

Part C – Decision Under Appeal

The decision under appeal is the Ministry of Children and Family Development (ministry) reconsideration decision dated January 25, 2022 which denied the appellant's request for a Child Care Subsidy (CCS) for the period of November 1, 2021 to November 30, 2021 pursuant to the *Child Care Subsidy Regulation* (CCSR) sections 4 and 13 because the appellant's Affordable Child Care Benefit (ACCB) application was not submitted in its complete form until December 2021.

Part D – Relevant Legislation

Child Care Subsidy Act (CCSA) – Section 4

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

Part E – Summary of Facts

Evidence at Reconsideration

1. ACCB application, signed and dated December 2021.
2. ACCB Child Care Arrangement form signed and dated November 9, 2021.
3. 5-page ACCB summary.
4. Request for Reconsideration (RFR) from the appellant, signed and dated January 14, 2022, which, in part, stated that her children were enrolled in daycare on November 1, 2021. She did not know that she had to submit the ACCB application in the same month she was applying for because she thought the CCS would start from the date the children attend daycare. She went back to work on November 10, 2021. As a result, the month of November 2021 was very busy and stressful. This caused a delay in submitting the ACCB application. If she knew that the application must be submitted the same month the children begin to attend daycare, she would have done so.

Evidence on Appeal

Notice of Appeal (NOA), signed and dated February 18, 2022, which stated “I did my child care arrangement form and submitted [but] my application did not [get] submitted” due to her error.

The panel considers the contents of the NOA to be the appellant’s argument and therefore a determination of admissibility is not necessary.

Evidence at the Hearing

At the hearing, the appellant reiterated her argument as stated in the RFR and NOA, and in part, stated the following:

1. She was trying out this daycare to see if her children liked it. By the time she made her decision and completed the paperwork it was already December 2021.
2. She submitted her application earlier, but it was returned because her husband’s identification was missing. She thinks she may have submitted this incomplete application in November 2021.
3. She also stated that she had to renew application because there was misinformation about her job.
4. She did not see the information that the application must be submitted in the same month the child begins daycare.
5. The arrangement form was completed in November 2021.

At the hearing, the ministry relied on its reconsideration decision.

Admission of Additional Information.

A panel may consider evidence that is not part of the record as the panel considers is reasonably required for a full and fair disclosure of all matters related to the decision under appeal.

In this case, the panel determined that the information regarding the need to renew an application, is admissible because the information allows for a full, and fair disclosure of all matters related to the issue on appeal.

Part F – Reasons for Panel Decision

The issue on the appeal is whether the ministry's decision, which denied the appellant's request for a Child Care Subsidy for the period of November 1, 2021 to November 30, 2021 pursuant to the CCSR sections 4 and 13 because a complete ABBC application was not submitted until December 2021, is reasonably supported by the evidence or a reasonable application of the applicable enactment in the circumstances of the appellant.

The Appellant's Position

The appellant argued that she was not aware that the ACCB application had to be submitted in the same month that the children began attending daycare. The children started daycare on November 1, 2021 and this is confirmed by the ACCB Child Care Arrangement. The CCS should start from the date the children began to attend daycare.

The Ministry's Position

The ministry argued that the subsidy approval depends partly on receiving a completed application as per section 4 of the CCSR, and that a completed application was not received until December 2021. Therefore, the ministry is unable to establish eligibility for ACCB until this date. The ministry also argued that pursuant to section 13 of the CCSR, eligibility begins from the first day of the month that the ACCB application was received. The ministry argued that backdating the subsidy 30 days from the application day is only possible if an administrative error has occurred and there is no evidence of such an error.

Panel's Decision

In its reconsideration decision the ministry explained that the ACCB is governed by laws set out in the CCSA and CCSR. Section 4 of the CCSR stipulates that to be eligible for a CCS a parent must complete an *application* in the form required by the minister. The evidence establishes that the appellant did complete an application in the form specified by the ministry which was submitted in December 2021.

Section 13 of the CCSR stipulates that a CCS may be paid from the first day of the month in which the parent completes an application under section 4. The appellant stated that her children began attending daycare in November 2021 but does not deny that her application was submitted in its complete form in December 2021. The panel finds that the evidence demonstrates that the appellant's ACCB application was submitted in December 2021 and that pursuant to the legislation the CCS would start in the month of December 2021.

Section 13 also stipulates that if an administrative error has occurred, the CCS may be backdated 30 days. The panel notes that the appellant did not argue that an administrative error occurred. The panel notes that the appellant had to re-start or re-new her application due to misinformation about her job. However, the appellant could not provide the date that her previous application was submitted. Moreover, misinformation on the application does not constitute an administrative error. The panel finds that the evidence does not establish that an administrative error occurred. The panel also acknowledges that the ministry cannot make an exception in this case as the ministry does not have the authority to overturn legislation.

Conclusion

Having considered all of the evidence, the panel finds that the ministry's decision, which concluded that the appellant was not eligible for a childcare subsidy for the period of November 1, 2021 to November 30, 2021, pursuant to sections 4 and 13 of the CCSR, was reasonably supported by the evidence and is a reasonable application of the relevant enactment. The ministry decision is confirmed, and the appellant is not successful at appeal.

The legislation states:

CCSA:

Childcare subsidies

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

CCSR:

How to apply for a subsidy

- 4 (1) To be eligible for a child care subsidy, a parent must
- (a) complete an application in the form required by the minister,
 - (b) supply the minister with the social insurance number of the parent and each adult dependant, 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) A parent ceases to be eligible for a child care subsidy on the date that is 12 months after the date of application under subsection (1) or this subsection, as applicable, unless, before that date, the parent completes an application referred to in subsection (1) and otherwise complies with that subsection.
- 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.

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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

Neena Keram

Signature of Chair

Date (Year/Month/Day)

2022/03/14

Print Name

Kent Ashby

Signature of Member

Date (Year/Month/Day)

2022/03/14

Print Name

Katherine Wellburn

Signature of Member

Date (Year/Month/Day)

2022/03/14