

APPEAL NUMBER
2021-0088

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Children and Family Development (the ministry) reconsideration decision dated April 21, 2021, which found that the appellant was not eligible for the Affordable Child Care Benefit (“the child care benefit”) for the period from July 13, 2020 to October 31, 2020 as eligibility began on November 1, 2020 and there was no administrative error made by the ministry, pursuant to Sections 4 and 13 of the Child Care Subsidy Regulation (CCSR).

PART D – RELEVANT LEGISLATION

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

See Schedule attached to the end of these Reasons.

PART E – SUMMARY OF FACTS

Procedural matters

Although the appellant provided a completed Release of Information nominating a representative to attend the hearing, the appellant advised that the advocate was not available to attend, and the appellant wished to proceed with the hearing without the advocate.

Language translation was provided to the appellant by an interpreter.

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

- 1) Affordable Child Care Benefit Child Care Arrangement form with the name and contact information for the child care provider, the type of child care provided, the days and times child care is provided to the appellant's two children and signed by the child care provider on July 9, 2020. The appellant's name and telephone number is provided as well as a check mark in the box next to "yes" in response to the question whether this is the first time applying for the child care benefit and the direction to submit an Application to the ministry. There is no signature by the appellant and no social insurance number (SIN) provided, as requested in the form;
- 2) Letter to the appellant dated March 4, 2021 in which the ministry set out the appellant's eligibility for the childcare benefit and indicated the benefit period is November 1, 2020 through December 31, 2021, the reasons for needing the child care, the income eligibility assessment and the resulting monthly benefits;
- 3) Letter to the appellant dated March 4, 2021 in which the ministry advised that the appellant was not eligible for the Affordable Child Care Benefit for the period between July 13, 2020 and October 31, 2020. The ministry wrote that the application submitted by the appellant was completed on November 30, 2020 and, therefore, the appellant is only eligible to receive the benefit from November 1, 2020; and,
- 4) Request for Reconsideration dated April 9, 2021.

In the Request for Reconsideration, the appellant detailed the following:

- The appellant sent the arrangement form for the two children to the ministry address in the middle of July 2020. The appellant found out through a phone call that a letter would be sent to the appellant. The appellant did not receive any letter.
- The appellant could not apply online and resent the arrangement form to the ministry a second time. Due to the persistence of the appellant's childcare provider, the appellant sent the form a third time.
- During this time, the child care provider contacted the ministry several times and was told that no file existed for the appellant's children in the ministry system. The appellant has no idea where the arrangement forms sent to the ministry ended up.
- The appellant was able to contact a language interpreter twice through the ministry system and they explained the process of the application to the appellant.
- The appellant filled out the arrangement form and uploaded them and the relevant documents another time, with the help of the child care provider.
- When the appellant received approval from November 2020, the appellant called several times to follow up for the payments for July until November 2020.
- The language interpreter told the appellant that the ministry will call the appellant when

the process was finished. The appellant did not receive a call.

- The child care provider called the ministry and found out that the ministry sent the appellant a letter in the appellant's online account dated March 4, 2021.
- The benefit for the appellant's children started from the beginning of November 2020; however, the appellant registered the children for child care since July 13, 2020.
- The appellant cannot afford to pay the daycare fee for the July 13, 2020 until November 2020 instalments, especially since the appellant must work for minimum wage in two workplaces and takes care of a disabled spouse.
- The appellant's main problem is unfamiliarity with the English language and the online environment.

Additional information

In the Notice of Appeal dated April 27, 2021, the appellant expressed disagreement with the ministry's reconsideration decision.

At the hearing the appellant's friend stated:

- The friend has observed the appellant and is aware of the situation because their children attend the same daycare.
- The appellant applied for the child care benefit but did not get a response. The appellant was experiencing a language barrier and is not knowledgeable about using the computer.
- The friend saw that the appellant asked the child care provider for another Child Care Arrangement form, although the friend did not complete the form for the appellant.
- The friend agreed that it appears that the Child Care Arrangement form dated by the child care provider on July 9, 2020 had not been signed by the appellant.
- The friend did not see the Application form submitted by the appellant.
- The friend knows the appellant signed another Child Care Arrangement form as the friend saw another one with a signature and a date.
- The friend saw the appellant working with the child care provider to fill out these forms.
- The appellant told the friend that the forms were sent because the child care provider helped the appellant.
- The form that the appellant signed was sent to the ministry by the appellant at the end of December 2020 or the beginning of January 2021.

