

Part C – Decision Under Appeal

The decision under appeal is the reconsideration decision of the Ministry of Children and Family Development (“Ministry”) dated December 6, 2022. The Ministry decided that the Appellant was not eligible for the Affordable Child Care Subsidy for the period between October 1, 2021 and September 30, 2022.

Part D – Relevant Legislation

Child Care Subsidy Act (“Act”) sections 4, 5 and 6
Child Care Subsidy Regulation (“Regulation”) sections 4, 4.1, 9, 9.1, 12, 13 and 17
Employment and Assistance Act, section 22(4)

Full text of the legislation is provided in the Schedule of Legislation after the Reasons.

Part E – Summary of FactsEvidence Before the Ministry at Reconsideration

The Appellant enrolled her child in a child care centre on October 15, 2021, when her husband was diagnosed with a terminal illness. She thought that, when she applied for the child care subsidy, the subsidy would be backdated to the date the child started in child care. She did not apply for the subsidy immediately, as the care of a terminally ill spouse and a young child, while also working outside the home, took priority.

The Appellant submitted an Affordable Child Care Subsidy Application, CF2900, to the Child Care Service Centre, on March 29, 2022, through the Ministry computer portal. She asked for an income review for herself and her spouse because she changed employment on February 7, 2022, and her spouse was receiving a CPP disability benefit due to a terminal illness.

On March 30, 2022, the Ministry sent the Appellant a message through the portal, advising that they had received the Appellant's application and acknowledging her request for income review. The Ministry told the Appellant that it did not appear that she and her spouse had filed income tax returns in the previous two years. The Ministry asked the Appellant to declare her and her spouse's 2021 income, either through a link on the portal dashboard, or by completing form CF2933, which the Ministry attached to its message. The Ministry asked the Appellant to submit the information within 60 days, or she would be deemed ineligible for benefits "and/or the Ministry might require a new application."

The Appellant was unaware that her spouse had not filed their tax returns in the previous two years. On April 19, 2022, she told the Ministry that she had filed the taxes and had Notices of Assessment, asking "if this would qualify for an income review."

On May 13, 2022, the Ministry advised the Appellant, through a message posted on the portal, that:

- She could submit an "update income review"
- The Ministry required her to declare her and her spouse's estimated decreased annual income for the 12 month period beginning the month after the month in which she was requesting an income review
- Information could be provided either through a link on the portal dashboard or by completing form CF2933, which was attached to the message
- Subject to section 5(1)(a) of the Act, the Ministry had received her submitted request for the subsidy, however they were unable to determine her eligibility
- The Appellant was requested to send the income information to the Ministry within 60 days or she "would be deemed ineligible for benefits and/or the Ministry may require a new application"
- If she needed more time to obtain the information, she was asked to contact the Ministry by telephone.

Between the time the Appellant first applied for the subsidy, and October 2022, the Appellant continued to deal with difficult matters in her personal life, including her spouse's illness and the

decline and death of a close relative. On October 1, 2022, when the Appellant had not provided the income information or contacted the Ministry, the Ministry closed the Appellant's Child Care Subsidy file due to inactivity.

On October 24, 2022, the Appellant submitted another Affordable Child Care Subsidy Application CF2900 form to the Child Care Service Centre, through the portal. The Appellant requested an income review for her spouse.

On November 16, 2022, the Ministry sent the Appellant a letter, through the portal, stating that she was eligible for the subsidy starting on October 1, 2022. The Appellant responded through the portal, stating that she had applied for subsidies from October 15, 2021, the date the child started in child care, and asking why the subsidy was not backdated.

The Ministry sent the Appellant a letter dated November 17, 2022, through the portal, stating:

- The Appellant was not eligible for the subsidy for the period between October 1, 2021 and September 30, 2022
- The subsidy could only be paid from the first day of the month in which the parent completes the application; the Appellant's application was completed on October 24, 2022, and therefore she was only eligible to receive the subsidy from October 1, 2022.

Additional Evidence:

The Appellant provided a letter from her primary care physician dated January 19, 2023. The doctor stating that the Appellant "suffers from ongoing mental health issues including anxiety and depression and her condition has been acutely exacerbated in the last 6-18 months affecting her ability to do administration tasks and paperwork in a timely manner."

At the hearing, the Appellant stated:

- She had not understood that the subsidy application was time-sensitive and assumed it was administered in the same way as other government subsidies such as the GST credit and the Child Tax Subsidy, which are backdated when someone applies
- Completing paperwork has always been challenging for her, and under the circumstances of the past year, it has been even more difficult
- She had not understood that she would get nothing if her application expired
- She has now provided all the information the Ministry requested from the March application.

Admissibility of Additional Evidence:

The Ministry did not object to the admissibility of the additional evidence.

