

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Children and Family Development (the ministry) reconsideration decision dated July 10, 2020, which found that the appellant:

- was not eligible for child care subsidy received for February 2013 as the ministry was not satisfied child care was needed, pursuant to Section 3 of the Child Care Subsidy Regulation (CCSR);
- was not eligible for child care subsidy received for the period January 2016 to June 2016 due to a change in the family composition, about which the appellant failed to notify the ministry as required by Section 5(2) of the *Child Care Subsidy Act* (CCSA); and,
- is liable to repay \$5,398.62 for child care subsidy to which the appellant was not entitled, pursuant to Section 7(1) of the CSSA.

PART D – RELEVANT LEGISLATION

Child Care Subsidy Act (CCSA), Sections 5, 7 and 10

Child Care Subsidy Regulation (CCSR), Sections 1, 3, 7, 8, 9, 10, 14, and Schedule A

PART E – SUMMARY OF FACTS

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

- 1) Undated Appendix A- List of Documents and Relevant Legislation to Support Decision;
- 2) Child Care Subsidy Application dated January 23, 2013 identifying the appellant as single, separated, divorced or widowed “recently as of January 16, 2013 with bail order for no contact”;
- 3) Child Care Subsidy Child Care Arrangement form dated January 23, 2013;
- 4) Enrolment/Change/Termination for Extended Health Care and Dental signed by the appellant May 5, 2015;
- 5) Group Life Beneficiary Designation signed by the appellant May 6, 2015;
- 6) Child Care Subsidy Special Needs form dated June 5, 2015;
- 7) Child Care Subsidy Child Care Arrangement form dated June 7, 2015;
- 8) Child Care Subsidy Application dated December 3, 2015 identifying the appellant as single, separated, divorced or widowed;
- 9) T4 Statements for the appellant for the 2015 and 2016 Taxation Years;
- 10) Child Care Subsidy Special Needs form dated January 9, 2016;
- 11) Reasons for Judgment dated March 1, 2016 in a family law case between the appellant and the appellant’s spouse, including:
 - A reference to a Court Order dated February 13, 2013 indicating that “both parties were to have joint custody and joint guardianship. The Agreement recognizes outstanding restrictions due to a Criminal Justice Undertaking but provides daytime parenting to [the appellant’s spouse] four (4) times each week. The exchanges were to take place in public locations. An additional term recognizes the parties would be flexible and adjust or add parenting time as the circumstances dictated” (at paragraph 4 of the decision);
 - “In addition, it is apparent from the evidence, that financial issues have plagued the household and, in fact, have restricted an ability to arrange a physical separation forcing the two to remain in the same residence” (at paragraph 24 of the decision);
- 12) Pay stubs for the appellant covering the period December 27, 2015 to June 25, 2016;
- 13) Child Care Subsidy Payments for the period February 1, 2013 to June 30, 2016 indicating a total paid of \$20,279.48;
- 14) Account statements for a joint account in the names of the appellant and the appellant’s spouse for the period from January 1, 2016 through June 30, 2016;
- 15) Child Care Subsidy Child Care Arrangement form dated July 7, 2016;
- 16) Title search dated October 31, 2017 listing both the appellant and the appellant’s spouse on title to property;
- 17) Email dated December 15, 2017 with Driver’s License Address Change Information;
- 18) Transcript of the appellant’s statement dated January 17, 2018 taken by the Criminal Investigation Unit of the ministry, including statements that:
 - The appellant would have to confirm the dates, to look back and think of where they were and what they were doing and such to confirm when the appellant and the appellant’s spouse got back together (page 4).
 - They separated because of domestic violence (at page 4).
 - When they were separated, that was legitimate but when they got back together,

that was not legitimate (at page 5).

- They have 3 children, 2 of whom have special needs. The appellant did not want to risk losing the specialized day care for the children (at pages 5 and 6).
 - The appellant has no idea how much they would qualify for as the income level charts were taken offline (at page 6).
 - There were 6 months when the appellant's spouse lived in a separate suite in the basement of the same house. They were separated but living in the same house for financial reasons (at page 10).
 - The appellant did not share [with the ministry] that they had shared custody (at page 10).
 - The appellant filled out a renewal on August 3, 2017 and the appellant was living with the appellant's spouse at that time (at page 11).
 - The appellant signed a renewal dated January 11, 2017 and did not disclose that the appellant was living with the appellant's spouse (at page 12).
 - The appellant signed an application on December 3, 2015 when the appellant and the appellant's spouse were separated (at page 16).
 - The children always lived with the appellant and the appellant's spouse had visits (at page 16).
 - The appellant and the appellant's spouse were both looking after the children even when they were living separately (at page 29).
 - The appellant's spouse had surgery in January [2013] after they separated due to an assault. The appellant's spouse was on STIP [stipend] for a good 6 weeks or so because he had surgery and had less income. (at page 41).
 - The representative of the Criminal Investigation Unit stated that Crown Counsel will determine what sort of deal is made and the appellant can make a deal with them (at page 42).
 - [The ministry stated] it is part of their job to make sure to tell the Crown Counsel if the appellant's spouse would have qualified or not during the past two years (i.e. January 2016 to January 2018) (at page 42).
 - [The ministry stated] the Crown Counsel will decide what is going to happen, if there is a payment, and it is for the appellant to work out with Crown Counsel (at page 44).
 - The representative of the Criminal Investigation Unit stated that they do all the overpayment charts, that they do all the calculations (at page 47).
- 19) Child Care Subsidy Overpayment Calculation ("Overpayment Calculation Chart") dated April 18, 2019 covering the period March 2013 through to November 2017 and resulting in a total overpayment amount of \$20,376.44;
- 20) Appellant's Conditional Sentence Order dated June 12, 2019 for two counts of fraud under \$5,000, count 1 covering the period from March 1, 2013 to July 31, 2016 and count 2 covering the period from August 1, 2016 to December 31, 2016 with a conditional sentence of 180 days plus restitution of \$20,376.44;
- 21) Print out of appellant's client file with the ministry dated February 6, 2020 including address information;
- 22) Letter dated February 7, 2020 to the appellant in which the ministry wrote that the appellant's receipt of child care subsidy had been reviewed for the period February 2013 to June 2016 and the ministry determined that the appellant received \$5,438.22 of

