evidence of an administrative error, and the appellant did not allege any such error, section 13(2) does not apply.

Accordingly, the panel concludes that the ministry's decision that the appellant does not qualify to receive the CCS retroactively from August 8 to 31, 2016 was a reasonable application of the legislation, and confirms the ministry's decision.