APPEAL NUMBER
2021-00055

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Children and Family Development (the ministry) reconsideration decision dated February 22, 2021, which found that the appellant was not eligible for a portion of the child care benefit received over the period October 2018 to June 2019 due to undeclared income that increased the family's adjusted annual income and decreased the eligible subsidy amount under Section 8(4) and Schedule A of the Child Care Subsidy Regulation (CCSR).

The ministry found that the appellant is liable to repay $4,769.44 for the portion of the child care subsidy for which the appellant was not entitled, pursuant to Section 7(1) of the CCSA.

PART D – RELEVANT LEGISLATION

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

Child Care Subsidy Regulation (CCSR), Sections 7(1), 8, 9.1, 14 and Schedule A

Financial Administration Act (FAA), Section 87

PART E – SUMMARY OF FACTS

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

1) Print out of CRA Request indicating total income for the appellant in 2016 of $38,125 and 2017 income of $49,372;
2) Affordable Child Care Benefit Child Care Arrangement form dated October 4, 2018 indicating that licensed group child care is provided by a child care provider to the appellant's older child;
3) Affordable Child Care Benefit Application submitted by the appellant on October 5, 2018 ("first application") indicating the appellant as the applicant and the reasons for alternate source of income as: "In 2017 I was on maternity leave for 6 months. In 2018 I was on leave for 9 months but only 6 months were paid leave and the past 3 months no income." The appellant's income from employment is stated as "$349,798" per year and income from federal employment insurance ("EI") as "$5,820" per year;
4) Message to the appellant dated October 13, 2018 in which the ministry requested confirmation of information provided regarding the appellant's income review, directing the appellant to correct any errors using the "Renew my benefit or report changes" link;
5) Affordable Child Care Benefit Application submitted by the appellant on October 16, 2018 ("second application") indicating the reasons for alternate source of income as: "In 2017 I went on [leave] in June and received EI for 6 months. In 2018 my EI ended in June and I extended without pay until Oct 1 which is when I found childcare for both kids and two different places due to their ages. My 2018 income is much lower." The appellant's income from employment is stated as $34,978 per year and income from federal EI as $13,575 per year;
6) Affordable Child Care Benefit Income Declaration dated October 16, 2018 in which the appellant indicated in response to the request to provide the amount per year of each type of income earned "total gross annual employment income from all employment sources" of $3,600 per year and "total gross annual amount from EI benefits of any type" of $4,620 per year, for a "total annual income" of $8,220. For additional comments, the appellant wrote: "I initially filled in my application with my 2017 tax information thinking that it would be corrected once I filed my taxes for 2018. When I called in I was told I could complete this form to provide a more accurate picture of our current financial situation upon which we pay daycare. I went on [leave] in June 2017 and just returned to work Oct 1 of 2018. I received $970 per month for one year from EI. This past year I received top up from my employer of $600 per month until June. I have had no income since then";
7) Message to the ministry dated October 16, 2018 in which the appellant wrote that the attached Income Declaration "reflects our current financial situation and will be confirmed when I file my 2018 taxes";
8) Affordable Child Care Benefit Child Care Arrangement form dated October 22, 2018 indicating that licensed group child care is provided by a child care provider to the appellant's younger child;
9) Letter to the appellant dated October 30, 2018 in which the ministry indicated that the appellant is eligible for the child care benefit starting October 1, 2018 and ending December 31, 2018 at the rate of $850 for the younger child and $400.40 for the older child and starting January 1, 2019 and ending September 30, 2019 at the rate of $771.68

for the younger child and $400.40 for the older child. The eligibility details included family income for the appellant totalling $8,220 and an adjusted family income of $68,080, being above the maximum benefit income range of $45,000 and within the partial benefit income range of $45,000.01 to $110,999.99. The ministry wrote that if there is a change of circumstances that affects eligibility, the appellant is to contact the ministry.

10) Message to the ministry dated October 30, 2018 in which the appellant thanks the ministry for the subsidy funds.
11) Statement of Earnings setting out the appellant's net pay for the periods ending March 2, 2019 ($1,479.34), March 16, 2019 ($1,526.75), March 30, 2019 ($1,481.74), and April 13, 2019 ($1,526.75);
12) Message to the ministry dated April 26, 2019 in which the appellant expressed gratitude to the ministry;
13) Letter to the appellant dated May 21, 2019 in which the ministry wrote that the appellant is not eligible for the child care benefit beginning June 1, 2019. The ministry wrote that applicants are eligible for the maximum benefit if the family's adjusted annual income does not exceed the threshold for the maximum benefit. A number of factors such as family size, the age of the child(ren) requiring child care, and the type of child care setting selected are used to determine the family's adjusted annual income and threshold for the maximum benefit. The ministry determined that the family's adjusted annual income exceeded the amount to qualify for a partial benefit;
14) Child Care Subsidy payment table for both children covering the period October 1, 2018 through June 30, 2019;
15) Child Care Subsidy Overpayment Calculation ("Overpayment Calculation Chart") dated December 1, 2020 covering the period October 2018 through June 2019 for the appellant's younger child resulting in a total overpayment of $3,268.56, and the period October 2018 through May 2019 for the appellant's older child and resulting in a total overpayment amount of $1,500.88, or the total amount for both children of $4,769.44;
16) Letter to the appellant dated December 30, 2020 in which the ministry wrote that the ministry determined that the appellant received $4,769.44 in child care subsidy funding for which the appellant was not eligible;
17) Print out of "Reasons Not to Recover an Overpayment" policy effective February 1, 2019 from B.C. Government Recoveries web page that provides as follows:
    - Section 87 of the *Financial Administration Act* provides for the availability of an estoppel defence when the ministry seeks to recover the assistance from a recipient that they were not eligible to receive. An estoppel defence protects a recipient, who through no fault of their own receives a payment they were not eligible to receive.
    - When establishing a ministry error overpayment, staff must review the following criteria to see if the overpayment meets all of the criteria of an estoppel defence, as described below. Overpayments that meet the following criteria must be referred to a supervisor.
    - There may be an estoppel defence when all of the criteria are met: 1. A recipient received assistance that he or she was not eligible to receive, and 2. The ministry represented to the recipient that he or she was eligible for the assistance. This could be an explicit statement by the ministry that the person was eligible, or, an implicit statement by the continued payment of assistance by the ministry despite

having all the information needed to determine the recipient was actually ineligible (e.g. the client had provided sufficient evidence to determine their eligibility); and, 3. The recipient had relied on the funds to his or her detriment (detrimental reliance). This detrimental reliance is when a client with non-discretionary income adjusts their living expenses to the increased amount of assistance. It is generally accepted that a person in receipt of assistance will adjust their living expenses to an increased amount of assistance and therefore in almost all cases there will be detrimental reliance on the increased assistance. An estoppel defence recognizes that, where there has been detrimental reliance, requiring an innocent recipient to return a mistaken payment (e.g. overpayment) of assistance would be inequitable.