- subsidy funding for which the appellant was not eligible;
- 23) Overpayment Calculation Chart dated February 7, 2020 covering the period February 2013 to June 2016 and resulting in a total overpayment amount of \$5,438.22.
- 24) Canada Post proof of delivery on February 16, 2020, February 26, 2020 and March 15, 2020;
- 25) Letter dated February 21, 2020 to the appellant in which the ministry wrote that the appellant's receipt of child care subsidy for three children was reviewed for February 2013 to June 2016 and the ministry determined that the appellant received \$5,398.62 of subsidy funding for which the appellant was not eligible;
- 26) Overpayment Calculation Chart dated February 21, 2020 for amounts in February 2013 as well as for January 2016 to June 2016, for a total amount owing of \$5,398.62; and,
- 27) Request for Reconsideration- Reasons dated April 15, 2020.

In the Request for Reconsideration, the appellant wrote that:

- This matter has been fully litigated through criminal court proceedings.
- A plea deal was agreed to by the appellant and crown prosecutors.
- The appellant agreed to plead guilty and was given a conditional sentence Order and was ordered to pay restitution.
- All amounts owing have either been paid or are being paid through a payment plan as part of the restitution Order.
- The matter has reached its full and final conclusion.
- The appellant relies on issue estoppel and *res judicata*.

Additional Information

In the Notice of Appeal dated August 3, 2020, the appellant expressed disagreement with the ministry's reconsideration decision and wrote that:

- This matter has been fully litigated through criminal court proceedings.
- A plea deal that included the dates in question was agreed upon by the appellant and crown prosecutors.
- The appellant agreed to plead guilty and was given a conditional sentence and ordered to pay restitution.
- All amounts owed are being paid through a payment plan as part of the restitution Order.
- This matter has reached its full and final conclusion.
- The appellant relies on issue estoppel and *res judicata*.

At the hearing the appellant stated that:

- On June 12, 2019 the appellant entered a plea of guilty to fraud and was given a conditional sentence and a restitution Order was made at that time.
- On February 7, 2020, the appellant was sent a bill by the ministry claiming the amount of \$5,398.52 was owing.
- The appellant relies on the legal principles of cause of action estoppel and *res judicata*, which constitute a bar to a subsequent action on the same claim.
- This matter was previously brought before the court and an agreement was reached between the Crown Counsel and the appellant's lawyer.
- The dates that the ministry is claiming an overpayment were included in the periods

covered in the conditional sentence Order, namely March 1, 2013 to July 31, 2016 for count 1 and August 1, 2016 and December 31, 2016 for count 2.

- When the ministry submitted the Overpayment Calculation Chart [dated April 18, 2019] to the Court, it covered the period January to June 2016 and the ministry did not complete a reasonable diligence to submit all the relevant information to the Crown at that time.
- The appellant also relies on the principle of issue estoppel, which bars the ministry from bringing the same issue into dispute again.
- The principle of cause of action estoppel prevents re-litigation of the same matter between the parties. This principle bars the ministry from bringing the same cause of action that could have been previously argued if the ministry had exercised reasonable diligence.
- The question is whether the ministry can open up a judgment of the Court and change it? The parties need to have finality to court proceedings so that they can govern their affairs with certainty.
- On June 12, 2019, the same issues and the same cause of action was brought involving the same parties and the ministry had a full opportunity to investigate at that time and to make representations to the Court.
- The ministry's action in opening up these issues again violates all of the principles outlined and is also a breach of fundamental justice.
- The restitution Order is for the total sum of \$20,376.44 and the appellant has entered into a payment plan to pay this amount. While the calculations for the sum of \$5,398.62 were not included at the time, they should have been included if the ministry had investigated the issues fully at the time. At the time, the ministry set out the overpayment amounts for the period as zero.
- The original amount that was discussed was more but then they broke down some of the entries and reduced the total amount of the restitution Order.
- The principle of *res judicata* is a rule that when a final judgment is rendered in a court on the merits, this is conclusive and constitutes an absolute bar to the same claim and cause of action being brought again.
- The Overpayment Calculation Chart [dated April 18, 2019] was submitted to the Court by the ministry and this evidence was accepted by the Crown and by the Court.
- The appellant agreed at the time with the overpayments as set out by the ministry in the Overpayment Calculation Chart. The appellant accepted what the appellant's lawyer and Crown Counsel came up with and the appellant sent a letter admitting to the incorrect information the appellant provided to the ministry and apologizing for having done this.
- The appellant understands the essential basis of the ministry pursuing criminal charges was related to the appellant's marital status, that the appellant provided information to the ministry that the appellant was single instead of notifying the ministry at the times that the appellant and the appellant's spouse lived together as spouses.
- The appellant has been making payments towards the restitution Order and these payments are made directly to the ministry [Ministry of Finance], not to the Court.
- The February 13, 2013 Order stated that the appellant's spouse was to have parenting of the children 4 times each week but these were not stated to be full days and could include evenings and weekends, not necessarily during the day.
- The appellant's spouse had knee surgery at the end of January 2013 and had 8 weeks of recovery, during which time the appellant's spouse lived at a friend's house. The

appellant's spouse was in bed much of this time and could not care for the children since the appellant's spouse could not supervise them sufficiently and they were visiting in someone else's house. The children had short visits with the appellant's spouse during this time and that was all. The children were in child care during the day.

- The charges made against the appellant were based in Section 10 of the CCSA.
- The appellant received a transcript of the court proceedings on June 12, 2019 in which it is stated (at page 4): over the period January 2013 and January 2018 the appellant defrauded the ministry of a total of \$20,376.44. For efficiency, counsel tendered a copy of the ministry's Overpayment Calculation Chart and stated that this is a calculation of every payment made or an articulation of every payment made to arrive at the total.

