

Part C – Decision Under Appeal

The decision under appeal is the Ministry of Education and Child Care (ministry) reconsideration decision dated June 9, 2022 that determined the appellant was not eligible for the Affordable Child Care Benefit from January 04 to March 31, 2022 as per the *Child Care Subsidy Act*, section 4 and the *Child Care Subsidy Regulation*, sections 4 and 13.

Specifically, the ministry determined the appellant was not eligible for the Affordable Child Care Benefit between January 4 and March 31, 2022 as she did not submit the Affordable Child Care Benefit application until April 19, 2022.

Part D – Relevant Legislation

Child Care Subsidy Act (CCSA), section 4
Child Care Subsidy Regulation (CCSR), sections 4 and 13

See attached Schedule of Legislation.

Part E – Summary of Facts

The ministry did not attend the hearing. After confirming the ministry was notified, the hearing proceeded under section 86(b) of the Employment and Assistance Regulation.

Although the appellant initially stated she required an interpreter at the hearing, subsequently she advised an interpreter was not required. The appellant's advocate assisted the appellant in understanding the proceedings throughout the hearing.

Relevant Evidence Before the Minister at Reconsideration**Ministry Records show:**

- On March 7, 2022, the appellant inquired about the status of her application she had sent via fax on March 3, 2022.
- The ministry advised the appellant that the information had not been uploaded to her file and therefore it was unable to confirm receipt of the information. The appellant was advised to contact the ministry at the end of the week to verify whether the information had been received and recommended that the appellant set up an online account for faster service.
- On March 23, 2022, the ministry noted that on March 3, 2022 the appellant submitted by fax an Affordable Child Care Benefit (ACCB) Child Care Arrangement form. However, no Affordable Child Care Benefit application was submitted at this time.
- The ministry contacted the appellant by telephone to advise her that it was unable to assess her eligibility for subsidy due to the missing information and instructed the appellant to submit an ACCB application, along with ID for each family member.
- On April 19, 2022 the appellant submitted, by fax, an ACCB application, signed and dated on April 19, 2022.

Affordable Child Care Benefit Child Care Arrangement Form (dated January 15, 2022, sent March 3, 2022)

Affordable Child Care Benefit Child Care Arrangement Form (dated April 19, 2022, sent April 20, 2022)

Affordable Child Care Benefit Child Care Arrangement Form (dated April 25, 2022, received June 6, 2022)

Affordable Child Care Application (dated April 19, 2022, sent April 28, 2022 – by fax)

Letter from the Ministry to the Appellant (May 10, 2022)

Re: Affordable Child Care Benefit

The letter states the ACCB may only be paid from the first day of the month in which the parent completes the application. The application submitted was completed on April 19, 2022. Therefore, the appellant is only eligible to receive the benefit from April 1, 2022 and is responsible for paying the prior cost of child care.

Request for Reconsideration (May 19, 2022) – summary

The appellant states her husband has a brain injury. She looks after him 24/7 and doesn't have the money to pay the bill to the school.

Additional Information

Appellant

Notice of Appeal (June 16, 2022)

The appellant states there was a misunderstanding regarding which date to put on the form.

At the hearing, the appellant stated she has challenges with reading and writing. She stated that a teacher at the school, and others, tried to assist her with the form, which was sent in three times. The appellant stated she submitted a form in January 2022 by mail but is not sure if she submitted the application at that time. She received a phone call a couple of months later and sent a form back in. The appellant states she made the mistake of putting an April date on the form instead of January. She didn't think to back-date the form. During this period, the appellant called the ministry four times and continued to send the papers, sent by the ministry, back to the ministry.

The panel determined the additional information, regarding:

- the assistance from the teacher; and others
- the appellant's uncertainty about submitting an application in January,

is reasonably required for a full and fair disclosure of all matters related to the decision under appeal and therefore is admissible under section 22(4) of the *Employment and Assistance Act*.

The panel determined the rest of the additional information to be argument.

Part F – Reasons for Panel Decision

The issue on appeal is whether the ministry's reconsideration decision that determined the appellant was not eligible for the ACCB from January 04 to March 31, 2022 as per the CCSA, section 4 and the CCSR, sections 4 and 13, was reasonably supported by the evidence or was a reasonable application of the legislation in the circumstances of the appellant.

Specifically, did the ministry reasonably determine the appellant was not eligible for the ACCB from January 4 to March 31, 2022, because she did not submit the ACCB application until April 19, 2022.

Relevant sections of the legislation can be found in the Schedule of Legislation at the end of this decision.

Appellant Argument

The appellant argues there was a misunderstanding regarding which date to put on the form. During this period, the appellant called the ministry four times and continued to send the papers, sent by the ministry, back to the ministry. As well, she argues she doesn't have the money to pay the bill to the school.

Ministry Argument

The ministry argues that as the appellant submitted an ACCB application on April 19, 2022, eligibility for the ACCB began on April 1, 2022 - the first day of the month in which the application was completed.