- Estoppel defence cases are highly dependent on the facts of the situation. The availability and strength of an estoppel defence will vary depending on the circumstances of the ministry's representation concerning eligibility and the reasonableness of the recipient's reliance on the information provided.; and,

18) Request for Reconsideration dated January 27, 2021 plus attachments.

In the Request for Reconsideration, the appellant wrote that:

- Section 7(1) of the CCSA was incorrectly applied as the ministry led the appellant to believe they were eligible.
- The appellant is applying the reasonable person test and an estoppel defence under Section 87 of the *Financial Administration Act* (FAA) as "requiring an innocent recipient to return a mistaken payment (e.g. overpayment) of assistance would be inequitable."
- The appellant was on an extended leave from employment that was unpaid from May 2018. The appellant started a new job October 1, 2018.
- The appellant referred to the first application for a child care subsidy and noted that the appellant mistakenly wrote the appellant's income as "$349,798."
- On October 13, 2018 the ministry alerted the appellant to the error.
- On October 16, 2018 the appellant submitted the second application for a child care subsidy.
- The appellant called the ministry as the appellant's first paycheck was not until mid-October 2018 and, without the subsidy, the appellant would not be able to afford child care.
- The ministry was empathetic that the appellant's 2017 taxes were not reflective of the appellant's financial situation and the ministry instructed the appellant to complete an income review form as the appellant had a decrease in income.
- The appellant reported employment income of $3,600 and the ministry should have questioned how the appellant's income would only be $3,600 for the next 12 months of work. The appellant further reported $4,620 of EI Benefits but as the appellant's reason for care was full-time employment, this should have raised concern for the ministry.
- In the form, the appellant summarized the income that the appellant was told the subsidy was to be based on. The appellant sent a message to the ministry attaching the Income Declaration and stating: "this reflects our current financial situation and will be confirmed when I file my 2018 taxes."
- The appellant argued that all of the criteria of an estoppel defence under the "Reasons Not to Recover an Overpayment," specifically that the appellant received assistance the appellant was not eligible to receive, the ministry represented that the appellant was

eligible for the assistance, and the appellant relied on the funds to the appellant's detriment as the appellant adjusted living expenses.

- It was not until April 2019 that the appellant was informed by the ministry that the income was to be for the 12-month period following October 2018. At no time did the ministry mention an overpayment requiring repayment.
- Over two years later, the appellant received a letter dated December 1, 2020 requesting an overpayment of $4,769.44. They had another child in June of 2020 and cannot repay this amount.
- Based on mistaken instructions from the ministry, the appellant selected the wrong income path and even though the appellant explained multiple times in different forms and on the phone, the appellant was still given funds that the appellant was ineligible to receive.
- The appellant complied to the best understanding and requiring the appellant to return a mistaken payment after the appellant was led to believe the appellant was eligible for assistance would be inequitable.

Additional Information

In the Notice of Appeal dated March 7, 2021, the appellant expressed disagreement with the ministry's reconsideration decision and wrote that:

- They told the appellant to fill out the Income Declaration form based off the appellant's last 12 months income, leading the appellant to believe the appellant was entitled.
- The appellant explained the appellant's income on the forms, by phone and email and was not notified of an overpayment until more than 2 years later.
- The appellant invokes an estoppel defence under Section 87 of the FAA, for detrimental reliance.

Prior to the hearing, the appellant provided a copy of the Request for Reconsideration and all the supporting documents.

At the hearing, the appellant stated:

- The ministry was not reasonable to apply Section 7 of the CCSA because the appellant believed there was entitlement to the child care benefit. The appellant believes Section 87 of the FAA applies to the appellant's circumstances.
- In the first application for the child care benefit, the appellant misplaced a comma in reporting annual employment income as "$349,798."
- After being notified of the error by the ministry, the appellant submitted a second application with annual employment income as $34,978.
- The appellant felt some urgency because the application had to be submitted by the end of October to be eligible for the month. The appellant contacted the ministry to make sure everything was okay and the appellant explained that the 2017 tax amount was not reflective of the appellant's current financial situation, that the appellant did not make $34,978.
- The ministry said the appellant could complete an income review because there had been a reduction in the appellant's income and this would give the opportunity for the appellant to explain the actual financial situation.
- The appellant had re-submitted an application for the child care benefit and then, 3 hours

later, completed an income review on the Income Declaration form. The appellant thought that the statement of income was for the previous 12 months of income.