The ministry relied on its reconsideration decision, as summarized at the hearing. At the hearing, the ministry clarified that:

- The periods of time that are the subject of the reconsideration decision were left out of the Overpayment Calculation Chart [dated April 18, 2019] and the amounts during that time were stated as zero. There was a team from the ministry that brought the information forward to the Crown and the ministry is not sure if there was an agreement regarding those periods or not. The ministry does not know if the deal included the subject periods.
- The restitution Order does not say what the restitution was for and there is nothing to say that there was an agreement to prevent the ministry from pursuing these amounts later.
- The conditional sentence Order was made in a criminal court, which is a different body with different jurisdiction and involves separate legislation.
- The crux of the decision is whether the \$5,398.62 is part of the plea bargain deal or whether it is separate and should be addressed through the administrative process and administrative law.
- The claim for the February 2013 period, which lists the overpayment reason as "shared custody," was based on the Reasons for Judgment in the family law case dated March 1, 2016, which referred to previous court orders that included an Order made February 13, 2013. The ministry interpreted the 2013 Order to mean that at least 2 days per week the children would be cared for by the appellant's estranged spouse and there would be no need for care, resulting in an overpayment of child care subsidy. The ministry is not certain whether the calculation on the Overpayment Calculation Chart dated February 21, 2020 recognized that the Order was only in effect for half of the month of February as it was superseded by another court order in March 2013. The rate codes as identified in Schedule A of the CCSR are multiplied by the number of days for which child care is needed to arrive at the eligible amount.
- The ministry is not aware of a reason for the difference in the calculations in the Overpayment Calculation Charts dated February 21, 2020, which yielded a total overpayment amount of \$5,398.62, and that dated February 7, 2020, which resulted in a total overpayment amount of \$5,438.22, or a difference between the two charts of \$39.60. The reconsideration officer would have conducted a complete independent review of the calculations and ultimately relied on the sum of \$5,398.62 as the amount of the overpayment confirmed in the reconsideration decision.
- The reconsideration decision sets out the evidence upon which the ministry relied to show that the appellant and the appellant's spouse became a couple again in January

2016. The ministry should have been notified by the appellant that they were living together.

- The ministry is not certain that the charges were based on Section 10 of the CCSA. It is rare that the ministry pursues criminal charges, which would be through the criminal legislation. The ministry is not clear whether Section 10 might provide extra authority to also pursue a court matter and seek further damages or compensation for loss or damages. Section 10 seems to be the bridge between the two but the ministry does not have familiarity with the interaction between the two sets of legislation.
- The statement of the appellant as set out in the transcript dated January 17, 2018 was taken by representatives of the ministry.
- The ministry is not certain of the section of the legislation or the policy that would apply if the appellant and the appellant's spouse were living in separate units in the same house and whether they would be considered to be living together if this were the case. This legislation was not included or reviewed in the reconsideration decision.
- The entry on the Overpayment Calculation Chart dated April 18, 2019: Overpayment reason of spousal status, claim month of January, claim year of 2016, same child for whom subsidy was issued, care code of G3, subsidy issued of \$550 and eligible amount of \$550 and an overpayment amount of zero, appears to be the same fact situation as the identical entry made on the Overpayment Calculation Chart dated February 21, 2020, except that the eligible amount is indicated as zero and the overpayment amount is then \$550, unless an error has been made on that entry. The reconsideration decision did not address specific entries on the two Overpayment Calculation Charts.

Admissibility of Additional Information

The panel considered the testimony of the appellant, including the reference to the transcript of the criminal proceedings, as relating to the ministry's denial of child care subsidy amounts and a finding of an overpayment and, therefore, as being reasonably required for a full and fair disclosure of all matters related to the decision under appeal pursuant to Section 22(4) of the *Employment and Assistance Act*.

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 for child care subsidy received for February 2013 as the ministry was not satisfied child care was needed, pursuant to Section 3 of the CCSR, and was not eligible for child care subsidy received for the period January 2016 to June 2016 due to a change in the family composition, about which the appellant failed to notify the ministry as required by Section 5(2) of the CCSA, was reasonably supported by the evidence or a reasonable application of the applicable enactment in the circumstances of the appellant.

The *Child Care Subsidy Act (CCSA)* in force during the relevant time period provides:

Section 5 of the CCSA requires applicants to provide specific information and to authorize the ministry to obtain information to verify eligibility:

Information and verification

- 5 (1) For the purpose of determining or auditing eligibility for child care subsidies, the minister may do one or more of the following:
- (a) direct a person who has applied for a child care subsidy, or to or for whom a child care subsidy is paid, to supply the minister with information within the time and in the manner specified by the minister;
 - (b) seek verification of any information supplied by a person referred to in paragraph (a);
 - (c) direct a person referred to in paragraph (a) to supply verification of any information supplied by that person or another person;
 - (d) collect from a person information about another person if
 - (i) the information relates to the application for or payment of a child care subsidy, and
 - (ii) the minister has not solicited the information from the person who provides it.
- (2) A person to or for whom a child care subsidy is paid must notify the minister, within the time and in the manner specified by regulation, of any change in circumstances affecting their eligibility under this Act.
- (3) If a person fails to comply with a direction under subsection (1) (a) or (c) or with subsection (2), the minister may
- (a) declare the person ineligible for a child care subsidy until the person complies, or
 - (b) reduce the person's child care subsidy.
- (4) For the purpose of auditing child care subsidies, the minister may direct child care providers to supply the minister with information about any child care they provide that is subsidized under this Act.

Section 7 of the CCSA provides for repayment to the ministry where an overpayment of a child care subsidy occurs:

Overpayments, repayments and assignments

- 7 (1) If a child care subsidy is paid to or for a person who is not entitled to it, that person is liable to repay to the government the amount to which the person was not entitled.
- (2) Subject to the regulations, the minister may enter into an agreement, or may accept any right assigned, for the repayment of a child care subsidy.
- (3) A repayment agreement may be entered into before or after a child care subsidy is paid.
- (4) An amount that a person is liable to repay under subsection (1) or under an agreement entered into under subsection (2) is a debt due to the government and may

- (a) be recovered by it in a court of competent jurisdiction, or
 - (b) be deducted by it from any subsequent child care subsidy or from an amount payable to that person by the government under a prescribed enactment.
- (5) The minister's decision about the amount a person is liable to repay under subsection (1) or under an agreement entered into under subsection (2) is not open to appeal under section 6 (3).

