

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Children and Family Development (the ministry) reconsideration decision dated September 20, 2017 which found that the appellant was not eligible to receive a child care subsidy because the child had reached school age.

PART D – RELEVANT LEGISLATION

Child Care Subsidy Act (CCSA) Section 4
Child Care Subsidy Regulation (CCSR) Sections 1(1), 1(2)(a), 2, 3, 7, 8, 9, 10 and Schedule A

PART E – SUMMARY OF FACTS

With the consent of both parties, the hearing was conducted as a written hearing, pursuant to section 22(3)(b) of the *Employment and Assistance Act*.

The evidence before the ministry at the time of the reconsideration decision included:

- There are two people in the Appellant's family unit, the appellant and child born January 18, 2012
- The appellant's child reached the age of 5 on January 18, 2017. He is therefore considered school age in September 2017.
- The appellants met the criteria in section 3 of the CCS Regulation, as she was a single employed parent.
- The appellant is employed by a School District and works Monday through Friday from 8:30 am until 3:10 pm from September through June. The appellant does not work through the summer months.
- The appellant's three most recent pay records indicate she earned \$1340.10 on July 7, 2017, \$1464.37 on June 23, 2017 and \$1019.91 on June 9, 2017; therefore, her average monthly income would be \$2294.62 [$\$1340.10 + \$1464.37 + \$1019.91 = \$3824.38 / 3 = \1274.79×18 (pay periods) = $\$22946.28 / 10$ (months of pay) = $\$2294.62$]. $\$2,294.62$ per month for 10 months = $\$22,946.20$ divided by 12 months = $\$1,912.18$ per month over the course of the entire calendar year. She also receives \$ 1000 per month in child support bringing her monthly net income to \$2912.18.
- In accordance with the CCS Regulation Schedule A, the subsidy rate for the requested child care is \$10.50/day (L2-Subsidy rates for Child Care Surrounding School Day, more than 4 hours daily or both before and after school care provided). The appellant requires 20 days per month for a maximum subsidy rate of \$210 per month.
- As calculated under the CCS Regulation Section 10, the base income threshold level for a family of 2 is \$1082.00, the appellant is also eligible for an increase to this threshold of \$515 / month, as child is of school age and receives child care surrounding the school day in licensed group care. Therefore, the total child's income threshold is \$1597.00.
- In Section 3 of the Request for Reconsideration form the ministry advised that the appellant is a single income family and have always received the maximum amount of childcare subsidy.

PART F – REASONS FOR PANEL DECISION

The issue on the appeal is whether the ministry's decision, which found that the appellant was not eligible to receive a child care subsidy because the family's actual monthly net income exceeded the child's threshold and the result of the calculation for the child, under Section 8(2) of the CCSR, was not more than zero, pursuant to Section 7 of the CCSR, was reasonably supported by the evidence or a reasonable application of the applicable enactment in the circumstances of the appellant.

The criteria for the payment of child care subsidies are set out in Section 4 of the CCSA as follows:

Child Care Subsidy Act

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

Child Care Subsidy Regulation

Section 1(1) of the CCSR provides in part:

Definitions

1 (1) In this regulation:

"**school age**", except in the definition of "licensed child care setting", means school age as determined under subsection (2) ...

"**employment income**" means income arising from employment, but does not include any amount deducted at source for

- (a) income tax,
- (b) employment insurance,
- (c) medical insurance,
- (d) Canada Pension Plan,
- (e) superannuation,
- (f) company pension plan, or
- (g) union dues ...

(2) A person is deemed

(a) to be of school age beginning on September 1 in a school year if the person will have reached age 5 on or before December 31 of that school year ...

What types of child care may be subsidized?

2 The minister may pay a child care subsidy if the child care is provided

(a) in a licensed child care setting ...

Circumstances in which a 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) is employed or self-employed ...

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.

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. ...

(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 ...

(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 ...

(c) spousal support paid to a spouse ...

- (3) If the monthly net income of the family varies during a calendar year, the minister may calculate their monthly net income by
- (a) estimating the annual net income that everyone in the family, other than a dependent child, will receive in the calendar year, and
 - (b) dividing the estimated annual net income by 12.

How the 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) The base threshold income level for a child is increased as follows ...

- (b) by \$515 per month for a child who
 - (i) has not reached school age and is receiving child care ...
 - (ii) is of school age and is receiving child care in any child care setting .

Schedule A

Item	Column 1 ...	Column 3A	Column 3B
	Type of Child Care ...	More than 4 Hours Daily or both before and after school care provided	
		\$ Per Day ...	\$ Per Month ...
Subsidy Rates for Care Surrounding School Day - All Child Care Settings Except Child's Own Home with Respect to Additional Child and 1st Child of School Age if Another Younger Child in Family is H1 or H2			
18	L2 – children of school age not in child's own home child care setting and 1st child of school age in child's own home child care setting unless another child in the family, younger than school age, is in category H1 or H2	10.50	210.00

* * * *

Panel decision

Section 7(1) of the CCSR stipulates that an applicant is not eligible for a child care subsidy for a child receiving a type of child care if the family's monthly net income exceeds the child's threshold, and the result of the calculation under section 8(2) for the child is not more than zero. According to Section 9 of the CCSR, the monthly net income of a family is calculated by adding the income that each person in the family receives per month, which includes the appellant's employment income [Section 9(1)(a)].

The appellant did not dispute the ministry's calculation of \$3,294.62 for the threshold income level for the child under Section 10 of the CCSR as the ministry considered the number of persons in her family unit as 2, that her child has reached school age and is receiving child care in a licensed child care setting. The panel finds that the ministry should have calculated that the total monthly income for the appellant's family unit was \$2,912.18, that the base threshold income level for the child was \$1,597.00 pursuant to CCSR Section 10, and that \$2,912.18 exceeds the child's threshold of \$1,597.00.

As the family's monthly net income exceeded the base threshold income level for the child, the panel finds that the ministry should have made a calculation for the child under Section 8(2) of the CCSR based on the same total monthly income for the family unit (\$2,918.12), the base threshold income level for the child (\$1,597), and the potential subsidy amount as determined under Schedule A of the CCSR (\$210 per month), which was less than the actual cost of daycare (\$475 per month), and that after applying the formula provided in CCSR Section 8(2), this resulted in a calculation in the amount of negative (-) \$364.50, which is not more than zero, and as a result, pursuant to CCSR Section 7(1)(b), the appellant was ineligible for a partial subsidy.

The panel based its corrections of the ministries calculation of the appellant's monthly income on section 9(3) of the CCSR which states that if the income of the family varies during a calendar year, the ministry may calculate their monthly net income by ...(b) dividing the estimated annual net income by 12.

Conclusion

The panel finds that the ministry's decision, which found that the appellant was not eligible to receive a child care subsidy because the family's actual monthly net income exceeded the child's threshold and the result of the calculation for the child, under Section 8(2) of the CCSR, was not more than zero, pursuant to Section 7 of the CCSR, was a reasonable application of the applicable enactment in the appellant's circumstances. The panel therefore confirms the ministry's reconsideration decision and the appellant's appeal is not successful.