- The ministry should have noticed the reason for care for the appellant's children was full-time employment and $3,600 would be too low and the appellant would not receive EI benefits when employed full-time.
- The appellant relies on the decision of the Tribunal in *Appeal 2020-00145* although it is different circumstances, the Tribunal found that the appellant's intent to apply had not changed when partial information was provided and the ministry did not use the resources available to follow up with the appellant to ensure the application was completed.
- The appellant explained in the comments section of the Income Declaration form and summarized the income that the appellant was told the subsidy would be based on.
- The appellant makes a lengthy commute to the appellant's place of employment and it would not make sense for the appellant to work if there was no subsidy available.
- The estoppel defence applies as the appellant received subsidy that the appellant was not entitled to receive. It was not until the April 2019 review request that the appellant realized that a mistake had been made.
- The ministry still paid the June 2019 subsidy even though the appellant received a letter from the ministry that said the appellant was not eligible for the subsidy as of June 1, 2019.
- It was only in April 2019 that the ministry explained that the Income Declaration required that the employment income was to be reported for the 12 months following the date of the form in October 2018. The appellant talked to the ministry at the time and felt relieved and no one from the ministry mentioned an overpayment.
- At first the ministry was extrapolating from a couple of pay stubs to estimate the income for a 12-month period and the appellant explained that this was not accurate for projecting an annual income because of changes in the appellant's income in different pay periods.
- It was not until over 2 years later that the appellant received a letter from the ministry advising of an overpayment.
- The appellant relies on the decision of the Tribunal in *Appeal 2020-00033* where it is stated that there is no limit on when an audit can occur and the appellant received an overpayment that could have been identified much sooner.
- The appellant behaved as a reasonable person and resubmitted the application after being notified of an error. The appellant completed the Income Declaration form, as the ministry suggested, to more accurately reflect the financial situation.
- The appellant received mistaken information from the ministry and the appellant selected the wrong income path. The appellant was not told of the overpayment for a long period of time.
- In October 2018, the appellant declared income of $8,220 as the appellant's income for the previous 12 months, which was EI benefits and a top-up amount from work. The EI benefits varied somewhat over the months.
- The appellant's employment involves assisting people filling out forms and the appellant is familiar with what is required in the forms and, while not giving advice, can provide an explanation of the requirements in the form.
- The ministry would have known that the Income Declaration form required the 12 months

going forward from October 2018 and could have caught the error at the time.

- The appellant would have relied on the re-submitted application but called to ensure the appellant's due diligence and the ministry said to fill out the Income Declaration form.
- The appellant got the first pay check in mid-October 2018 after returning to work.
- The appellant relies on the estoppel defence as the ministry asked the appellant to fill out the Income Declaration form and the ministry let a long time pass before claiming the overpayment.
- The appellant relies on the decision of the Tribunal in *Appeal 2020-00169* where the majority decision was satisfied that the appellant in good faith applied for the subsidy and said that the appellant did their best to comply and it was reasonable to rely on the representation by the ministry.
- The ministry discouraged the appellant from pursuing an appeal to the Tribunal as the ministry said that the estoppel defence was not an option for the appellant to pursue at the Tribunal.
- The appellant obtained the "Reasons Not to Recover an Overpayment" from the web page for the provincial government Recoveries department. The appellant argued that this policy applies to the appellant's circumstances.
- The appellant believes the income declared in the Income Declaration should have been a red flag for the ministry and the error should have been caught by the ministry at the time.

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

- Section 87 of the FAA is not tied to a particular ministry and can be applied by the government even if the "Reasons Not to Recover an Overpayment" policy applies to another ministry. Section 87 says that a person can rely on estoppel; however, the section does not speak to the debt being wiped out but just as to whether the repayment should occur.
- The ministry cannot make a decision regarding a claim of estoppel as it is outside the ministry's scope. The ministry must make a referral "up the chain" to the recovery department to make the decision in consultation with a lawyer. This referral might have been made after the reconsideration decision was made.
- Normally the ministry considers the client's prior tax year when assessing eligibility for the child care benefit. Where the prior tax year is not reflective of the client's current situation, an income review is available under Section 9.1 of the CCSR, in which case the client's income in the 12 months following the income review statement is considered.
- The appellant referred to the prior 12 months in the Income Declaration form and this was not noticed by the ministry.
- The ministry later discovered, in April 2019, that the declared income of $8,220 was not reflective of the appellant's total income.
- There was an error made in the reconsideration decision when the ministry referred to the appellant's family adjusted annual income of $94,525 as exceeding $111,000. After the adjustment made to consider the appellant's 2018 income reported to CRA, the annual income no longer exceeded $111,000 and resulted in the appellant being eligible for a partial subsidy.
- When the forms came in from the appellant, the ministry relied on the appellant's words

because it is the appellant's declaration. There is a possibility that the ministry might have caught the inconsistencies in that the Income Declaration contradicted the information in the revised application.
- The ministry caught the error in the appellant's first application because it was obviously a misplaced comma in the stated income amount. The appellant told the ministry that the amount of income stated in the revised application was not accurate either and that is when the Income Declaration was completed by the appellant.
- The revised income amount of $8,220 is not an obvious error that would be flagged for the ministry.

As the information provided by the appellant on appeal was part of the ministry record at reconsideration, the panel considered that there was no additional information for which a determination of admissibility was required under Section 22(4)(b) 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 a portion of the child care benefit received over the period October 2018 to June 2019 due to undeclared income and is, therefore, liable to repay $4,769.44 for the portion of the child care subsidy for which the appellant was not entitled, pursuant to Section 7(1) of the CCSA, was reasonably supported by the evidence or a reasonable application of the applicable enactment in the circumstances of the appellant.

Relevant sections of the CCSA and the CCSR, and Section 87 of the FAA, are set out in the Schedule at the end of these Reasons.

Ministry's Position

The ministry's position, as set out in the reconsideration decision, is that the appellant is liable to repay $4,769.44 for the portion of the child care subsidy the appellant received over the period October 1, 2018 through June 2019 and for which the appellant was not entitled, pursuant to Section 7(1) of the CCSA. The ministry found initially that the appellant was not eligible for the child care benefit received over the period October 2018 to June 2019 due to undeclared income that resulted in the family's adjusted annual income exceeding the maximum amount set out in Section 7(1)(a) of the Child Care Subsidy Regulation (CCSR). The ministry wrote that as part of the Verification and Audit process in April 2019 the ministry projected the appellant's gross annual income from the appellant's 2019 employment pay statements to be $58,947.20, resulting in a total family annual income of $122,807.02. The ministry wrote that as the family's adjusted annual income exceeded the maximum of $111,000 for a child receiving child care in a licensed child care setting, according to Section 7(1)(a) of the CCSR, the appellant was not eligible for the child care subsidy for the period October 1, 2018 through June 30, 2019 and there had been an overpayment of the child care benefit.