Section 10 of the CCSA makes an offence of supplying false or misleading information to the ministry and provides for a fine and/or imprisonment and repayment:

Offence of supplying false or misleading information

- 10 (1) A person commits an offence who supplies, in an application under this Act or when required or directed under section 5 (1), (2) or (4) or the regulations, information that is false or misleading with respect to a material fact.
- (2) A person does not commit an offence under subsection (1) if, at the time the information was supplied, the person did not know that it was false or misleading and, with the exercise of reasonable diligence, could not have known that it was false or misleading.
 - (3) A person who commits an offence under this section is liable on conviction to a fine of not more than \$2000 or to imprisonment for not more than 6 months or to both.
 - (4) In addition, the court may order a person convicted of an offence under this section to pay the government all or part of any amount that person received under this Act as a result of committing the offence.

The CCSR in force during the relevant time period provides:

Section 1 of the CCSR provides applicable definitions, including:

Definitions

- 1 (1) In this regulation: . . .
- "dependant", in relation to a parent, means anyone who resides with the parent and who
 - (a) is the spouse of the parent, or
 - (b) is a dependent child of the parent;
 - (c) shares with the parent income or assets or any necessities of life obtained with the income or assets, or
 - (d) indicates a parental role for the parent's child.
- "family" means a parent and the parent's dependants;
- "spouse", in relation to a parent, means anyone who
 - (a) who is married to the parent,
 - (b) is living with the parent in a marriage-like relationship; . . .

Section 3 of the CCSR describes the basic conditions for eligibility for child care subsidies:

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),
 - (b) the child care is arranged or recommended under the Child, Family and Community Service Act, or
 - (c) the child care is recommended under the Community Living Authority Act in respect of a child who has a parent approved for or receiving community living support under the Community Living Authority Act and the minister is satisfied that the child care is needed.

(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,
- (ii) attends an educational institution,
- (iii) is seeking employment or participating in an employment-related program, or
- (iv) has a medical condition that interferes with the parent's ability to care for his or her child;

(b) in a two parent family, because

- (i) each parent is employed or self-employed, attends an educational institution or participates in an employment-related program,
- (ii) one parent is engaged in an activity listed in subparagraph (i) and the other is seeking employment,
- (iii) one parent is engaged in an activity listed in subparagraph (i) and the other parent has a medical condition that interferes with that parent's ability to care for his or her child, or
- (iv) Repealed. [B.C. Reg. 57/2002, s. 2 (b).]
- (v) each parent has a medical condition that interferes with their ability to care for their child.

(3) Repealed. [B.C. Reg. 57/2002, s. 2 (b).]

(4) The restriction in subsection (1) (a) does not apply in respect of child care provided in a licensed preschool unless the child care is provided to a child of school age.

Section 7 of the CCSR provides for an income test for eligibility for a child care subsidy, as set out in Appendix A to this decision.

Section 8 of the CCSR sets out the mechanism for calculating the amount of a child care subsidy when eligibility is established, as set out in Appendix A to this decision.

Section 9 of the CCSR describes how a family's income is calculated for the purposes of determining the amount of child care subsidy, as set out in Appendix A to this decision.

Section 10 of the CCSR describes how a child's threshold is calculated for the purposes of determining the amount of a child care subsidy, as set out in Appendix A to this decision.

Section 14 of the CCSR requires recipients of child care subsidies to notify the ministry of any changes to their circumstances:

Notifying the minister of change in circumstances

- 14 The notification required by section 5 (2) of the Act must be given in writing or by telephone,
- (a) as soon as possible after any change in circumstances affecting the eligibility of the parent, and
 - (b) to an employee in the Child Care Service Centre.

Schedule A to the CCSR spells out the rates for child care subsidies for various types of care, as set out in Appendix A to this decision.

Ministry's Position

The ministry's position, as set out in the reconsideration decision, is that the appellant is liable to repay \$5,398.62 in child care subsidy the appellant received for the period of February 2013 and January to June 2016 and for which the appellant was not entitled, pursuant to Section 7(1) of the CSSA.

The ministry found that the appellant was not eligible for child care subsidy in February 2013 because the appellant did not have a need for child care for some of the time, pursuant to Section 3(2) of the CCSR. The ministry wrote that in February 2013 the appellant's eligibility was affected by a shared custody arrangement with the appellant's estranged spouse and the appellant did not need child care during the time the children were in the care of their father. The ministry wrote that the appellant was eligible for a partial subsidy only, based on 3 days of care per week, and the ministry recalculated the child care subsidy amount, which resulted in an overpayment of \$138.40 for child care subsidy received by the appellant in February 2013.

In the reconsideration decision, the ministry also found that the appellant was not eligible to receive full amounts of child care subsidy during the period January 2016 to June 2016. The ministry wrote that the appellant was assessed for subsidy for the appellant's children as a single parent beginning September 1, 2015. The ministry wrote that in January 2016 the appellant began residing in the same residence in a marriage-like relationship with the appellant's spouse. The ministry wrote that the change in the appellant's circumstances were not relayed to the ministry in a timely manner, as required by Section 5(2) of the CCSA. The ministry wrote that a recalculation took into consideration the appellant's spouse's information and the family composition of 5 people, which resulted in an overpayment of \$5,260.22 for child care subsidy received by the appellant over the period January 2016 to June 2016.

In response to the appellant's reliance on the principle of *res judicata*, the ministry wrote in the reconsideration decision that the Overpayment Calculation Chart dated April 18, 2019 indicates overpayment amounts of zero for the period January to June 2016, which does not reflect a determination of no debt but, rather, the ministry's approach to the criminal investigation since the appellant contested allegation of fraud for this period. The ministry also wrote that the criminal court proceedings excluded the period January to June 2016 as the appellant contested an overpayment, and the overpayments for those excluded months are the scope of the reconsideration decision.

Appellant's position

The appellant's position, as set out in the Request for Reconsideration and the Notice of Appeal, is that this matter has been fully litigated through criminal court proceedings and the appellant relies on the principle of *res judicata*, including issue estoppel and cause of action estoppel. The appellant wrote that a plea deal that included the dates in question was agreed upon by the appellant and crown prosecutors. The appellant wrote that the appellant agreed to plead guilty and was given a conditional sentence and was ordered by the Court to pay restitution. The appellant wrote that all amounts owed are being paid through a payment plan as part of the restitution Order, and this matter has reached its full and final conclusion.

