

### **Part C – Decision Under Appeal**

The decision under appeal is the Ministry of Children and Family Development (the ministry) reconsideration decision dated January 27, 2022 which found the appellant not eligible for the Affordable Child Care Benefit for the period between August 1, 2021 and November 30, 2021 because:

- She submitted her application on December 18, 2021 which made her eligible on December 1 in accordance with section 13(1) of the Regulation.
- The ministry found no evidence of an administrative error which would have allowed for backdated eligibility of 30 days from the time the appellant completed the application in accordance with section 13(2).

### **Part D – Relevant Legislation**

Child Care Subsidy Regulation (CCSR) Sections 4 and 13

## Part E – Summary of Facts

From ministry files:

- On September 15, 2021 the Child Care Service Centre (CCSC) received a copy of the Affordable Child Care Benefit Child Care Arrangement form, signed and dated by the child care provider and by the appellant. Care was required for the appellant's child beginning August 1, 2021.
- No additional information, including an Affordable Child Care Benefit Application, was received by the ministry.
- On October 25, 2021 the CCSC noted that the appellant did not have a file with the ministry. The CCSC contacted the appellant by telephone and left a voicemail advising her to contact the ministry.
- The ministry did not receive any correspondence from the appellant by telephone, mail, fax or the online portal until December 18, 2021 when she submitted an Affordable Child Care Benefit Application, to the CCSC.
- On December 29, 2021 in a telephone conversation with the CCSC the appellant requested the benefit be backdated to August 1, 2021. The ministry advised her that her benefit can only be backdated to December 1, 2021 because she signed the application on December 9, 2021.
- On December 29, 2021 the CCSC sent a letter to the appellant advising that she was not eligible for the ACCB for the period between August 1, 2021 and November 30, 2021.

In her Request for Reconsideration dated January 16, 2022, the appellant wrote:

- She was told by the day care provider that to be eligible for the subsidy it doesn't matter when the application is submitted.
- During the pandemic it was difficult to connect to the clinic front to ask her family doctor for the medical form. Then there was a delay of almost two months before she received this form.
- The appellant suffers from very low energy levels and iron deficiency anemia and is unable to go back to work; as a result her financial balance is too low to cover her child care expenses. She needs more support from the government.

In her Notice of Appeal dated February 7, 2022 she wrote:

- The ministry is ignoring the fact that it took her a long time to finish her submission, and that the doctor's error in the medical form led to a delay.
- It is difficult to get connected to the CCC (888 338 6622). The last time she called she was on hold for over an hour.
- Both her friend and the child care provider confirmed that even if the application was submitted late, their customers still could get the benefits for previous months.

The ministry did not attend the hearing. Upon confirming that the ministry was notified the hearing proceeded in accordance with section 86(b) of the Employment and Assistance Regulation.

At the hearing the appellant reiterated previous information and added the following:

- The first time she contacted her doctor's office was in September 2021, then again in early December. She had to go to the doctor's office on the weekend because during the week she had to look after the children on her own.
- During the pandemic she did not meet the doctor in person - she gave the form to the receptionist who passed it on to the doctor who in turn left it with the receptionist for pick-up. The only contact was the receptionist. The doctor knew she had iron deficiency.
- The medical form was temporarily lost.
- Her doctor was ignored when he reached out to the ministry.
- Initially she had tried to contact the CCSC in September and October 2021 but was not successful. She got exhausted and gave up.
- At the end of November she talked to the CCSC and was told that she had to apply to get the benefit for the same month. Her friends had given her different information.
- The appellant confirmed that her first contact with the ministry was on December 18, 2021 when she submitted her application.
- The ministry did not request her to approach the doctor but this was her own initiative after she had done some research.
- This was her first time dealing with the ministry, she has no prior experience.

The appellant noted that the medical form was not included in the appeal record.