The ministry wrote that, at the appellant's request, the ministry subsequently assessed the appellant's eligibility for the child care benefit using the appellant's 2018 CRA income amount of $34,665. The ministry found that due to the undeclared income and an increase in the family's adjusted annual income, and a resulting change in the calculation of the eligible subsidy amount under Section 8(4) and Schedule A of the CCSR, the appellant was not eligible for a portion of the child care benefit received over the period October 2018 to June 2019.

The ministry wrote in the reconsideration decision that, based on the appellant's reported total gross family income of $72,080 and an adjusted family income of $68,080, the appellant had been granted subsidy on October 30, 2018 for the older child at the G3 rate for the period October 2018 to May 2019 in the amount of $400.40 per month and for the younger child at the G1 rate for the period October to December 2018 in the amount of $850 per month and at the G2 rate for the period January to June 2019 in the amount of $771.68 per month. The ministry wrote that based on the appellant's increased total gross family income of $98,525 and an adjusted family income of $94,525 the appellant was found eligible for a partial subsidy for the older child at the G3 rate for the period October 2018 through May 2019 in the amount of $212.79 and a partial subsidy for the younger child at the G1 rate for the period October to December 2018 in the amount of $483.62 and a partial subsidy at the G2 rate for the period January to June 2019 in the amount of $410.11. The ministry wrote that the increase in the

family's adjusted annual income resulted in a combined overpayment of a portion of the child care benefit over the period October 2018 through June 2019 in the total sum of $4,769.44.

At the hearing, the ministry stated that the ministry cannot make a decision regarding a claim of estoppel as it is outside the ministry's scope. The ministry stated that even if the "Reasons Not to Recover an Overpayment" policy applies to another ministry, Section 87 of the FAA is not tied to a particular ministry and can be applied by the government. The ministry stated that Section 87 of the FAA says that a person can rely on the defence of estoppel; however, Section 87 does not speak to the debt being wiped out but just as to whether the repayment should occur.

The ministry stated at the hearing that when the forms came in from the appellant, the ministry relied on the appellant's words because it is the appellant's declaration. The ministry stated that there is a possibility that the ministry might have caught the inconsistencies since the Income Declaration contradicted the information in the revised application. The ministry pointed out that the error in the appellant's first application was caught because there was obviously a misplaced comma in the stated income amount and the appellant told the ministry that the amount of income stated in the revised application was not accurate either and that is when the Income Declaration was completed by the appellant. The ministry stated that the revised income amount of $8,220 as declared by the appellant is not an obvious error that would be flagged for the ministry.

Appellant's Position

The appellant wrote in the Request for Reconsideration that Section 7(1) of the CCSA was incorrectly applied as the ministry led the appellant to believe the appellant was eligible for the child care benefit. The appellant argued for the application of the reasonable person test and an estoppel defence under Section 87 of the FAA as "requiring an innocent recipient to return a mistaken payment (e.g. overpayment) of assistance would be inequitable." The appellant argued that all of the criteria of an estoppel defence under the "Reasons Not to Recover an Overpayment," specifically that 1) the appellant received assistance the appellant was not eligible to receive, 2) the ministry represented that the appellant was eligible for the assistance, and 3) the appellant relied on the funds to the appellant's detriment (detrimental reliance) as the appellant adjusted living expenses.

Regarding the ministry's representation by explicit statement that the appellant was eligible, the appellant wrote that the ministry instructed the appellant to complete the Income Review based off the appellant's last 12 months of income. The appellant wrote that the form was completed 3 hours after the appellant corrected the original application for the child care benefit and the appellant explained in the comment box that this was their financial situation for 2018 and not 2019. Regarding the ministry's representation by implicit statement that the appellant was eligible, the appellant wrote that the ministry continued payment of assistance despite the appellant providing sufficient evidence of the appellant's income in April of 2019. The appellant wrote that the ministry sent a letter to the appellant dated May 21, 2019 stating that the appellant was "not eligible for the ACCB [Affordable Child Care Benefit] beginning June 1, 2019" and yet the ministry continued the subsidy with the June 2019 subsidy while the appellant was unaware that a debt was accruing.

The appellant wrote that there was "detrimental reliance" by the appellant since the appellant

relied on the funds and the appellant adjusted living expenses. The appellant wrote that without the subsidy it was more costly to go to work and, if not eligible for the subsidy, the appellant would not have returned to work. The appellant wrote that it was not until April 2019 that the appellant was informed by the ministry that the income was to be for the 12-month period following October 2018 and that at no time did the ministry mention an overpayment requiring repayment. The appellant wrote that over two years later, the appellant received a letter dated December 1, 2020 requesting an overpayment of $4,769.44. The appellant wrote that they had another child in June of 2020 and cannot repay this amount.

At the hearing, the appellant referred to the Tribunal decision in *Appeal 2020-00145* and stated that although the case involves different circumstances, the Tribunal found that the appellant's intent to apply had not changed when partial information was provided and the ministry was not reasonable when it did not use the resources available to follow up with the appellant to ensure the application was completed. The appellant also relied on the Tribunal decision in *Appeal 2020-00033* and stated that the Tribunal found that there is no limit on when an audit can occur and the appellant in that case similarly received an overpayment that could have been identified "much sooner." The appellant relied on the Tribunal decision in *Appeal 2020-00169* and stated that the majority decision was satisfied that the appellant in good faith applied for the subsidy and said that the appellant did their best to comply and it was reasonable for the appellant to rely on the representation by the ministry.

Panel Decision

According to Section 7(1) of CCSA, 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. In the reconsideration decision, the ministry found that the appellant was not eligible for a portion of the child care benefit received over the period October 2018 to June 2019 due to undeclared income and that the appellant is liable to repay $4,769.44 for the portion of the child care subsidy for which the appellant was not entitled.

