

**PART C – DECISION UNDER APPEAL**

The decision under appeal is the Ministry of Social Development and Poverty Reduction (ministry) reconsideration decision dated November 1, 2017, which held that the appellant was not eligible for child care subsidy from March 1, 2017 to July 31, 2017 under section 4 of the Child Care Subsidy Act and 13 of the Child Care Subsidy Regulation because the appellant's previous child care subsidy authorization ended on February 28, 2017, and she did not submit a completed new application until August 11, 2017.

**PART D – RELEVANT LEGISLATION**

*Child Care Subsidy Act (CCSA)*, section 4

Child Care Subsidy Regulation (CCSR), sections 4, 13

## PART E – SUMMARY OF FACTS

### Relevant Evidence Before the Minister at Reconsideration

#### Ministry Records

- The appellant has been receiving child care subsidy (CCS) for her two children. Her previous authorization ended on February 28, 2017.
- On March 2, 2017, the appellant submitted an incomplete renewal application to the Child Care Subsidy Service Centre (CCSSC).
- On March 16, 2017, the ministry advised the appellant that her application for renewal of her CCS was incomplete and sent the appellant a letter advising her that her application couldn't be processed. The information required for renewal of her CCS was:
  - CCS child care arrangement form (CF2798), for her youngest child;
  - two most recent paystubs from Employer A; and
  - a CF2568 form, showing applicable operating expenses.
- The appellant was informed that all her income would need to be assessed before a benefit plan could be issued.
- On August 11, 2017 the appellant submitted a completed application to the CCSSC, signed and dated August 8, 2017.
- The appellant was found eligible for CCS beginning August 1, 2017.
  
- CCS application dated March 1, 2017 (received March 2, 2017).
- CCS medical condition form dated April 15, 2014 (received March 2, 2017).
- CCS self-employment form (CF2568), dated March 1, 2017 (received March 2, 2017).
- CCS child care arrangement form, for her youngest child, dated March 1, 2017 (received, March 2, 2017).
- Copies of cheques, payable to the appellant from Company A, dated January 31, 2017 and February 28, 2017 (received March 2, 2017).
- Copies of cheques, payable to the appellant from Company B, dated January 31, 2017 and February 28, 2017(received March 2, 2017).
  
- CCS application dated August 8, 2017 (received August 11, 2017).
- CCS medical condition form dated April 15, 2014 (received August 11, 2017).
- CCS self-employment form (CF2568), dated August 8, 2017 (received August 11, 2017), showing operating expenses.
- CCS child care arrangement form, for her youngest child, dated March 1, 2017 (received, August 11, 2017).
- Copies of cheques, payable to the appellant from Company B, dated January 31, 2017 and February 28, 2017(received August 11, 2017).

#### Appellant (reason for request for reconsideration)

The appellant's husband passed away in 2012 and ever since then she has been diagnosed with permanent depression. She has to work to raise two little kids. Life is tough for her. Sometimes she does not know what she is doing. She keeps forgetting things and that is why she did not renew the child subsidies on time. She apologized.

#### **Additional Evidence**

The appellant submitted a note from her doctor, dated 11 November 2017. The doctor writes, "...this lady continues to need child care subsidy due to the fact that she is a single parent and is unable to provide a sufficient income...to support her 2 children." The ministry had no objections to admitting this additional evidence. The panel admitted the doctor's note under section 22(4)(b) of the *Employment and Assistance Act* as it was in support of the information provided by the appellant at reconsideration.

#### **Findings of Fact**

The panel finds the appellant was authorized to receive CCS, and the authorization ended on February 28, 2017.

The panel also finds the appellant submitted a renewal application on March 2, 2017 but that the ministry determined this application to be incomplete.

The panel also finds the appellant submitted an application on August 8, 2017, which the ministry determined to be complete, and therefore authorized CCS from August 1, 2017.

The ministry found the appellant ineligible for CCS from March 1, 2017 to July 31, 2017.

## **PART F – REASONS FOR PANEL DECISION**

The issue under appeal is the reasonableness of the ministry decision dated November 1, 2017, to deny CCS for the period between March 1, 2017 and July 31, 2017.

The appellant's previous CCS authorization ended on February 28, 2017. The appellant submitted a completed application on August 11, 2017, that was signed and dated on August 8, 2017. Section 13(1) of the CCSR states that a CCS may be paid from the first day of the month in which the parent completes an application under section 4. Therefore, the ministry determined that the appellant's eligibility for child care subsidy began on August 1, 2017, the first day of the month the completed application was received.

The legislation provides the following:

### Child Care Subsidy Act

#### **Child care subsidies**

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

### Child Care Subsidy Regulation

#### **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.

(2) Only one parent in the family may apply 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.

### Ministry Position

The ministry argues there is not a lot of flexibility in the law - in this case section 13(1) of the CCSR. The ministry has no discretion to grant a subsidy before the first day of the month in which a parent's application is complete. It cannot approve payments retroactively and are mandated by the legislation to begin payment from the first of the month in which the application for CCS is made, in this case that date is August 1, 2017.

### Appellant Position

The appellant argues that she is sorry for the delay, but that she is always forgetful now, after her husband passed. She is having a hard time remembering, caused by depression and being under duress. She also submitted that her error was an administrative error.

## **Panel Decision**

The appellant's previous authorization to receive a child care subsidy under section 4 of the *Child Care Subsidy Act* and sections 4 and 13 of the Child Care Subsidy Regulation ended on February 28, 2017. The ministry determined that the application submitted on March 2, 2017 was incomplete, and the application submitted on August 11 was complete. Therefore, the ministry advised the appellant she was not eligible for CCS from March 1, 2017 to July 31, 2017. The appellant filed a request for reconsideration on October 26, 2017. On November 1, 2017, the ministry advised the appellant that upon reconsideration, she was not eligible for CCS from March 1, 2017 to July 31, 2017.

Although at the hearing, the ministry indicated there may have been some confusion regarding the dates some of the documents were received (the CCS child care arrangement form and the paystubs), the application received March 2, 2017 was incomplete as the ministry required the appellant's operating expenses for her self-employment. The operating expenses were not submitted until August 11, 2017.

The appellant argues that she is sorry for the delay, but that she is always forgetful now, after her husband passed. She is having a hard time remembering, caused by depression and being under duress.

Section 13(1) of the Regulation is clear: "A child care subsidy may be paid from the first day of the month in which the parent completes an application under section 4" and section 4 requires that the application be "in the form required by the minister." Therefore, as there was no completed application in the form required by the minister until August 11, 2017, the panel finds that the ministry reasonably determined that the appellant was ineligible for the subsidy for March to July 2017.

Further, section 13(2) states, "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." There is no evidence to support an administrative error by the ministry (i.e. that the ministry had a completed application before August 11, 2017).

## **Conclusion**

For these reasons, the panel finds the ministry's decision to deny child care subsidy between March 1, 2017 and July 31, 2017, was a reasonable application of the applicable enactment in the circumstances of the appellant, and confirms the decision. Therefore, the appellant's appeal is not successful.