

Part C – Decision Under Appeal

The decision under appeal is the Ministry of Children and Family Development (ministry) reconsideration decision dated April 11, 2022, which denied the appellant's request for a Child Care Subsidy (CCS) for the period of September 13, 2021 to January 31, 2022 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 February 2, 2022.

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 February 2, 2022.
2. ACCB Child Care Arrangement form signed and dated August 26, 2021.
3. Request for Reconsideration (RFR) from the appellant, signed and dated April 1, 2022, which, in part, stated that:
 - His child's daycare facility provided him the ACCB – Child Care Arrangement form which he completed and submitted.
 - He did not receive the ACCB application form from the ministry otherwise he would have submitted it with the Child Care Arrangement.
 - The ministry did not contact him by letter or any other means to inform him that the ABBC application was necessary.
 - He tried calling but the ministry was unreachable due to long wait times.
 - Since the Ministry did not clearly communicate, the appellant thinks that the subsidy payments should be backdated to September 13, 2021.

Evidence on Appeal

Notice of Appeal (NOA), signed and dated April 26, 2022, which stated that there was no communication with the ministry until January 2022 when he got through to it. If he had not, he would have missed out on any subsidy. He completed the package that was given to him by the daycare and submitted it right away in September 2021

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 his argument as stated in the RFR and NOA, and in part, stated the following:

- After not receiving any correspondence from the ministry he called twice but the wait times were long waits.
- In November or December 2021, he got through to the ministry and left a message.
- He received a call back at the end of the day and the worker could not match any information to his SIN.
- In January 2022, he went in person and found out that he was required to complete an application.
- He does not understand the reason for the delay. He was not informed of the application process otherwise he would have completed all the necessary documents.
- He thinks he is a victim of misinformation and miscommunication between the pre-school and the ministry.
- The ministry should have sent some sort of correspondence after he submitted the ACCB child care arrangement.

At the hearing, the ministry relied on its reconsideration decision and added that:

- There was no contact information on the ACCB child care arrangement other than a phone number. Therefore, the ministry could not contact the appellant via mail or email.
- Section 6 of the ACCB child care arrangement indicates that an application to the Child Care Service Centre is required.
- Determination of eligibility for ACCB can only happen if an application is submitted.
- When asked, the ministry stated that the Child Care Service Centre tried to call the appellant on October 13, 2021, to advise that information was missing in the application process. However, there was no answer and due to privacy and confidentiality, and without consent from the appellant, the ministry cannot leave a message.
- When asked, the ministry stated that a quick internet search explains the application process and a checklist of the documents required is provided online.

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 CCS for the period of September 13, 2021 to January 31, 2022 pursuant to the CCSR sections 4 and 13 because a complete ABBC application was not submitted until February 2, 2022, 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 the ministry failed to communicate what was required to become eligible for the ACCB and because of this there was a delay in submitting the application.

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 February 2, 2022. 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 completed an application in the form specified by the ministry, and it was submitted on February 2, 2022.

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 his child began attending daycare in September 2021 but does not deny that his application was submitted in its complete form on February 2, 2022. The panel finds that the evidence demonstrates that the appellant's ACCB application was submitted on February 2, 2022, and that pursuant to the legislation the CCS would start in the month of February 2022.

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 was unaware of the need of the ACCB application. However, the panel also notes that the ministry tried to contact the appellant in October 2021 and that a message could not be left due to privacy reasons. The panel recognizes that without an application the ministry cannot determine eligibility and the ACCB child care arrangement form does not give the ministry consent to determine income. The appellant argued that the ministry's failure to communicate this information led to a delay in submitting the application until February 2022. If the ministry had communicated this information earlier, he would have submitted the ACCB application with the ACCB Child Care Arrangement in September 2021. The panel finds that the appellant's unfamiliarity with the application process does not translate into an administrative error on part of the ministry. It is also noted that as soon as the application

was submitted in February 2022, the ministry processed it and approved it. 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 September 13, 2021 to January 31, 2022, 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)
2022/05/16

Print Name
Sameer Kajani

Signature of Member

Date (Year/Month/Day)
2022/05/16

Print Name
Dawn Wattie

Signature of Member

Date (Year/Month/Day)
2022/05/16