#### Admissibility of New Information

The panel finds that the information provided by the appellant in the Notice of Appeal and at the hearing is reasonably required for a full and fair disclosure of all matters related to the decision under appeal, as it contributes to the panel's understanding of the circumstances surrounding the appellant's attempts to establish eligibility for child care subsidy. The panel therefore admits this information as evidence pursuant to section 22(4) of the Employment and Assistance Act.

**Part F – Reasons for Panel Decision**

The issue in this appeal is whether the ministry decision which found the appellant not eligible for the Affordable Child Care Benefit for the period between August 1, 2021 and November 30, 2021 is reasonably supported by the evidence or a reasonable application of the legislation in the appellant's circumstances.

**Appellant's Position**

The appellant argues that she should be eligible for the benefit because her friends and her child care teachers told her that it doesn't matter when she submits her application, she would still get benefits retroactively. During the pandemic it was difficult to get connected with her family doctor who was supposed to give information about her medical condition to the ministry. There was a delay of almost two months caused by the doctor who supplied incorrect information to begin with; the ministry ignored this delay. It takes too long to wait on the phone to get connected with the Child Care Service Centre and get the necessary information. The appellant is unable to work, does not have enough funds for childcare and needs more support from the government.

**Ministry Position**

The ministry determined that the appellant is not eligible for the Affordable Child Care Benefit for the period between August 1, 2021 and November 30, 2021 because her application was submitted on December 18, 2021, and, consequently, the appellant's eligibility began on December 1, 2021. An Affordable Child Care Benefit Application is required for the purpose of obtaining identifying information about the parent's family, the reason for needing child care and information about the family's income. Without this information, the ministry is unable to assess the appellant's eligibility for the benefit. The ministry explained that the Child Care Arrangement form that was provided on September 15, 2021 is a consent form provided by the child care provider outlining the care arrangement between the parent and the care provider. It does not replace the Application form but is required in addition to the Application form.

The ministry found that there was no evidence of an administrative error. The ministry contacted the appellant to advise her of the missing application and, once the application was received, determined the correct start date for the benefits.

**Panel Decision**

Section 4 of the Regulation sets out that to be eligible for a child care subsidy a parent must complete an application in the form required by the minister.

Section 13 sets out that a child care subsidy may be paid from the first day of the month in which the parent completes an application. 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.

The panel finds the ministry was reasonable when it determined that the appellant was not eligible for a child care subsidy for the period between August 1, 2021 and November 30, 2021: The appellant's application was received on December 18, 2021 and, in accordance with section 13, the appellant became eligible on December 1, 2021. Legislation is clear and the ministry has no discretion to change the eligibility date.

The panel finds further that the ministry reasonably concluded that there is no evidence of an administrative error. Legislation demands that the appellant submit an Application in the form required

by the ministry. While the ministry had received a Child Care Arrangement form it had not received an Application form from the appellant. Because this form was missing the ministry called the appellant on October 25, 2021 and left a message on the answering machine. The appellant did not contact the ministry until December 18 when she submitted the required application and consequently became eligible starting December 1.

The panel notes that the delay of the doctor's form had no impact on the appellant's eligibility date.

### **Conclusion**

The panel is sympathetic with the appellant's difficult circumstances and her struggle to get correct information. However, the panel finds that the ministry's determination that the appellant is not eligible for the Affordable Child Care Benefit for the period between August 1, 2021 and November 30, 2021 to be a reasonable application of the legislation. The ministry decision is confirmed and the appellant is not successful on appeal.

### **Relevant Legislation**

#### **Child Care Subsidy Regulation (CCSR)**

##### **How to apply for a subsidy**

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

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

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

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

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

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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)

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

**Part H – Signatures**

Print Name

Inge Morrissey

Signature of Chair

Date (Year/Month/Day)

2022/02/24

Print Name

Bob Fenske

Signature of Member

Date (Year/Month/Day)

2022/02/25

Print Name

Kulwant Bal

Signature of Member

Date (Year/Month/Day)

2022/02/25