At the hearing, the appellant stated:

- The appellant had a hard time dealing with all the issues. Also, in the middle of the COVID pandemic it was more difficult to communicate with all these organizations.
- The appellant sent the form with no help in July and received a call from someone who told the appellant that the application was missing information.
- The Child Care Arrangement form was faxed to the ministry on July 23, 2020 from a pharmacy. The form was completed mostly by the child care provider and the appellant filled in the appellant's name and telephone number and checked off "yes" to indicate the appellant was applying for the child care benefit for the first time.
- In response to the question why the appellant did not sign the Child Care Arrangement form, the appellant stated that there were many challenges and the appellant did the best in the circumstances. The appellant signed the document when the child care provider helped the appellant.

- The appellant sent the form to the ministry at least three times. There were many times that the appellant wanted to give up, until someone helped the appellant.
- It was around August 2020 that someone from the government called the appellant and asked for the appellant's SIN and said that there is still information missing, including the appellant's signature. The appellant gave the information that was requested.
- While the ministry stated that the appellant advised that the appellant was unsure of their new address, the appellant is sure that an address was given to the person who called the appellant in August. The person said that a letter would be sent to the appellant but nothing was received by the appellant.
- The appellant tried to follow up but there were many times that the appellant had to wait for a long time on the telephone line and sometimes the call would be disconnected and the appellant was directed to call back.
- The appellant was still waiting, but no one contacted the appellant.
- During this time, the appellant realized there was a need for help and the appellant talked to the child care provider. The child care provider does not speak the appellant's original language but the child care provider explained very clearly what was needed and the child care provider helped the appellant a lot. They worked on the application together.
- The child care provider helped the appellant to submit the forms online. Although the appellant did not keep a copy, the appellant is sure the appellant signed the forms that were submitted online. However, the appellant did not know how to respond to messages online. The appellant found it hard to look online with a cell phone.
- The appellant was really struggling with applying for benefits for the appellant's children to attend daycare, that should have been simple. The appellant did the best and did not neglect applying. The appellant did not expect so much trouble in applying and the process was very frustrating for the appellant. If the appellant knew the trouble it would be to apply for the child care benefit, the appellant would have left the children at home.
- The appellant has a language barrier. The appellant does not remember when translation services were made available in the appellant's interactions with the ministry. The appellant does not have many friends to help with translating so many forms and documents.
- The appellant's spouse has a disability and they have two children and no money to pay for the daycare costs. It is not good for the appellant to be in debt.

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

- The ministry considers the Application form to be "complete" when it is signed. The Application form is different from the Child Care Arrangement form.
- Since the ministry had not received an Application form from the appellant, there would be no file opened for the appellant to which the Child Care Arrangement form could be paired when it was submitted by the appellant in July 2020. This may explain the ministry's receipt of the form in July and the ministry's contact the next month, in August 2020.
- The evidence does not show that an administrative error was made by the ministry. The ministry did not provide an example of an administrative error.
- The COVID-related policy exceptions only relate to attendance of a child at the child care and not to a new application for the child care benefit.

Admissibility of Additional Information

The ministry did not object to the admissibility of the oral testimony on behalf of the appellant. The panel considered that the appellant's testimony that an address was given to the ministry in August 2020, while new information, is related the ministry's denial of eligibility for the child care benefit and, therefore, is 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 the child care benefit for the period from July 13, 2020 to October 31, 2020 as eligibility began on November 1, 2020 and there was no administrative error made by the ministry, was reasonably supported by the evidence or a reasonable application of the applicable enactment in the circumstances of the appellant.

The applicable sections of the CCSR are set out in the Schedule at the end of these Reasons.

Ministry's Position

The ministry's position is that that the appellant was not eligible for the child care benefit for the period from July 13, 2020 and October 31, 2020 because the Application form was signed and dated by the appellant on November 30, 2020 and, therefore, eligibility began on November 1, 2020 pursuant to Sections 4 and 13 of the CCSR. The ministry wrote that under Section 13(1) of the CCSR, the child care benefit may be paid from the first day of the month in which the parent completes an application as described in Section 4. The ministry wrote that the appellant's application was completed on November 30, 2020 and the appellant is, therefore, eligible from the first day of November 2020. The ministry wrote that that there is no evidence that an administrative error was made by the ministry as set out in Section 13(2) of the CCSR and noted that the appellant was provided with access to a language interpreter during telephone conversations with the ministry to accurately relay information.

