

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the ministry) reconsideration decision dated February 21, 2019 which found that the appellant is not eligible for the Affordable Child Care Benefit for the period between September 1, 2018 and November 30, 2018 because the appellant completed her application on December 18, 2018, and therefore, as per section 13(1) of the Child Care Subsidy Regulation (CCSR) her eligibility for the Affordable Child Care Benefit began on December 1, 2018, which is the first day of the month in which the application was completed.

Further, as set out in the CCSR section 13(2), payment of a child care subsidy may only be backdated if there has been an administrative error. However, the ministry determined that there is no evidence to establish that the ministry made an administrative error.

PART D – RELEVANT LEGISLATION

Child Care Subsidy Act (CCSA) Section 4.

Child Care Subsidy Regulation (CCSR) Sections 4 and 13.

[Redacted]

PART E – SUMMARY OF FACTS

On December 18, 2018 the appellant submitted a new Affordable Child Care Benefit Application dated December 18, 2018 to the Child Care Service Centre.

In her self-report dated December 18, 2018 the appellant wrote:

- “I would like to apply for special consideration, in order to have the entitled amount of my Affordable Child Care Benefit for the months of September, October and November 2018 retroactively to me.”
- “The amount of money is greatly needed”
- “I was not aware that this funding was available until a couple of weeks ago when informed by a colleague at work. I immediately began to complete the necessary paperwork at that time. I understand that I qualify for December 2018 (and subsequent months) by applying now, although there is some question as to my eligibility for retroactive payments for the three preceding months due to a late application.” “I understand that the general policy [is] to pay from the first of the month that the benefit is applied for (December 1st in my case), but I am hoping that you will consider my request and credit my daycare payments starting from September 1st when I was first supposed to receive this benefit.”
- The appellant wrote that the program was not well advertised, especially for children who were already enrolled in care like her daughter. “Until earlier this month I was not aware that the child care subsidy was replaced with the new Affordable Child Care Benefit.”
- She has been suffering from lingering symptoms of whooping cough (pertussis) for the past three months which may have contributed to her lack of awareness of this program.

On January 14, 2019, in her request for reconsideration, the appellant writes:

- She was not aware that she was eligible for this benefit until December until she spoke to a colleague in the school where she works.
- “It is possible that if I had not been so sick for the 12 plus weeks I might have been more aware of your program.”

In her Notice of Appeal dated March 6, 2019 the appellant writes she was extremely ill between September and December 2018 and as a result until December 2018 unaware that the Affordable Child Care Benefit existed. “I feel strongly that I should be given exception to the restriction in timing associated with this regulation due to illness. I have already provided documentation of my sickness during this period.”

At the hearing the appellant revisited information previously provided.

The ministry presented its reconsideration decision and added that it does its best to get information out to caregivers but cannot be held accountable that the appellant was not aware of the program. The ministry had no discretion in the matter.



PART F – REASONS FOR PANEL DECISION

The issue in this appeal is whether ministry decision that found the appellant not eligible for the Affordable Child Care Benefit for the period between September 1, 2018 and November 30, 2018 because the appellant completed her application on December 18, 2018, and therefore, as per section 13(1) of the Child Care Subsidy Regulation, her eligibility for the Affordable Child Care Benefit began on December 1, 2018, which is the first day of the month in which the application was completed, was reasonably supported by the evidence or was a reasonable application of the legislation in the circumstances of the appellant.

Furthermore, was the ministry reasonable when it found that there is no evidence to establish that it made an administrative error, in which case payment of a child care subsidy may have been backdated in accordance with section 13(2) of the CCSR?

CCSA

Child care subsidies

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

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 the parent's spouse, if any, 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.

Appellant's Position

The appellant argues that an exception should be made in her case and she should be eligible for the Affordable Child Care Benefit in September, October and November 2018 because she was not aware that this funding was available until a couple of weeks before her application. The program should have been better advertised for families whose children were already in care, and as a result of the ministry's lack of advertising she missed out on a substantial amount of money which she needed. She was also very ill in mid-September for a three month period which may have made her less aware of the program, and therefore she should be exempt from deadlines. Except for the date of her application she met all other eligibility criteria.

Ministry Position

As set out in the CCSR section 13 a child care subsidy may be paid from the first day of the month in which the parent completes an application under section 4. 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 ministry determined that the appellant is not eligible for the Affordable Child Care Benefit for the period between September 1, 2018 and November 30, 2018 because the appellant submitted an application on December 18, 2018 that was signed and dated on December 18, 2018. Therefore, as per the CCSR section 13(1) her eligibility for the Affordable Child Care Benefit began on December 1, 2018, which is the first day of the month in which the application was completed. The ministry does not have the authority to overturn legislation.

As set out in the CCSR section 13(2), payment of a child care subsidy may only be backdated if there has been an administrative error. However, the ministry finds that there is no evidence to establish that the ministry made an administrative error.

Panel Decision

Section 13(1) of the CCSR states that a child care subsidy may be paid from the first day of the month in which the parent completes an application. As the appellant's application was dated and submitted on December 18 the panel finds that the ministry reasonably determined that the appellant's eligibility started on December 1, 2018. Legislation is clear and there are no provisions that allow for an exception except in case of an administrative error.

As there is no evidence of an administrative error the ministry reasonably determined that a child care subsidy cannot be backdated according to section 13(2).

In conclusion, the panel finds the ministry's decision was reasonably supported by the evidence and confirms the decision. The appellant is not successful on appeal.

PART G – ORDER	
THE PANEL DECISION IS: (Check one) <input checked="" type="checkbox"/> UNANIMOUS <input type="checkbox"/> BY MAJORITY	
THE PANEL <input checked="" type="checkbox"/> CONFIRMS THE MINISTRY DECISION <input type="checkbox"/> RESCINDS THE MINISTRY DECISION	
If the ministry decision is rescinded, is the panel decision referred back to the Minister for a decision as to amount? <input type="checkbox"/> Yes <input type="checkbox"/> No	
LEGISLATIVE AUTHORITY FOR THE DECISION:	
<i>Employment and Assistance Act</i>	
Section 24(1)(a) <input checked="" type="checkbox"/> or Section 24(1)(b) <input checked="" type="checkbox"/>	
and	
Section 24(2)(a) <input checked="" type="checkbox"/> or Section 24(2)(b) <input type="checkbox"/>	

PART H–SIGNATURES	
PRINT NAME Inge Morrissey	
SIGNATURE OF CHAIR	DATE (YEAR/MONTH/DAY) 2019/03/27

PRINT NAME Angie Blake	
SIGNATURE OF MEMBER	DATE (YEAR/MONTH/DAY) 2019/03/27
PRINT NAME Kent Ashby	
SIGNATURE OF MEMBER	DATE (YEAR/MONTH/DAY) 2019/03/27