The appellant stated at the hearing that the Overpayment Calculation Chart dated April 18, 2019, which was prepared by the ministry, yielded a total overpayment amount of \$20,376.44 and was submitted as evidence to the Court on the criminal proceedings of June 12, 2019. The

appellant stated that the transcript of the court proceedings indicated (at page 4) that the appellant's counsel tendered a copy of the ministry's Overpayment Calculation Chart and stated that "this is a calculation of every payment made or an articulation of every payment made to arrive at the total." At the hearing, the appellant stated that the appellant cooperated and entered a guilty plea, agreed with the overpayments as set out in the Overpayment Calculation Chart, accepted the plea deal that the appellant's lawyer and Crown Counsel came up with, and also provided a letter to the Court admitting to the incorrect information the appellant provided to the ministry and apologizing for having done this. The appellant stated at the hearing that while the calculations for the overpayments of \$5,398.62 now being claimed by the ministry were not included in the Overpayment Calculation Chart submitted to the Court, these amounts related to the same time period and should have been included if the ministry had exercised due diligence in its investigation at the time.

The appellant stated at the hearing that the February 13, 2013 Family Court Order stated that the appellant's spouse was to have parenting of the children 4 times each week but these were not stated to be full days and could include evenings and weekends, not necessarily during the day. The appellant stated that the appellant's spouse had knee surgery at the end of January 2013 and had 8 weeks of recovery, during which time the appellant's spouse lived at a friend's house. The appellant stated that the children had short visits with the appellant's spouse during February 2013 and that was all.

At the hearing, the appellant stated that the appellant understands the essential basis of the ministry pursuing criminal charges was related to the appellant's marital status, that the appellant provided information to the ministry that the appellant was single instead of notifying the ministry at the times that the appellant and the appellant's spouse lived together as spouses.

Panel decision

Re February 2013

Section 3(1)(a) of the CCSR stipulates that the ministry may pay a child care subsidy only if the ministry is satisfied that the child care is needed for one of the reasons set out in subsection (2). The ministry was not satisfied that child care was needed by the appellant in February 2013 because there was a family court Order of February 13, 2013 that the ministry interpreted to mean that at least 2 days per week the children would be cared for by the appellant's estranged spouse. The Reasons for Judgment in the family law case dated March 1, 2016 included a reference to a Court Order dated February 13, 2013 that stipulated both parties were to have joint custody and joint guardianship, with daytime parenting to the appellant's spouse 4 times each week, with an additional term that recognizes the parties would be flexible and adjust or add parenting time as the circumstances dictated.

The appellant's evidence in the transcript of the appellant's statement dated January 17, 2018 (at page 41 of the transcript) and at the hearing was that the appellant's spouse had knee

surgery at the end of January 2013 after they had separated due to an assault and the appellant's spouse had 8 weeks of recovery, during which time the appellant's spouse lived at a friend's house, and the children only had short visits with the appellant's spouse as he was incapacitated and living in someone else's house. The Reasons for Judgment in the family law case dated March 1, 2016 also noted that the February 13, 2013 Order recognizes limitations to the appellant's spouse's options due to "outstanding restrictions due to a Criminal Justice Undertaking" resulting from a recent incident of domestic violence. The panel finds as fact that the circumstances dictated that the appellant's spouse did not provide care for the children during the month of February 2013 as the appellant's spouse was recovering from surgery, was living at a friend's house and did not have his own accommodation.

Re January to June 2016

During the period January to June 2016, the ministry found that the appellant's family composition changed from a family composition of a single parent with 3 children (4 people) to a family composition of 5 people due to the appellant residing with the appellant's spouse in a marriage-like relationship. There is evidence in the transcript of the appellant's statement dated January 17, 2018 that there were 6 months when the appellant's spouse lived in a separate suite in the basement of the same house and the appellant and the appellant's spouse were separated but living in the same house (at page 10 of the transcript). The appellant stated that there is a suite downstairs set up with a kitchenette and the appellant lived upstairs (at page 10 of the transcript). While the ministry referred to the transcript at page 34 to indicate that the appellant and the appellant's spouse began "residing together" in January 2016, the appellant responded in the affirmative to the ministry's description that the appellant's spouse "moved back in," which the panel finds was the same term the appellant used to describe the appellant's spouse residing separately in the basement suite of the house (at page 10 of the transcript) and is not conclusive of the two residing "together" in the same accommodation. In the Reasons for Judgment in the family law case dated March 1, 2016 the court noted (at paragraph 24 of the decision) that "...it is apparent from the evidence, that financial issues have plagued the household and, in fact, have restricted an ability to arrange a physical separation forcing the two to remain in the same residence."

Although the ministry referred to a number of documents to show a "joint address," such as ICBC address histories and pay statements for the appellant and the appellant's spouse, none of the listed documents confirm that the appellant and the appellant's spouse were living together and not separated in different units within the same house. At the hearing, the ministry was not certain of the section of the legislation or the policy that would apply if the appellant and the appellant's spouse were living in separate units in the same house and whether they would be considered to be living together if this were the case as this analysis was not included nor was the applicable legislation reviewed in the reconsideration decision.

Section 1 of the CCSR defines "family" to mean a parent and the parent's dependants, which includes the appellant as the parent applicant for the child care subsidy and the appellant's

“dependants.” Section 1 of the CCSR defines “dependant”, in relation to a parent, to mean anyone who resides with the parent and who (a) is the spouse of the parent, or (b) is a dependent child of the parent, (c) shares with the parent income or assets or any necessities of life obtained with the income or assets, or (d) indicates a parental role for the parent’s child. The appellant does not dispute that the appellant’s spouse remained a spouse, but in order to be considered a dependant and part of the appellant’s “family,” the appellant’s spouse must be found to “reside with” the appellant during the relevant time periods. The panel finds as fact that there is a lack of evidence in the record of the ministry’s reconsideration decision that the appellant’s spouse was residing with the appellant in the upper portion of the house during the period January to June 2016 and not separate and apart at the same address in a self-contained suite in the basement of the house.

