

PART C – Decision under Appeal

The decision under appeal is the Ministry of Children and Family Development (the Ministry) reconsideration decision made March 2, 2017 under section 4 of the *Child Care Subsidy Act* and section 4 of the *Child Care Subsidy Regulation* that denied the appellant's request for a child care subsidy for the period September 1, 2016 to November 30, 2016, on the grounds that the Appellant did not submit a request for a child care subsidy for that time until signing an application on December 21, 2016, and submitting it January 5, 2017.

PART D – Relevant Legislation

Child Care Subsidy Act, section 4
Child Care Subsidy Regulation, sections 3, 4 and 13

PART E – Summary of Facts

Nature of the Appellant's Application

The Appellant mother of three minor children had been approved for a Child care subsidy up to June 30 the 2016, but did not apply for the subsidy for September, October and November 2016 until signing an application in late December 2016 and submitting it in early January 2017. She was denied a subsidy for those three months because she had not applied for the Subsidy in accordance with the *Child Care Subsidy Act and Regulations*. She appeals that decision.

Evidence at the Time of Reconsideration

1. A child care subsidy application form signed by the Appellant December 21, 2016
2. A child care subsidy child care arrangement form signed by the Appellant December 21, 2016
3. A letter dated January 5, 2017 from a school district confirming that the Appellant is enrolled in a part-time English language program for newcomers to Canada
4. A letter dated December 21, 2016 from the Appellant, not addressed to any recipient, advising that she is a single mother refugee from another country, has three small children, doesn't speak English, and is attending English classes so as to be able to work and help her children with their studies. She says she is using the same child care provider that she has previously used and would be grateful if her application is approved
5. A Notice of Deposit from the ministry dated December 21, 2016 showing a sum of money deposited to the credit of the appellant in the same amount as her Child Care Subsidy
6. A Request for Reconsideration signed by the appellant February 23, 2017 in which the Appellant

- says she is a single mother with three small children
- says she doesn't speak English and is attending part-time English classes
- says her neighbours help with communication with various agencies
- says her child care subsidy ended at the end of June 2016
- says she mistakenly thought the subsidy ended at the end of the year (2016)
- says she belatedly submitted an application for September October and November 2016, which was rejected
- says her child care provider for the three months wants her money and the Appellant has no way of paying it
- says the assistance she receives is small, \$420 per month
- says the reality of her situation is that near the end of every month she runs out of money and ends up asking the neighbours to lend her money until the next ministry money arrives; some neighbours advance her money and others and buy food
- and attaches the ministry's letter of February 10, 2017 approving her application for a child care subsidy for December 1, 2016 to June 30, 2016 but rejecting it for the months of September and November 2016 [the panel believes the date stated as "June 30, 2016" to be a typographical error, and that the date was meant to be ["June 30, 2017"]

Evidence Provided on Appeal

Appellant's Evidence

The appellant submitted in her Notice of Appeal that she does not think compassion was factored in when the decision on her case was made.

In a letter attached to the Notice of Appeal and dated March 9, 2017 the Appellant provides no additional evidence, but reiterates her evidence from reconsideration that

- she is a single mother of three small children
- she does not work and is attending part-time English classes
- she is a refugee

- that in a previous letter she mentioned that she forgot to apply for the Child care subsidy in time for the months of September, October and November 2016
- every month she struggles to make ends meet
- that she “*does not have to pay for the care provider for those three months*”
- that she never claimed the ministry made an error or when she sought reconsideration
- that she is asking for her case to be reconsidered on compassionate grounds given her financial circumstances, that we are humans and prone to mistake and sometimes make mistakes that are much bigger than failing to fill out a form by the deadline
- that she is asking the Tribunal to look into whether there is a ground for compassion when considering cases such as hers

Ministry’s Evidence

The ministry’s submission was provided late, but the panel chair, in a written decision dated April 20, 2017 allowed that late submission.

The ministry provided no new evidence and stated in its late-provided submission that it would rely on the reconsideration decision.