Appellant's position

In the Request for Reconsideration, the appellant wrote that the appellant's main problem is unfamiliarity with the English language and the online environment. The appellant wrote that the appellant sent the arrangement form for the appellant's two children to the ministry in the middle of July 2020. At the hearing, the appellant stated that these forms were sent to the ministry by fax, with the appellant receiving no help. The appellant wrote in the Request for Reconsideration that the arrangement form was sent to the ministry two more times and the appellant expected that a letter would be sent by the ministry in response. The appellant stated at the hearing that an address was provided to the ministry over the telephone in August 2020 but there was no letter received by the appellant.

The appellant wrote that the appellant was able to contact a language interpreter twice through the ministry system and they explained the process of the application to the appellant. The appellant wrote that, with the help of the child care provider, the appellant filled out the arrangement forms and uploaded them and the relevant documents another time. The appellant wrote that the language interpreter told the appellant that the ministry will call the appellant when the process was finished, but the appellant did not receive a call. The appellant

stated that the child care provider found out about a letter from the ministry dated March 4, 2021 in the appellant's online account. At the hearing, the appellant stated that the appellant did not know how to respond to messages online as the appellant was looking online with a cell phone and it was hard to use. The appellant wrote that the appellant cannot afford to pay the daycare fee for the July 13, 2020 until November 2020 instalments, especially since the appellant must work for minimum wage in two workplaces and takes care of a disabled spouse.

Panel decision

Section 13(1) of the CCSR says that a child care subsidy may be paid from the first day of the month in which the parent completes an "application" under Section 4. Section 4 of the CCSR sets out "How to apply for a subsidy" and says that to be eligible for the child care subsidy the parent must "complete" an application in the form required by the minister [Section 4(1)(a)] and "supply" the SIN of the parent and any parent spouse [Section 4(1)(b)] and "supply" proof of identity of each member of the family and proof of eligibility for the child care subsidy [Section 4(1)(c)].

At the hearing the ministry clarified that the ministry considers the Application form, as referenced in Section 4(1)(a) of the CCSR, to be "complete" on the date that the form that has been filled in with all the requested information is signed. The ministry's position is that the Application form was signed by the appellant on November 30, 2020, and the ministry was satisfied that the other information required by Section 4(1) of the CCSR had also been provided by the appellant on November 30, 2020. The appellant did not dispute that the child care subsidy Application form was signed on November 30, 2020, but pointed out that another form, the Child Care Arrangement form, was faxed to the ministry in July 2020 as part of the appellant's application for the subsidy.

The panel finds that the Child Care Arrangement form is not "an application in the form required by the minister" under Section 4(1)(a) of the CCSR as the wording of the subsection specifies "the" form required by the minister, or a particular form. The ministry stated at the hearing that the Application form is different from the Child Care Arrangement form. A particular ministry Application form is titled the "Affordable Child Care Benefit Application" form and has a specific form number with the ministry (CF2900) and a particular purpose of obtaining identifying information about the parent's family, the reason for needing child care, and information about the family's income.

The Child Care Arrangement form does not purport to be an "Application," has a different form number with the ministry (CF2798), and a particular purpose of obtaining information about the arrangement between the child care provider and the parent. As well, the Child Care Arrangement form specifically refers to the Application form as an additional document that the parent is required to submit to the ministry.

The Child Care Arrangement form documents the arrangement for child care that is made

between the child care provider and the parent, requires information from the child care provider including the type and location of the child care, and requires both the child care provider and the parent to sign and date the form. The appellant agreed at the hearing that the child care provider completed the required sections of the Child Care Arrangement form and the appellant provided a name and telephone number and checked off the “yes” box indicating agreement to this being the first time applying for the child care benefit. The panel notes that this check box is beside a direction to submit an “Application” to the ministry, and the panel finds that that use of a capital “A” indicates reference to an identified form, as opposed to a general “application.”

While the Child Care Arrangement form may be considered an element of the “proof of eligibility for the child care subsidy” required by Section 4(1)(c) of the CCSR and as part of the parent’s overall application, the appellant did not dispute that the Child Care Arrangement form sent to the ministry in July 2020 had not been signed and dated by the appellant and that no SIN was provided by the appellant at that time. The panel finds that this form was not signed by the appellant in July 2020 and only provides information relating to one of several requirements that must be met for an application for the child care subsidy under Section 4 to be complete.