Res Judicata

The appellant relies upon the principle of *res judicata*, which is Latin for “a matter decided,” and claims that both issue estoppel and cause of action estoppel prevent the ministry from raising an issue and from pursuing a matter that was, or should have been, decided in a previous proceeding. The doctrine of issue estoppel requires that the same question has been decided, the judicial decision was final, and the parties to the earlier decision or their privies are the same persons as the current parties [*Erschbamer v. Wallster*, 2013 BCCA 76].

Was the same question decided?

The decision of the Court in the criminal proceedings of June 12, 2019 was to impose a Conditional Sentence Order of 180 days on the appellant for two counts of fraud under \$5,000 [pursuant to the *Criminal Code* R.S.C., 1985, c. C-46], with the two counts covering the period from March 1, 2013 to December 31, 2016, plus restitution of \$20,376.44. The appellant stated at the hearing that the Overpayment Calculation Chart dated April 18, 2019, which was prepared by the ministry, yielded a total overpayment amount of \$20,376.44 and was submitted as evidence to the Court on the criminal proceedings. The appellant stated that the transcript of the court proceedings indicated (at page 4) that the appellant’s counsel tendered a copy of the ministry’s Overpayment Calculation Chart and stated that “this is a calculation of every payment made or an articulation of every payment made to arrive at the total.” As the Order for restitution is the total amount of the overpayment calculated on the Overpayment Calculation Chart dated April 18, 2019, the Court clearly relied on the ministry’s evidence as the basis for the Order.

The appellant stated at the hearing that the appellant understands the essential basis of the ministry pursuing criminal charges was related to the appellant’s marital status, that the appellant provided information to the ministry that the appellant was single instead of notifying the ministry at the times that the appellant and the appellant’s spouse lived together as spouses. The Overpayment Calculation Chart submitted to the Court includes details of the “overpayment reason,” or the reason that the ministry claims the appellant received child care subsidy for which the appellant was not eligible, and the reasons provided are either “spousal

status” or “shared custody,” which are the two reasons upon which the ministry relies in its current claim against the appellant.

The Overpayment Calculation Chart submitted to the Court also includes the month and year for which the subsidy was claimed, the name of the child for whom the subsidy was issued, the applicable care code, the amount of subsidy issued, the amount of subsidy for which the appellant was eligible, and the resulting overpayment amount. For the entire period from January to June 2016, each entry indicates that the appellant was eligible for the subsidy amount issued and the total overpayment amount is zero for that period. An entry for January 2016 on the Overpayment Calculation Chart dated April 18, 2019 lists the overpayment reason as “spousal status” with the name of the child for whom subsidy was issued and a care code of “G3,” subsidy issued of \$550 and an eligible amount of \$550 and an overpayment amount of zero (at page 3 of the Chart). This entry is the same fact situation as the identical entry made on the Overpayment Calculation Chart dated February 21, 2020, upon which the ministry now relies, except that the eligible amount is indicated as zero and the overpayment amount is given as \$550. At the hearing, the ministry acknowledged that these two entries appear to involve the same fact situation, unless an error was made by the ministry with respect to that entry.

In the reconsideration decision at page 3, the ministry wrote that the Overpayment Calculation Chart submitted to the Court indicates overpayment amounts of zero for the period March to June 2013 and January to June 2016, which does not reflect a determination of no debt but, rather, the ministry’s approach to the criminal investigation since the appellant contested allegation of fraud for this period and, at page 6 of the decision, that the appellant contested an overpayment and the overpayments for those excluded months are the scope of the reconsideration decision. At the hearing, the appellant stated that an agreement was reached between the Crown Counsel and the appellant’s lawyer and the appellant cooperated fully in order to have the matter finally concluded: by entering a guilty plea, agreeing with the overpayments as set out in the Overpayment Calculation Chart, accepting the plea deal that the appellant’s lawyer and Crown Counsel came up with, and also providing a letter to the Court admitting to the incorrect information the appellant provided to the ministry and apologizing for having done this. The ministry stated at the hearing that there was a team from the ministry that brought the information forward to the Crown and the ministry is not sure if there was an agreement regarding the excluded periods or not. As there was a contest of an allegation of fraud and a resulting overpayment over certain periods before the Court, the panel finds that the issues were ultimately resolved by the ministry submitting evidence to the Court, and upon which the Court relied, that there were no overpayment amounts during these periods.

In the reconsideration decision, the ministry relied on an Overpayment Calculation Chart dated February 21, 2020 for amounts of child care subsidy for which the ministry claims the appellant was not eligible for the reasons of either “spousal status” or “shared custody” in February 2013 as well as for January 2016 to June 2016. The panel made finding of facts regarding the reasons upon which the ministry relies for the overpayment amounts during these time periods,

as previously discussed. The panel further finds that although the month of February 2013 is not specifically included in the Overpayment Calculation Chart submitted to the Court in the criminal proceeding, the question before the Court regarding the false information the appellant provided to the ministry as to the residence of the appellant's spouse and the custody arrangement for their children, is the same question relating to the same material facts that the ministry seeks to address in finding an overpayment of child care subsidy for these reasons over the same and associated periods.

Was the judicial decision final?

The Conditional Sentence Order dated June 12, 2019 covers the false information that the appellant provided to the ministry regarding her family circumstances covering the period from March 1, 2013 to December 31, 2016 and is a final resolution of the charges as well as the restitution of the sum of \$20,376.44 to the ministry, as the party defrauded. If a second prosecution was attempted for allegations of fraud based on these same facts, the principle of double jeopardy would apply to bar the proceedings. At the hearing, the ministry stated that the restitution Order does not say what the restitution was for and there is nothing to say that there was an agreement to prevent the ministry from pursuing these amounts later. When a court orders restitution, it orders the defendant to give up gains to the claimant which, in this case, is the amount of the loss claimed by the ministry. At the hearing, the appellant stated that the appellant entered a payment plan with the ministry, and the appellant has been making payments to the ministry towards the restitution Order. The panel finds that the decision of the Court on June 12, 2019 was based on the Overpayment Calculation Chart submitted by the ministry to the Court, which indicates eligibility for child care subsidy and overpayment amounts of zero over the subject and associated periods, was a final determination of the amounts owing to the ministry as a result of an overpayment of child care subsidy.