The ministry wrote that as part of the Verification and Audit process, undeclared income was discovered and, after discussions with the appellant and at the appellant's request, the ministry confirmed the appellant's income using the 2018 CRA annual income of $34,665. The appellant did not dispute that the family's adjusted annual income was increased from $68,080 to $94,525 based on the appellant's 2018 income as reported to CRA. Section 8(4) of the CCSR says if a family's adjusted annual income exceeds the applicable amount under subsection (3) (a) [$45,000 for a child receiving child care in a licensed child care setting], the monthly child care subsidy for a child receiving full time child care is the parent fee or the amount determined in accordance with the applicable formula in Schedule A of the CCSR, whichever is less, for the type of child care the child is receiving. At the hearing, the ministry stated that there was an error made in the reconsideration decision when the ministry referred to the appellant's family adjusted annual income of $94,525 as exceeding "$111,000," and the panel finds that the ministry made an apparent typographical error in referring to "111,000" rather than "$45,000" as the maximum amount set out in Section 8(4) of the CCSR. When the ministry considered the appellant's 2018 income as reported to CRA, the family's adjusted annual income resulted in the appellant being eligible for a reduced partial subsidy.

With the family's adjusted annual income of $68,080 that was initially calculated by the ministry

based on information provided by the appellant in the Income Declaration, the applicable formula is found in Section 2(b) of Schedule A of the CCSR as the family's adjusted annual income is more than $60,000 but less than $80,000; however, when the adjusted annual income increased to $94,525 based on the appellant's confirmed 2018 CRA income, the applicable formula is found in Section 2(c) of Schedule A of the CCSR, as the family's adjusted annual income is more than $80,000 but less than $111,000, and the application of this formula reduced the subsidy payable.

The appellant does not dispute that the amount of the subsidy for which the appellant was eligible was reduced as a result of the increase in the amount of the appellant's income and the resulting increase in the family's adjusted annual income. The appellant acknowledged that the appellant was not eligible for a portion of child care subsidy paid over the period October 1, 2018 through June 30, 2019 and did not dispute the ministry's calculation of the sum of $4,769.44 as the portion of the child care subsidy for which the appellant was not entitled.

Section 87 of the FAA

As set out in the Request for Reconsideration, the appellant's main argument was that Section 7(1) of the CCSA was incorrectly applied as the ministry led the appellant to believe the appellant was eligible for the child care benefit and an estoppel defence under Section 87 of the FAA applies as all the criteria of the "Reasons Not to Recover an Overpayment" policy are met in the appellant's circumstances. At the hearing, the appellant stated that the ministry had advised the appellant that they were not able to consider the estoppel defence and this was a reason the appellant decided to pursue an appeal to the Tribunal on this basis.

Section 87 of the FAA states that a person may rely on an estoppel defence when recovery of public money is sought. The "Reasons Not to Recover an Overpayment" policy referred to by the appellant is not specific to the Ministry of Children and Family Development ("the ministry") as the policy refers to recovery of "assistance" to which a person was not entitled and not to the recovery of the child care benefit; however, the panel finds that the policy, while not carrying the weight of legislation, is helpful in setting out a test for whether an estoppel argument ought to be successful. The policy states that an estoppel defence protects a recipient who, through no fault of their own, receives a payment they were not eligible to receive. The criteria are: 1) a recipient received assistance they were not eligible to receive, 2) the ministry represented to the recipient that they were eligible for the assistance, either by explicit statement that the person was eligible, or an implicit statement by the continued payment of assistance despite the ministry having all the information needed to determine the recipient was actually ineligible, and 3) the recipient had relied on the funds to their detriment.

The appellant does not dispute the fact that there was an overpayment of the child care benefit over the period October 2018 to June 2019. The policy states that in almost all cases the ministry accepts that detrimental reliance occurred and, at the hearing, the ministry did not dispute the appellant's claim that living expenses were adjusted based on receipt of the child care benefit. The question in the appellant's circumstances is whether the ministry represented to the appellant that the appellant was eligible for the child care subsidy, either by explicit statement or by implicit statement by virtue of the continued payment of the child care subsidy.

Regarding the ministry's representation by explicit statement that the appellant was eligible for

the child care subsidy, the appellant wrote that the ministry instructed the appellant to complete the Income Review based off the appellant's last 12 months of income and the appellant was paid the subsidy on this basis. In the Income Declaration, in response to the request to provide "the amount per year" of each type of income earned, the appellant indicated "total gross annual employment income from all employment sources" of $3,600 per year and "total gross annual amount from EI benefits of any type" of $4,620 per year, for a "total annual income" of $8,220. For additional comments, the appellant wrote: "When I called in I was told I could complete this form to provide a more accurate picture of our current financial situation upon which we pay daycare. I went on [leave] in June 2017 and just returned to work October 1 of 2018. I received $970 per month for one year from EI. This past year I received top up from my employer of $600 per month until June. I have had no income since then." Based on the appellant's information and considering the 12 months prior to October 2018, the panel finds that 9 months (October 2017 to June 2018) of approximately $970 per month for EI benefits ($8,730) plus 9 months of $600 per month top up from the employer ($5,400), yields a total amount of income for the previous 12-month period of $14,130.

When asked about the discrepancy between the declared amount ($8,220) and the calculated amount of income in the previous 12 months ($14,130), the appellant stated at the hearing that the EI benefits varied somewhat over the months, but the appellant did not account for the $5,910 difference between the amounts. The appellant sent a message to the ministry when submitting the Income Declaration stating that the Income Declaration "reflects our current financial situation and will be confirmed when I file my 2018 taxes"; however, the 2018 CRA income was later confirmed to be $34,665, which yields a sizeable amount of undeclared income from the $8,220 in total annual income declared by the appellant in the tenth month of 2018, on October 16, 2018. The panel finds that when considering the 12-month period prior to October 2018, which was the instruction the appellant stated was received from the ministry, the appellant's total annual income was under-reported in the Income Declaration.

In reviewing the Income Declaration, the panel notes that the form includes instructions on the first page to complete the income statement with the amount of the estimated decreased annual income for the 12-month period beginning the month *after* the month in which the income review is requested, and a specific example is also provided to guide the applicant in completing the form correctly. The appellant stated at the hearing that the appellant's previous employment has included responsibility for assisting others with completing government forms and the panel finds that the form provides direction, especially to an applicant familiar with government forms, to consider the total income in the 12 months following the date of the Declaration. In the Request for Reconsideration, the appellant wrote that, when considering the reported employment income of $3,600, the ministry should have questioned how the appellant's income would be that low for the next year of work. The appellant also wrote that the reported $4,620 of EI Benefits should have raised concern by the ministry since the appellant's reason for care was full-time employment.

