

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the Ministry) reconsideration decision dated November 21, 2017, which denied the appellant's request for Child Care Subsidy. Specifically, the ministry determined the appellant was not eligible for Child Care Subsidy beginning September 1, 2017 due to their family income being too high.

PART D – RELEVANT LEGISLATION

Child Care Subsidy Act Section 4
Child Care Subsidy Regulation Sections 1, 7, 8, 9, 10 and Schedule A

PART E – SUMMARY OF FACTS

The ministry was not in attendance and the hearing proceeded in accordance with section 86(b) of the Employment and Assistance Regulation.

September 8/17- a renewal Child Care Subsidy Application was received at the Child Care Subsidy Service Center.

October 2/17- the appellant was denied for the Child Care Subsidy beginning September 1/17 as it was determined that their family net income was too high.

October 10/17- the appellant was found eligible for a partial subsidy for her daughter beginning October 1/17 but ineligible for child care subsidy for her son. The appellant was also denied Child Care Subsidy beginning May 1/18 for both children as it was determined the family net income was too high.

November 6/17- a request for reconsideration was made; the ministry maintained the denial November 21/17.

The information before the ministry at the time of reconsideration included the following:

- Request for Reconsideration dated November 01/17.
- Pay stubs for the appellant dated October 27/17- Net Pay 1,091.29, October 13/17- Net Pay 1,101.42 (43.02 overtime), March 31/17- Net Pay 1112.12 (43.02 overtime), March 17/17- Net Pay 1229.30, November 25/16 Net Pay 764.74.
- Pay stubs for the appellant's partner dated October 27/17- Net Pay 1,004.25, November 10/16- Net Pay 1028.78, October 28/16- Net Pay 974.07
- Appellant's credit card information dated November 5/17
- Appellant's Bank Account information dated November 5/17
- Appellant's cell phone bill dated September 29-October 28/17
- Appellant's second bank transaction history dated November 3/17
- Appellant's Hydro bill dated October 26/17
- Appellant's partner's phone bill dated October 5/17.
- Form 47 (Consumer Proposal) for the appellant's partner.
- Appellant's cable bill dated October 26/17.
- Child Care Subsidy Assessment Approved dated October 10/17
 1. Family Income Exemption level- \$1418.00
 2. Family Income- \$4519.39
 3. Potential Subsidy- \$725.00; Parent Portion \$845.01; Subsidy amount- 0.00
- Child Care Subsidy Assessment Approved dated October 02/17
 1. Family Income Exemption level- \$1418.00
 2. Family Income- \$4519.39
 3. Potential Subsidy- \$722.50; Parent Portion \$791.78; Subsidy amount- 0.00
- Child Care Subsidy Special Needs Application dated August 11/17
- A letter from the appellant to the Child Care Subsidy Benefit Plan dated April 8/17 requesting information and a review of her case.
- Child Care Subsidy Child Care Arrangement form dated March 07/17 which noted a change in the child care provider.
- Child Care Subsidy Request to Renew dated November 29/16.

- A letter of confirmation of employment of the appellant dated November 30/16.
- A letter of confirmation of employment of the appellant's partner dated November 22/16.

In the appellant's Notice of Appeal dated September 27, 2017, the appellant wrote:

- Primarily they stand behind their written statement made on November 1/17.
- They have compounded childcare costs.
- The Child Care Subsidy notes people who earn under 55,000 a year may be eligible and they believe their net income is \$54470.00.
- The legislation is oppressive as the legislation has not risen with inflation and the increased cost of living.
- The legislation is creating financial strain on hard working families.
- They are protesting the decision of denial not because they want to but that they have to.
- Since 2007, child care costs have risen 35% while incomes increased only 10%.
- They implored the tribunal to investigate the facts of the case.

At the hearing, the appellant stated:

- Facts about their situation
 - Two working parents
 - Two children aged five and two and a half
 - After school care is needed not wanted
- They were aware the ministry was following the legislation in regards to the Child Care Subsidy request but felt the appeal process could help change what was wrong with the legislation that has not changed to meet current needs.
- They felt the ministry was not fair to evaluate both children using the same combined income
- Their financial burdens such as:
 - Increased child care costs
 - Increasing costs of rent, food, hydro and clothing
 - Car repairs- evidence of car expenses were shared by the appellant
 - Trustee payments of \$200 per month
 - No pay when they stay at home with the children when they are ill
- The Child Care Act has not changed for five years
- Both the appellant and her partner require completion of their educational pursuits in order to improve their jobs/pay scale but are unable due to the high cost of living

Admissibility of Additional Information

The panel considered the information provided by the appellant which documented car expenses as being in support of, and tending to corroborate, the appellant's argument of financial need referred to in the Request for Reconsideration. Therefore, the panel admitted the car repair/parts invoices as evidence in accordance with Section 22(4)(b) of the *Employment and Assistance Act*.

PART F – REASONS FOR PANEL DECISION

The issue on appeal is whether the ministry's reconsideration decision, dated November 21, 2017, which denied the appellant's request for Child Care Subsidy was reasonably supported by the evidence or was a reasonable application of the applicable legislation in the circumstances of the appellant.

The relevant legislation is as follows:

CHILD CARE SUBSIDY ACT

Child care subsidies

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

Child Care Subsidy Act- CHILD CARE SUBSIDY REGULATION

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);

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.

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.