Are the parties to the earlier decision or their privies the same persons as the current parties?

At the hearing, the ministry stated that the conditional sentence Order was made in a criminal court, which is a different body with different jurisdiction and involves separate legislation. The criminal proceedings of June 12, 2019 involved the Crown on behalf of Canada prosecuting charges under the *Criminal Code*, based on the facts regarding the fraud and the amount of money defrauded as provided by the ministry. At the hearing, the ministry confirmed that the statement of the appellant as set out in the transcript dated January 17, 2018 was taken by representatives of the ministry. In the transcript, the Criminal Investigation Unit of the ministry also made statements to the appellant, including that: Crown Counsel will determine what sort of deal is made and the appellant can make a deal with them (at page 42); it is part of the ministry's job to make sure to tell the Crown Counsel if the appellant's spouse would have qualified or not during the past two years (i.e. January 2016 to January 2018) (at page 42); Crown Counsel will decide what is going to happen, if there is a payment, and it is for the appellant to work out with Crown Counsel (at page 44), and the ministry does all the overpayment charts, they do all the calculations (at page 47). While it is Crown Counsel that

made a deal with the appellant and the appellant's counsel, this is clearly based on information provided by the ministry in taking a statement and obtaining information from the appellant and advising Crown Counsel whether the appellant qualified for child care subsidy or not and in what amounts. The payments on the restitution ordered by the Court are made by the appellant directly to the ministry and not to the Court. Based on the interaction between the ministry and Crown Counsel, the panel finds that the ministry and Crown Counsel were privies to the criminal proceedings, or both had a relation to one another in the proceeding as against the appellant, and the panel finds that the claim by the ministry of amounts owing by the appellant to the ministry as a result of an overpayment of child care subsidy involves the same parties.

Cause of Action Estoppel

The doctrine of cause of action estoppel requires that the same elements of issue estoppel are established, as well as a finding that the cause of action in the prior action is not distinct, and the basis of the cause of action and the subsequent action was argued or could have been argued in the prior action if the parties had exercised reasonable diligence [*Erschbamer v. Wallster*]. As the panel finds that the doctrine of issue estoppel applies to prevent a claim by the ministry under Section 7 of the CCSA for an overpayment of child care subsidies relating to the false information the appellant provided the ministry as to the residence of the appellant's spouse and the custody arrangement for their children during the subject and associated periods, the additional elements of cause of action estoppel will not be reviewed by the panel.

Conclusion

The panel finds that the doctrine of issue estoppel applied to prevent the claim by the ministry against the appellant, pursuant to Section 7 of the CCSA, for an overpayment of child care subsidy. Therefore, the panel finds that the ministry's decision, which found that the appellant was not eligible for child care subsidy received for February 2013 as the ministry was not satisfied child care was needed, pursuant to Section 3 of the CCSR, and was not eligible for child care subsidy received for the period January 2016 to June 2016 due to a change in the family composition, was not reasonably supported by the evidence. The panel rescinds the ministry's decision. The appellant is therefore successful in the appeal.

Appendix A

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.
- (2) Subsection (1) does not apply to an applicant if the child care is for a child
- (a) in relation to whom the applicant has entered into an agreement with a director under section 8 of the Child, Family and Community Service Act,
 - (b) in relation to whom the applicant, by agreement under section 94 of the Child, Family and Community Service Act, exercises a director's rights or carries out a director's responsibilities,
 - (c) of whom the applicant has interim or temporary custody under an order of the court under section 35 (2) (d), 41 (1) (b), 42.2 (4) (c), 49 (7) (b) or 54.01 (9) (b) of the Child, Family and Community Service Act,
 - (c.1) of whom the applicant has been permanently transferred custody under an order of the court under section 54.01 (5) or 54.1 (3) of the Child, Family and Community Service Act,
 - (d) of whom the applicant has custody under an order of the court under section 42.2 (4) (a) of the Child, Family and Community Service Act, if the applicant is the other person referred to in section 42.2 (4) (a) (i),
 - (e) who is receiving assistance under the authority of the Child in the Home of a Relative Program Transition Regulation, B.C. Reg. 48/2010, and the applicant is the relative with whom that child resides, or
 - (f) who is receiving assistance under a program, similar in nature to the program referred to in paragraph (e), provided
 - (i) on a reserve, within the meaning of the Indian Act (Canada), by the government of Canada, or
 - (ii) by the Nisga'a Nation or a treaty first nation.

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.
- (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

$$A - B$$

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.

(2.1) Repealed. [B.C. Reg. 388/2004.]

(2.2) The child care subsidy for a child described in section 7 (2) is the amount set out in Schedule A or the parent fee, whichever is less, for the type of child care the child is receiving.

(3) If child care is required for less than 20 days per month, the child care subsidy will be prorated based on the daily rate set out in Schedule A or the daily parent fee, whichever is less.

(4) If the child care is

- (a) arranged or recommended by staff delegated under the Child, Family and Community Service Act, after staff have
 - (i) offered support services or agreements to the child and family under section 16 (2) (a) of that Act, (i.1) commenced an assessment under section 16 (2) (b.1) of that Act, or
 - (ii) commenced an investigation under section 16 (2) (c) of that Act, or
- (b) provided through a Young Parent Program, and the child care provider operating the Young Parent Program confirms, in the form and manner specified by the minister, that the parent is participating in the Young Parent Program,
the minister may pay any increase in the amount of the child care subsidy that the minister considers necessary to ensure that the child care is provided.

(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;
- (b) self-employment income;
- (c) spousal or child support paid to a spouse or child in the family;
- (d) employment insurance benefits;
- (e) workers' compensation benefits;
- (f) training allowances;
- (g) investment income, including interest;
- (h) tips and gratuities;
- (i) money earned by providing room and board, less essential operating costs;
- (j) rental income of any kind, less essential operating costs;
- (k) grants, bursaries or scholarships, except
 - (i) the amount for tuition or books, and
 - (ii) with respect to grants provided under the British Columbia Student Assistance Program, \$50 for each week covered by the grant.