At the hearing, the ministry stated that when the form came in from the appellant, the ministry relied on the appellant's words because it is the appellant's declaration. The ministry stated that the appellant wrote in the revised application that the appellant's 2018 income was "much lower" than $34,978 and the total income amount of $8,220 reported in the Income Declaration was not an obvious error that would be flagged for the ministry, like the misplaced comma when the

appellant initially reported total annual income of $349,798. The panel notes that the Income Declaration includes an acknowledgement by the appellant that the information provided is "true and complete" and the applicant is "responsible for immediately notifying the Child Care Service Centre if there is a change to any of the information" provided on the form. Section 5(2) of the CCSA imposes a duty on a person to or for whom a child care subsidy is paid to notify the ministry of any change in circumstances affecting eligibility under the Act, and Section 14 of the CCSR further specifies that the notification must be given in writing or by telephone to an employee in the Child Care Service Centre as soon as possible after there is any change in circumstances affecting the eligibility of the parent. Given the instructions provided in the Income Declaration completed by the appellant, the ongoing positive obligation to report to the ministry any changes affecting eligibility, and the appellant's note to the ministry that the 2018 income was "much lower," the panel finds that the ministry was reasonable to rely on the amount of total annual income as declared by the appellant in the Income Declaration.

The estoppel defence protects a recipient who, through no fault of their own, receives a payment they were not eligible to receive. For the ministry to determine eligibility for the child care benefit and to be in a position to make an accurate representation about eligibility, the ministry relies on the applicant providing complete and correct information regarding the applicant's total annual income. With incomplete information provided by the appellant in the Income Declaration, the ministry could not make an accurate determination of the amount of subsidy for which the appellant was actually eligible. The panel finds that it was not reasonable for the appellant to rely on any representation by the ministry as to eligibility for the child care benefit that was based on incomplete information about the appellant's total annual income, which information is necessary for the ministry to calculate the amount of the subsidy under Schedule A of the CCSR.

Regarding the ministry's representation by implicit statement that the appellant was eligible, the appellant wrote that the ministry continued payment of assistance despite the appellant providing sufficient evidence of the appellant's income in April of 2019. The appellant wrote that the ministry sent a letter to the appellant dated May 21, 2019 stating that the appellant was "not eligible for the ACCB beginning June 1, 2019" and yet the ministry continued the subsidy with the June 2019 subsidy while the appellant was unaware that a debt was accruing. The panel notes that the ministry had originally projected the appellant's total annual income from pay stubs provided by the appellant in April 2019 to be $58,947.20, resulting in a total family annual income of $122,807.02, which exceeded the maximum of $111,000 for a child receiving child care in a licensed child care setting and, according to Section 7(1)(a) of the CCSR, making the appellant ineligible for the child care subsidy. Given the statement by the ministry in the letter that the family's adjusted annual income exceeded the amount to qualify for a partial benefit, the panel finds that it is more likely than not that the May 21, 2019 letter was sent to the appellant following the ministry's initial determination of the appellant's ineligibility for any subsidy.

The appellant also argued that it was not until April 2019 that the appellant was informed by the ministry that the income was to be for the 12-month period following October 2018 and, despite interactions with the ministry, at no time did the ministry mention an overpayment requiring repayment. The appellant wrote that over two years later, the appellant received a letter dated December 1, 2020 requesting an overpayment of $4,769.44. The panel notes that there is no time limit established in Section 5 of the CCSA for the ministry to commence or complete the

audit process and the ministry is given power to direct a person to or for whom a child care subsidy is paid to supply the ministry with information within the time and in the manner specified by the ministry. As part of the audit and verification process, the ministry first calculated the appellant's total annual income by projecting 2019 income from Statements of Earnings setting out the appellant's net pay for pay periods in March and April 2019, which resulted in the appellant being ineligible for any subsidy. At the appellant's request, the ministry was willing to consider the appellant's 2018 income as reported to CRA to determine eligibility for the child care benefit, which resulted in the appellant being eligible for a partial subsidy. Given the lack of time restrictions on the verification and audit process, the ministry's agreement to consider the appellant's 2018 CRA income, the need to verify the information and to re-calculate the appellant's eligibility under the CCSR based on the new information provided, the panel finds that the ministry was not unreasonable to provide the appellant with the Overpayment Calculation Chart dated December 1, 2020 and to advise the appellant of the overpayment at that time.

The panel finds that the estoppel defence does not apply in the appellant's circumstances as the ministry's representation concerning eligibility for the child care benefit was based on incomplete information provided by the appellant regarding total income for the 12-month period, and the ministry reasonably relied on the information provided by the appellant in the Income Declaration regarding the appellant's income. The appellant was not reasonable to rely on any representation by the ministry as to eligibility for the child care benefit that was based on incomplete information from the appellant regarding the appellant's total annual income. The panel finds that the ministry reasonably re-calculated the amount of child care benefit for which the appellant was eligible over the period October 1, 2018 through June 30, 2019 based on the appellant's confirmed 2018 CRA annual income.

Previous Tribunal Decisions

At the hearing, the appellant made an additional argument that the ministry's actions were not reasonable in the appellant's circumstances and referred to three decisions of the Tribunal in support of a finding of unreasonableness. The appellant relied on the Tribunal Decision in Appeal 2020-00145 and stated that although the case involves different circumstances, the Tribunal rescinded the ministry's decision as the panel found in that case that the appellant's intent to apply for the child care benefit had not changed when partial information was provided in an application and found that the ministry was unreasonable when it did not use the resources available to follow up with the appellant to ensure the application was completed. The appellant argued that, similarly, the ministry instructed the appellant to complete the Income Review based off the appellant's last 12 months of income and the appellant explained in the comment box that this was their financial situation for 2018 and not 2019. The appellant pointed out that the ministry noticed the error in the original application for the child care benefit when the appellant stated the appellant's annual income as "$349,798." The appellant argued that the ministry should have noticed the reason for care for the appellant's children was stated as full-time employment and the stated amount of $3,600 for employment income would be too low and the ministry should have realized that the appellant would not receive EI benefits when employed full-time.