(1.1) If a parent is eligible for a subsidy for more than one type of child care set out in Schedule A, the minister may determine which subsidy rate applies.

(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

How 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 persons | \$1 275 |
| 4 persons | \$1 418 |

(3) The base threshold income level for a child is increased as follows:

- (a) by \$125 per month for each person in the child's family who
 - (i) is a child with special needs,
 - (ii) is a person with disabilities, or
 - (iii) has reached 65 years of age;
- (b) by \$515 per month for a child who
 - (i) has not reached school age and is receiving child care
 - (A) in a licence-not-required child care setting, or
 - (B) in the child's own home as described in section 2 (c), or
 - (ii) is of school age and is receiving child care in any child care setting;
- (c) by \$1 500 per month if the child has not reached school age and is receiving child care

- (i) in a licensed child care setting, or
- (ii) in a registered licence-not-required child care setting;
- (c.1) Repealed. [B.C. Reg. 145/2011, s. 3 (d).]
- (d) by \$100 per month if the child
- (i) is a child with special needs, and
- (ii) receives a type of child care described in section 2.

Schedule A- parts related to Appeal
(Section 8)

| Item | Column 1 | Column 2A | Column 2B | Column 3A | Column 3B |
|---|--|---|--------------|---|--------------|
| | Type of Child Care | 4 Hours or Less Daily unless both before and after school care provided | | More than 4 Hours Daily or both before and after school care provided | |
| | | \$ Per Day | \$ Per Month | \$ Per Day | \$ Per Month |
| Subsidy Rates for Licensed Child Care Settings | | | | | |
| Licensed Group Care and Multi-Age Child Care | | | | | |
| 1 | G1 – Group (children under 19 months) | 18.75 | 375.00 | 37.50 | 750.00 |
| 2 | G2 – Group (children 19 months and over but under 37 months) | 15.90 | 317.50 | 31.75 | 635.00 |
| 3 | G3 – Group (children who have reached 37 months of age but who have not reached school age) | 13.75 | 275.00 | 27.50 | 550.00 |
| 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 | 8.75 | 175.00 | 10.50 | 210.00 |
| Subsidy Rates In the Child's Own Home Child Care Setting (as described in section 2 (c)) | | | | | |
| 19 | H1 – (1st child under 19 months) | 9.85 | 197.00 | 19.70 | 394.00 |
| 20 | H2 – (1st child 19 months and over) | 7.95 | 159.00 | 15.90 | 318.00 |

The appellant put forward three arguments in their appeal;

1. The ministry calculations were incorrect in terms of their monthly income.
2. The ministry is unfair to be using the same income level to evaluate both daycare expenses.
3. That family expenses be taken into account when an assessment is made for Child Care Subsidy.

Positions

- 1. The ministry calculations were incorrect in terms of their monthly income.**

The Appellant's Position

The ministry's calculation of net income was not accurate stating their net monthly income for the appellant was \$2008.00 not 2175.87 and that her partner's monthly salary was \$2182.00 not, \$2375.43.

The Ministry's Position

The ministry based the appellant and her partner's monthly income using the paystubs submitted.

Panel Decision

Calculations for monthly income were based on the pay records supplied by the appellant. The panel finds the ministry was correct in their calculation for monthly income as the calculations were based on biweekly payments which in a year are 26 payments, not 24 as appears the appellant calculated.

- 2. The ministry is unfair to be using the same income level to evaluate both daycare expenses.**

The Appellant's Position

The appellant argues the ministry is unfair to use the same income level to evaluate both children. As their combined income makes them ineligible for a subsidy for their first child, it is unfair that the same income be considered for the second child as it has already been allocated to the first.

The Ministry's Position

The Child Care Subsidy Regulation Section 8 sets out how the amount of Child Care Subsidy is calculated. The ministry does not have the discretion to alter the way the Child Care Subsidy is calculated.

Panel Decision

The legislation, Sections 7 and 8 of the Child Care Subsidy Regulation, guides the ministry in determining the eligibility and/or the amount a family may receive in a subsidy. As the ministry followed the calculations set out in the legislation, the panel finds the ministry was acting in a reasonable manner to include both children in terms of the combined income of the appellant and her partner in determining eligibility for a Child Care Subsidy.

- 3. That family expenses be taken into account when an assessment is made for Child Care Subsidy.**

The Appellant's Position

The appellant argues that the Child Care Subsidy Regulations have not kept up with inflation and that with their current expenses and salaries, they require a subsidy to financially survive.

The Ministry's Position

The ministry's position is subsidy rates and income thresholds used to assess eligibility for a Child Care Subsidy are set in legislation which means the ministry does not have any discretion to grant a subsidy higher than regulations permit.

Panel Decision

Section 7 of the CCSR states:

- “(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.”

As the family's lowest monthly income of \$4,519.39 exceeded the threshold of \$2,158.00 for the eldest child and \$3,043.00 for the second child, section 7 places the appellant as not eligible for the Child Care subsidy. As the ministry is bound to follow the legislation of the Child Care Subsidy Act and Regulations and the calculation methods found within the regulations, the panel finds the ministry was reasonable in determining the appellant was to be denied a Child Care Subsidy for September 2017.

Conclusion

The panel finds that the ministry's reconsideration decision which determined that the appellant was not eligible for a Child Care Subsidy, September 2017, was a reasonable application of the applicable legislation in the circumstances of the appellant and therefore confirms the decision. The appellant is not successful in her appeal.