Although the appellant stated that there was an expectation that a letter would be received from the ministry in response to the Child Care Arrangement form being submitted, the panel notes that there was no mailing address provided for the appellant on the Child Care Arrangement form. The appellant provided a telephone number and the appellant acknowledged that the ministry contacted the appellant by telephone in August 2020. The ministry stated at the hearing that since the ministry had not received an Application form from the appellant, there would be no ministry file opened for the appellant to which the Child Care Arrangement form could be paired when it was submitted by the appellant in July 2020. The ministry stated that this may explain the ministry’s receipt of the form in one month (July) and the ministry’s contact of the appellant in the following month (August 2020).

In August 2020, the ministry advised the appellant that the Child Care Arrangement form was not signed and was considered incomplete, and the ministry also advised the appellant of the language translation services available. In the Request for Reconsideration, the appellant wrote that the appellant was able to contact a language interpreter twice through the ministry system and they explained the process of the application to the appellant. At the hearing, the appellant stated that there was a realization that the appellant needed help and the appellant talked to the child care provider, who explained very clearly what was needed and they worked on the application together. It was 3 months later, at the end of November 2020, that the appellant provided the required identifying information and proof of eligibility to the ministry. In December 2020, the Affordable Child Care Benefit Application (CF2900) that had been signed by the appellant on November 30, 2020, was submitted to the ministry.

The panel finds that the ministry reasonably considered the Affordable Child Care Benefit Application form as the application form referred to in Section 4(1)(a) of the CCSR, and not the

Child Care Arrangement form as suggested by the appellant, and reasonably concluded that the Application form was completed on November 30, 2020. As there was no dispute that the appellant's application for the child care benefit under Section 4 of the CCSR was also complete on November 30, 2020, the panel finds that the ministry reasonably concluded that the appellant was eligible for the child care benefit from the first day of November 2020, according to the provisions of Section 13(1) of the CCSR.

Section 13(2) of the CCSR provides an exception to Section 13(1) if an administrative error has been made. In the case of an administrative error being made, a child care subsidy may be paid for child care provided in the 30 days before the parent completes an application under Section 4. The ministry wrote that there is no evidence that an administrative error was made by the ministry as set out in Section 13(2) of the CCSR and noted that the appellant was provided with access to a language interpreter during telephone conversations with the ministry to accurately relay information. While the appellant argued that there were language barriers to applying for the child care benefit, the appellant also acknowledged accessing translation services that the appellant wrote were helpful in understanding the process for the application.

The appellant also argued there were challenges experienced due to unfamiliarity with the online environment; however, the appellant acknowledged that when the appellant approached the child care provider for assistance, the child care provider helped the appellant submit the online application. The appellant argued there were difficulties communicating with organizations in the middle of the COVID pandemic, and the ministry stated that although there are some COVID-related policy exceptions, these only relate to attendance of a child at the child care and not to a new application for the child care benefit. The panel finds that the ministry reasonably determined that there was no evidence provided to show that the ministry made an administrative error in processing the information from the appellant once the information was received.

Conclusion

The panel finds that the ministry's decision, which found that the appellant was not eligible for the child care benefit for the period from July 13, 2020 to October 31, 2020 as eligibility began on November 1, 2020 and there was no administrative error made by the ministry, pursuant to Sections 4 and 13 of the CCSR, was a reasonable application of the applicable enactment in the appellant's circumstances. Therefore, the panel confirms the decision and the appellant's appeal is not successful.

Schedule

Section 4 of the CCSR provides:

How to apply for a subsidy

4 (1) To be eligible for a child care subsidy, a parent must

- (a) complete an application in the form required by the minister,
- (b) supply the minister with the social insurance number of the parent and the parent's spouse, if any, and
- (c) supply the minister with proof of the identity of each member of the family and proof of eligibility for a child care subsidy.

(2) Only one parent in the family may apply for a child care subsidy.

(3) Repealed. [B.C. Reg. 187/2007, s. (b).]

(4) Repealed. [B.C. Reg. 84/2016, s.2.]

Section 13 of the CCSR provides:

Will a subsidy be paid for child care provided before completion of the application?

13 (1) A child care subsidy may be paid from the first day of the month in which the parent completes an application under section 4.

(2) If an administrative error has been made, a child care subsidy may be paid for child care provided in the 30 days before the parent completes an application under section 4.

APPEAL NUMBER
2021-0088

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)

2021-05-13

PRINT NAME

David Handelman

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2021-05-13

PRINT NAME

Laurie Kent

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2021-05-13