The ministry also argues that although on March 3, 2022 it received an ACCB Child Care Arrangement form, completed by the appellant's daycare provider, and while this form is required for the subsidy eligibility assessment, an ACCB application is required to obtain information about the applicant's family. Without this information, the ministry is unable to assess eligibility for the benefit.

The ministry argues further that it did not receive a copy of the ACCB application until April 19, 2022 and payment of a child care subsidy may only be backdated 30 days from when the parent completes the application. Although the legislation may consider administrative errors, the appellant was contacted within a reasonable amount of time of receiving the ACCB Child Care Arrangement form to advise of the missing information. Further, the ministry advised the appellant of the specific information missing and made recommendations for the appellant to sign up for the online portal to expedite the process of applying for the benefit and receiving communication from the ministry. Therefore, the ministry finds there is no evidence to establish that the ministry made an administrative error.

Analysis

Section 4, CCSA – child care subsidies

Section 4 states subject to the regulations, the minister may pay child care subsidies.

Section 4 and 4.1 (CCSR) – how to apply

Section 4 of the CCSR states, to be eligible for a child care subsidy, one parent must complete an application in the form required by the minister and supply the minister with required authorizations (supporting documentation). Section 4.1 lists the authorizations required.

At the hearing, the appellant stated she submitted a form in January 2022 by mail but is not sure if she submitted the ACCB application at that time.

Evidence on file shows three ACCB Child Care Arrangement forms were received by the ministry (March 3, April 20, and June 6, 2022) and one Affordable Child Care application (dated April 19, 2022).

The panel finds, as the ministry requires the ACCB application to consider the child care subsidy, the appellant met the requirement of section 4 on April 19, 2022.

Section 13 (CCSR) – subsidy before completion of application

Section 13 states that a child care subsidy may be paid from the first day of the month in which the parent completes an application and 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 notes the first ACCB Child Care Arrangement form (dated January 15, 2022) was sent via fax on March 3, 2022. Ministry records show on March 23, 2022, the ministry noted this form was received; However, no ACCB application was submitted at this time. The ministry contacted the appellant by telephone to advise that it was unable to assess her eligibility for child care subsidy due to the missing information and instructed the appellant to submit an ACCB application. Evidence shows the appellant submitted an ACCB application, signed and dated April 19, 2022.

The panel finds that the contact from the ministry approximately three weeks after receiving the ACCB Child Care Arrangement form, to inform the appellant an ACCB application is required, is a reasonable timeframe and not viewed as an administrative error.

The panel therefore finds that the ministry reasonably determined the date of eligibility for the ACCB to be April 1, 2022 - the first day of the month in which the application was completed, as per section 13 of the CCSR.

The panel acknowledges there may have been communication difficulties and confusion regarding the forms required, but the panel is bound by the legislation.

Conclusion

In conclusion, the panel finds the ministry's reconsideration decision, which determined that the appellant was not eligible for the ACCB from January 4 to March 31, 2022, because she did not submit the ACCB application until April 19, 2022 was reasonably supported by the evidence.

The appellant is not successful on appeal.

Schedule of Legislation

Child Care Subsidy Act

Child care subsidies

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

Child Care Subsidy Regulation

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.
- ...

Authorizations required

4.1

- (1) To be eligible for a child care subsidy for a child other than a child described in section 7 (2), an applicant and the applicant's spouse, if any, must supply the minister with authorizations for
- (a) the disclosure to the Canada Revenue Agency of the full name, birth date and social insurance number of the person,
 - (b) the disclosure by the Canada Revenue Agency of the personal information of the person that is relevant to the person's income, and that the minister needs for the purposes of sections 9 [*calculation of family's adjusted annual income*] and 9.1 [*income review*], for the 2 years previous to the current calendar year, in accordance with the MOU For Income Verification between the Canada Revenue Agency and the minister, regardless of whether the person completed an income tax return for those years, and
 - (c) the indirect collection by the minister of the information described in paragraph (b).
- (2) To be eligible for a child care subsidy for a child other than a child described in section 7 (2),

- (a) an applicant must supply the minister with authorizations for the disclosure to the applicant's spouse, if any, of personal information of the applicant used in determining the family's adjusted annual income, and
- (b) an applicant's spouse, if any, must supply the minister with authorizations for the disclosure to the applicant of personal information of the applicant's spouse, if any, used in determining the family's adjusted annual income.
- (3) To be eligible for a child care subsidy for a child, an applicant and the applicant's spouse, if any, must supply the minister with authorizations for
 - (a) the disclosure by a third party of the personal information of the person that the minister needs for the purpose of determining or auditing the applicant's eligibility for a child care subsidy, and
 - (b) the indirect collection by the minister of the information described in paragraph (a).

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

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- (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.

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

Connie Simonsen

Signature of Chair

Date (Year/Month/Day)

2022/07/11

Print Name

Linda Pierre

Signature of Member

Date (Year/Month/Day)

2022/07/11

Print Name

Anil Aggarwal

Signature of Member

Date (Year/Month/Day)

2022/07/11