The panel finds that *Appeal 2020-00145* involved a different fact situation as the panel in that appeal considered an initial application for the child care benefit that was incomplete and

reviewed other sections of the CCSR. The panel considered the ministry's review of the requirement in Section 4 of the CCSR that a parent complete an application for the child care benefit in the form required by the ministry as well as the provision in Section 13 of the CCSR for the subsidy to be paid from the first day of the month in which the parent completes the application. The panel noted that the ministry stated that it would be a breach of process for the ministry to proceed with considering an application for the child care benefit in the absence of the parents' signed authorization to do so. As the evidence established that the parent in that case had failed to provide the signed authorization, the panel went on to consider Section 12 of the CCSR, which requires the ministry to notify the applicant as to whether or not the application is approved and, if the application is not approved, then the notification must be in writing and include the ministry's reasons for refusing to pay a child care subsidy. The panel in that case read into section 12 of the CCSR a requirement that the ministry provide "official notification" to the applicant of the status of their application even when an application is incomplete and their file closed due to inaction. The panel in that case found that there had not been a reasonable application of the legislation as, in considering Section 12 of the CCSR as interpreted by the panel, a level of reasonableness and procedural fairness was not applied by the ministry when the ministry did not use the resources available to offer follow up or notify the appellant so that the incomplete application might have been finalized by the parent at an earlier date.

In the appellant's circumstances, it is not disputed that the application for the child care benefit was completed in the form required by the ministry in October 2018 and the appellant provided revised information about the appellant's annual income in the Income Declaration form dated October 16, 2018. As previously discussed, given the instructions provided in the Income Declaration completed by the appellant and the ongoing positive obligation to report to the ministry any changes affecting eligibility, the panel finds that the ministry was reasonable to rely on the amount of total annual income as declared by the appellant in the Income Declaration to calculate the appellant's eligibility for the chid care benefit.

The appellant also relied on the Tribunal decision in *Appeal 2020-00169* and stated that the majority was satisfied that the appellant in good faith applied for the subsidy and said that the appellant did their best to comply and it was reasonable for the appellant to rely on the representation by the ministry. This appeal involved a similar fact situation as *Appeal 2020-00145* as the ministry considered an initial request for the child care benefit that was not in the form required by the ministry, and the panel reviewed the ministry's consideration of Sections 4 and 13 of the CCSR. Although the majority for the panel commented that the appellant "in good faith" tried to apply for the subsidy and the appellant "reasonably relied" on the email "representation" from the ministry that their request had been received, the majority found that the legislative requirement to be eligible for a child care subsidy includes submission of a completed application, and this had not been done "despite the appellant's best efforts to do so" until the application was completed in the form required by the ministry. The majority's decision in *Appeal 2020-00169* confirmed the ministry's reconsideration decision and supported the ministry's position in that appeal that the forms were available to the appellant to complete correctly, the ministry does not have a positive obligation to inform or assist an applicant with the process, and it is the applicant's responsibility to follow up because they have the most interest in the process.

In the panel's view, the majority decision in *Appeal 2020-00169* supports the ministry's position

in this appeal that the appellant was responsible for providing the information in support of the application for the child care benefit, including complete information about the appellant's annual income, and the ministry reasonably relied on the information that was provided by the appellant in the Income Declaration.

The appellant relied on the Tribunal decision in *Appeal 2020-00033* and stated that the Tribunal found that there is no limit on when an audit can occur and the appellant in that case similarly received an overpayment that could have been identified "much sooner." The appellant wrote that it was not until April 2019 that the appellant was informed by the ministry that the annual income was to be reported for the 12-month period following October 2018 and that at no time did the ministry mention an overpayment requiring repayment. The appellant wrote that over two years later, the appellant received a letter dated December 1, 2020 requesting an overpayment of $4,769.44.

The panel finds that *Appeal 2020-00033* is similar in the fact situation to the subject appeal as the ministry discovered that the appellant had received child care subsidy for which the appellant was not eligible due to family income that made the appellant eligible for child care subsidy in an amount less than that which the appellant had been issued. The panel noted in that decision that the ministry confirmed in the reconsideration decision that it had information about the family income earlier and an overpayment amount could have been identified "much sooner." The panel confirmed the ministry's decision as to all of the amounts for which the appellant was not eligible, with the exception of a relatively small amount relating to a doctor's note confirming the appellant's medical condition that the panel found the ministry had not properly considered. It is the panel's view that the decision in *Appeal 2020-00033* supports the ministry's position in this appeal that the verification and audit process can occur at any time and the panel likewise confirmed the overpayment amount that might have been identified by the ministry earlier. Based on the Overpayment Calculation Chart dated December 1, 2020, the panel finds that the ministry reasonably concluded that the appellant is liable to repay $4,769.44 for child care subsidy to which the appellant was not entitled for the months of October 2018 through June 2019 due to undeclared income, pursuant to Section 7(1) of the CCSA.

Conclusion

The panel finds that the ministry's decision, which found that the appellant was not eligible for a portion of the child care benefit received over the period October 2018 to June 2019 due to undeclared income and is liable to repay $4,769.44 for the portion of the child care subsidy for which the appellant was not entitled, pursuant to Section 7(1) of the CCSA, was reasonably supported by the evidence. The panel confirms the ministry's reconsideration decision and the appellant is not successful in the appeal.

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Schedule

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

Section 5 of the CCSA requires applicants or recipients 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 liability to repay 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).

The CCSR in force during the relevant time period provides:

Section 7(1) of the CCSR provides limits to annual income as follows:

Income test

7 (1) An applicant is not eligible for a child care subsidy if the family's adjusted annual income equals or exceeds the following:
(a) $111 000 for a child receiving child care in a licensed child care setting;
(b) $85 000 for a child receiving child care in a registered licence-not-required child care setting;
(c) $70 000 for a child receiving child care
(i) in a licence-not-required child care setting, or
(ii) in the child's own home as described in section 2 (c).