PART F – Reasons for Panel Decision

Issue

The issue is whether or not the Ministry of Children and Family Development's (the Ministry) reconsideration decision made March 2, 2017 under section 4 of the *Child Care Subsidy Act* and section 4 of the *Child Care Subsidy Regulation* that denied the appellant's request for a child care subsidy for the period September 1, 2016 to November 30, 2016, on the grounds that the Appellant did not submit a request for a child care subsidy for that time until signing an application on December 21, 2016, and submitting it January 5, 2017, was reasonably supported by the evidence or was a reasonable application of the legislation in the circumstances of the Appellant.

Relevant Legislation

Child Care Subsidy Act, section 4

Child Care Subsidies

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

Child Care Subsidy Regulation, section 3

Circumstances in Which Subsidy may be Provided

- 3 (1) The minister may pay a child care subsidy only if
- (a) the minister is satisfied that the child care is needed for one of the reasons set out in subsection (2),
 - (2) For the purpose of subsection (1) (a), the child care must be needed for one of the following reasons:
 - (a) in a single parent family, because the parent
 - (i)
 - (ii) attends an educational institution,

Child Care Subsidy Regulation, section 4

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

Child Care Subsidy Regulation, section 13

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

General Scheme of the Legislation

The minister may pay a child care subsidy if a parent makes an application in the specified form, and in the case of a single parent family, the parent attends an educational institution. The subsidy is payable beginning on the first day of the month in which the parent completes the application for it.

Appellant's Position

The appellant submitted that her appeal should be allowed on compassionate grounds, and that the reconsideration decision incorrectly stated that she had previously been denied a Child care subsidy from September 1, 2015 to February 28, 2016, demonstrating that the Appellant has experience with this sort of application and is aware that it can only be paid from the first day of the month in which a completed application is received. The Appellant also asked that the reconsideration decision be "*dismissed for presenting false and unsubstantiated evidence*".

Ministry's Position

The ministry relied on the reconsideration decision.

Analysis

Child Care Subsidy Act (CCSA), section 4

This section is the authority for the minister to provide a child care subsidy, provided that an applicant meets the requirements of the *Regulations*.

Child Care Subsidy Regulation (CCSR), section 3(1) & (2)(ii)

If the Minister is satisfied that an applicant needs child care because she is a single parent attending an educational institution, then a child care subsidy may be provided.

There was no dispute between the Appellant and the ministry that the appellant was a single parent attending an educational institution. The panel notes that the determination at reconsideration of this factor was not in issue.

Child Care Subsidy Regulation (CCSR), section 4(1)

A single parent is eligible for a child care subsidy if the parent makes application in a prescribed form, supplies the minister with the social insurance number of the applicant and proof of identity of each member of the family unit, including the children for whom the subsidy is sought.

The Appellant's child care subsidy application of December 21, 2016 contained the information required by this section and therefore satisfied this legislative requirement. The panel notes that the determination at reconsideration of this factor was not in issue.

Child Care Subsidy Regulation (CCSR), section 13

This section provides that a subsidy may be paid beginning only on the first day of the month in which the application is completed.

At reconsideration the ministry stated that the Appellant had previously applied late for a child care subsidy while attending English classes at an educational institution, had requested that the subsidy be backdated for some months, and had been approved only from the month in which the application was signed and not for months before that. The ministry's position was that this demonstrated that the Appellant had experienced a late application in the past and was aware that the subsidy could only be paid from the first day of the month in which a completed application was received.

The Appellant disputed the ministry statement that she had experience with a late application in the past, resulting in a denial of a subsidy, and took the position that the reconsideration decision should be dismissed "*for presenting false and unsubstantiated evidence*".

Panel Finding

The panel notes that the application for the subsidy was completed in December 2016 but was not provided to the ministry until January 2017. The panel notes that the legislation speaks of the date when an application is completed, and not the date it was provided to the ministry. The panel finds that there is no discretion in the legislation, and that a subsidy may only be paid beginning on the first day of the month in which the application was completed. The panel finds that previous applications are irrelevant to the present child care subsidy application. The panel finds that the application was completed in December 2016 and that therefore the earliest date for which a subsidy could be paid was December 1, 2016.

Conclusion

The panel finds that the ministry determination at reconsideration that the Appellant was not entitled to a child care subsidy for the months of September, October and November 2016 was reasonably supported by the evidence and a reasonable application of the applicable enactment, namely section 13 of the CCSR, and therefore confirms the decision.

The panel confirms the ministry's decision and the Appellant is not successful in her appeal.