(2) When calculating net income under subsection (1), the following are considered not to be income:

- (a) income earned by a dependent child;
- (b) the basic family care rate for foster homes;
- (c) assistance paid under the Employment and Assistance Act or assistance paid under the Employment and Assistance for Persons with Disabilities Act;
 - (c.1) assistance that is similar in nature to any of the types of assistance provided under an Act referred to in paragraph (c) and that is paid under a program provided
 - (i) on a reserve, within the meaning of the Indian Act (Canada), by the government of Canada, or
 - (ii) by the Nisga'a Nation or a treaty first nation;
- (d) a family bonus;
- (e) the basic child tax benefit;
- (f) a goods and services tax credit under the Income Tax Act (Canada);
- (g) a sales tax credit under the Income Tax Act (British Columbia);
- (h) the BC earned income benefit;
- (i) child support paid for, and passed on to,
 - (i) a person with disabilities, or
 - (ii) a person who received child support before reaching 19 years of age and who continues to receive it after reaching that age.
- (j) a rent subsidy provided by the provincial government, or by a council, board, society or governmental

- agency that administers rent subsidies from the provincial government;
- (k) an income tax refund, or part of an income tax refund, that arises by reason of a payment made by the government of British Columbia to the government of Canada on behalf of a person who incurred a tax liability due to income received under the Forest Worker Transition Program;
 - (l) money paid or payable to a person in settlement of a claim of abuse at an Indian residential school, except money paid or payable as income replacement in the settlement;
 - (m) post adoption assistance payments provided under section 28 (1) or 30 (1) of the Adoption Regulation, B.C. Reg. 291/96;
 - (n) a rebate of energy or fuel tax provided by the government of Canada, the government of British Columbia, or an agency of either government;
 - (o) payments granted by the government of British Columbia for the Ministry of Children and Family Development's Autism Funding: Under Age 6 Program;
 - (p) payments granted by the government of British Columbia for the Ministry of Children and Family Development's Autism Funding: Ages 6-18 Program;
 - (q) payments granted by the government of British Columbia under section 8 [agreement with child's kin and others] of the Child, Family and Community Service Act;
 - (r) payments granted by the government of British Columbia under an agreement referred to in section 93 (1) (g) (ii) of the Child, Family and Community Service Act;
 - (s) payments granted by the government of British Columbia under the Ministry of Children and Family Development's At Home Program;
 - (t) loans provided under the British Columbia Student Assistance Program or under a student loan program of the federal government, the government of a province or the government of a jurisdiction outside Canada;
 - (u) a benefit paid under section 4 (1) of the Universal Child Care Benefit Act (Canada);
 - (v) the low income climate action tax credit under section 8.1 of the Income Tax Act (British Columbia);
 - (w) the climate action dividend under section 13.02 of the Income Tax Act (British Columbia);
 - (x) the BC early childhood tax benefit under section 13.071 of the Income Tax Act (British Columbia);
 - (y) money paid or payable from a fund that is established by the government of British Columbia, the government of Canada and the City of Vancouver in relation to recommendation 3.2 of the final report of the Missing Women Commission of Inquiry;
 - (z) payments granted by the government of British Columbia under the Temporary Education Support for Parents program.
- (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 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
5 persons	\$1 571
6 persons	\$1 704
7 persons	\$1 837
8 persons	\$1 960
9 persons	\$2 083
10 persons	\$2 206
more than 10 persons	\$2 206 for the first 10 plus \$123 for each additional person

(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

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
4	G4 – Group (children of school age)	10.38	207.50	20.75	415.00
Licensed Family Child Care and In-Home Multi-Age Child Care					
5	J1 – L Family (children under 19 months)	15.00	300.00	30.00	600.00
6	J2 – L Family (children 19 months and over but under 37 months)	15.00	300.00	30.00	600.00
7	J3 – L Family (children who have reached 37 months of age but who have not reached school age)	13.75	275.00	27.50	550.00
8	J4 – L Family (children of school age)	10.38	207.50	20.75	415.00
9	Repealed. [B.C. Reg. 145/2011, s. 4 (d).]				
Licensed Preschool					
10	N1 – (children who have reached 30 months of age but who have not reached school age)	11.25	225.00	-	-
Subsidy Rates for Licence-not-required Child Care Settings					
11	F1 – LNR (children under 19 months)	10.95	219.00	21.90	438.00

12	F2 – LNR (children 19 months and over but under 37 months)	10.10	202.00	20.20	404.00
13	F3 – LNR (children 37 months and over)	8.85	177.00	17.70	354.00
Subsidy Rates for Registered Licence-not-required Child Care Settings					
14	R1 – RLNR (children under 19 months)	15.00	300.00	30.00	600.00
15	R2 – RLNR (children 19 months and over but under 37 months)	15.00	300.00	30.00	600.00
16	R3 – RLNR(children who have reached 37 months of age but who have not reached school age)	13.75	275.00	27.50	550.00
17	R4 – RLNR (children of school age)	10.38	207.50	20.75	415.00
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
21	H3 – (2nd child under 19 months)	4.95	99.00	9.90	198.00
22	H4 – (each additional child, whether or not receiving care surrounding school day, including 1st child of school age receiving care	3.68	73.50	7.35	147.00

APPEAL NUMBER
2020-00191

surrounding school day if another child in the family, younger than school age, is in category H1 or H2)				
--	--	--	--	--

APPEAL NUMBER
2020-00191

PART G – ORDER

THE PANEL DECISION IS: (Check one) UNANIMOUS BY MAJORITY

THE PANEL CONFIRMS THE MINISTRY DECISION 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? Yes No

LEGISLATIVE AUTHORITY FOR THE DECISION:

Employment and Assistance Act

Section 24(1)(a) or Section 24(1)(b)

and

Section 24(2)(a) or Section 24(2)(b)

PART H – SIGNATURES

PRINT NAME

S. Walters

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2020-08-18

PRINT NAME

Jennifer Armstrong

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2020-08-18

PRINT NAME

Linda Pierre

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2020-08-18