Section 8 of the CCSR provides for the amount of subsidy as follows:

Amount of subsidy

8 (1) In this section:
"full time child care" means child care for which the minister may pay a child care subsidy that is provided for the equivalent of at least 20 full days per month;
"full time subsidy amount", in relation to a child receiving part time child care, means the monthly child care subsidy determined in accordance with subsection (3), (4) or (5), as applicable, that would apply if the child were receiving full time child care;
"number of full days" means the number of full days per month for which the minister may pay a child care subsidy;
"number of half days" means the number of half days per month for which the minister may pay a child care subsidy;
"parent fee" in relation to a parent, means the fee the parent is charged by the applicable child care provider for child care for which the minister may pay a child care subsidy;
"part time child care" means child care for which the minister may pay a child care subsidy that is provided for less than the equivalent of 20 full days per month.
(2) For the purposes of applying the definitions of "full time child care" and "part time child care" in subsection (1), 2 half days are the equivalent of one full day.
(3) If a family's adjusted annual income is less than or equal to the following, the monthly child care subsidy for a child receiving full time child care is the parent fee or the amount set out in Column 3 of the applicable table in Schedule A, whichever is less, for the type of child care the child is receiving:
(a) $45 000 for a child receiving child care in a licensed child care setting;
(b) $39 000 for a child receiving child care in a registered licence-not-required child care setting;
(c) $24 000 for a child receiving child care
(i) in a licence-not-required child care setting, or
(ii) in the child's own home as described in section 2 (c).
(4) If a family's adjusted annual income exceeds the applicable amount under subsection (3) (a), (b) or (c), the monthly child care subsidy for a child receiving full time child care is the parent fee or the amount determined in accordance with the applicable formula in Schedule A, whichever is less, for the type of child care the child is receiving.

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Section 9.1(2) of the CCSR provides for an income review where there has been a decrease of income as follows:

Income review

9.1 (1) In this section:

"estimated decreased annual income" means the estimated income from all sources except social assistance payments, stated in Canadian dollars, for the applicant or the applicant's spouse, if any, for the 12-month period beginning the month after the month in which the applicant requests an income review under this section;

"estimated increased annual income" means the estimated income from all sources except social assistance payments, stated in Canadian dollars, for the applicant, or the applicant's spouse, if any, for the 12-month period beginning the month after the month in which the income of the applicant or the applicant's spouse, as applicable, increased;

"new applicant" means a parent who

(a) is not currently receiving a child care subsidy, and

(b) has applied for a child care subsidy under section 4 but no determination has yet been made whether the parent is eligible for a child care subsidy.

(2) Despite section 9 (3), if the income of the applicant or of the applicant's spouse, if any, has decreased,

(a) the applicant may request the minister to conduct an income review by giving to the minister a statement, in the form required by the minister, attesting to the estimated decreased annual income of the applicant or the applicant's spouse, as applicable, and

(b) the minister may determine the annual income of the person based on that information.

Section 14 of the CCSR provides notification particulars as follows:

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 of the CCSR provides subsidy rates for licensed child care as follows:

Schedule A

Subsidy rates for licensed child care setting

2 The monthly child care subsidy for a child receiving a type of child care provided in a licensed child care setting is to be determined in accordance with the formula in paragraph (a), (b) or (c), as applicable, and the table in this section:

(a) if a family's adjusted annual income is more than $45 000 but less than or equal to $60 000, the amount of child care subsidy is to be determined in accordance with the following formula:

$$\text{maximum benefit} \times \left[1 - \frac{(\text{family's adjusted annual income} - 45\,000) \times 0.272}{15\,000} \right]$$

(b) if a family's adjusted annual income is more than $60 000 but less than or equal to $80 000, the amount of child care subsidy is to be determined in accordance with the following formula:

$$0.728 \times \text{maximum benefit}$$

(c) if a family's adjusted annual income is more than $80 000 but less than $111 000, the amount of child care subsidy is to be determined in accordance with the following formula:

$$(0.728 \times \text{maximum benefit}) \times \left[1 - \frac{(\text{family's adjusted annual income} - 80\,000)}{31\,000} \right]$$

Table of Maximum Benefits

Item	Column 1 **Care Code**	Column 2 **Type of Child Care Provided in a Licensed Child Care Setting**	Column 3 **Maximum Benefit per Month**
Group Child Care / Multi-Age Child Care			
1	G1	children under 19 months	$1 250
2	G2	children 19 months and over but under 37 months	$1 060
3	G3	children 37 months and over but who have not reached school age	$550
4	G4	children of school age	$415
Family Child Care / In-Home Multi-Age Child Care			
5	J1 – L	children under 19 months	$1 000
6	J2 – L	children 19 months and over but under 37 months	$1 000

7	J3 – L	children 37 months and over but who have not reached school age	$550
8	J4 – L	children of school age	$415
Other			

Section 87 of the FAA provides as follows:

Defences to action for recovery of public money

87 (1) If public money is paid to a person by the government

(a) in excess of the authority conferred by an enactment,

(b) without the authority of an enactment, or

(c) contrary to an enactment,

and a right is asserted by the government to recover the payment or part of it, or to retain other money in full or partial satisfaction of a claim arising out of the payment, the person against whom the right is asserted may, subject to subsection (2), rely on any matter of fact or law, including estoppel, that would constitute a defence in a proceeding brought to recover the payment as if it had been made under a mistake.

(2) Subsection (1) does not enable a person to rely on a defence that a payment made by the government was made under a mistake of law, and the right of the government to recover the money paid by it is not impaired merely because the payment was made under a mistake of law.

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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) 2021-03-26

PRINT NAME	
Sameer Kajani	
SIGNATURE OF MEMBER	DATE (YEAR/MONTH/DAY) 2021-03-26
PRINT NAME	
Susan Mackey	
SIGNATURE OF MEMBER	DATE (YEAR/MONTH/DAY) 2021-03-26