The letter from the Appellant's doctor provides information about the Appellant's mental health issues, which relate to the Appellant's explanation for not providing income verification documents to the Ministry before October 2022 and her request for consideration on compassionate grounds. The Appellant's oral evidence provides further explanation of her reasons for not providing the information within 60 days of the request. The panel finds that the

additional evidence is reasonably necessary for full and fair disclosure of all matters relating to the decision under appeal. Therefore, the panel finds that the evidence is admissible under section 22(4) of the Employment and Assistance Act.

Part F – Reasons for Panel Decision

The issue on appeal is whether the Ministry's decision that the Appellant was not eligible for the Affordable Child Care Subsidy for the period between October 1, 2021 and September 30, 2022 was reasonably supported by the evidence, or a reasonable application of the legislation in the Appellant's circumstances.

Appellant's Position:

The Appellant acknowledges that she did not provide the income information requested by the Ministry, within 60 days of the Ministry's May 13, 2022 letter. However, she says that over the past year she has been overwhelmed and devastated by her family circumstances, including the terminal illness of her spouse and the death of a close family member. In addition, she has mental health issues that compound a longstanding difficulty managing paperwork. Further, she did not understand that the application was time-sensitive and would not be backdated to the date she began using child care. The Appellant asks the Ministry to exercise discretion and provide the subsidy backdated to October 15, 2021, on compassionate grounds.

Ministry's Position:

The Ministry maintains that, while the Appellant submitted an application on March 29, 2022, she failed to respond to the Ministry's request for additional information under section 5(1)(a) of the Act. When she did not provide the information and did not contact the Ministry to ask for more time to provide it, her file was closed due to inactivity. The Ministry's decision to pay the subsidy is based on the October 24, 2022 application. Under section 13(1) of the Regulation, the subsidy can be paid from the first day of the month the parent completes the application, which is October 1, 2022. The Ministry could backdate the subsidy for 30 days before the date of the application if there was an administrative error by the Ministry. There is no evidence of such an error by the Ministry, and under the legislation, the Ministry does not have discretion to backdate the subsidy for any other reason, including on compassionate grounds.

Panel Decision:Backdating on Compassionate Grounds:

The Appellant asks that her eligibility for the child care subsidy be backdated to October 15, 2021 on compassionate grounds. She faced difficult and challenging circumstances in her family, compounded by her own mental health issues and a longstanding difficulty in managing and completing paperwork. She says she also was not aware that the application was time-sensitive.

While the panel is sympathetic to the Appellant's circumstances, the legislation does not give the Ministry discretion to backdate the subsidy beyond the first day of the month in which the parent completes an application under section 4 of the Act. The only exception is when the Ministry has made an administrative error. When that happens, the Ministry may pay the subsidy for child care provided in the 30 days before the parent completes the application.

Application and Eligibility under the Act and Regulation:

Under section 4 of the Regulation, a parent must “complete an application in the form required by the minister.” If the Ministry determines that the applicant is eligible, then under section 13 of the Regulation, the Ministry may pay a subsidy starting on “the first day of the month in which the parent completes an application under section 4.”

The form required by the Ministry under section 4 is the Affordable Child Care Benefit Application, CF2900. The Appellant submitted that form on March 29, 2022, and the Ministry acknowledged receipt of the application.

The Act and Regulations contemplate that the Ministry may require additional information to determine eligibility for the subsidy. Under section 5(1)(a) of the Act, the Ministry may “direct a person who has applied for the subsidy...to supply the minister with information within the time and in the manner specified by the minister.” *[emphasis added]* The panel finds that, once the parent has submitted the application form required under section 4(1)(a) of the Regulation, they have applied for the subsidy. The Ministry then can request the additional information it needs to determine eligibility.

On March 30, 2022, the Ministry told the Appellant that she and her spouse had not filed tax returns in the previous two years, and she needed to declare the family’s 2021 income. On April 19, 2022, the Appellant told the Ministry that she had filed the tax returns and had Notices of Assessment. She asked “if this would qualify for income review.” On May 13, 2022, the Ministry requested additional information under section 5(1)(a) of the Act. The Ministry asked the Appellant to declare her and her spouse’s estimated decreased annual income for the 12 month period beginning the month after the month in which she was requesting an income review (the “Income Information”). The Ministry stated that, under section 5(1)(a) of the Act, they had received the Appellant’s request for the subsidy, but were unable to determine eligibility.

The Ministry conducts an income review under section 9.1 of the Regulation. Under that section, the Appellant was a “new applicant”, defined as

“a parent who

- (a) is not currently receiving a child care subsidy and
- (b) has applied for a child care subsidy under section 4 but no determination has yet been made whether the parent is eligible for a child care subsidy.” *[emphasis added]*

If the income review results in an increase in the amount of the child care subsidy for which the new applicant is eligible, the subsidy may be paid “from the first day of the month in which the parent completes an application under section 4.” Under section 4 the application that the parent must complete is the Child Care Subsidy Application CF2900 form.

Sections 5(1)(a) of the Act and section 9.1(1) of the Regulation both refer to the Ministry’s requests for information from a parent “who has applied for a child care subsidy.” Under both those sections, the Ministry is dealing with a parent who has submitted the application form but has yet to provide all the information the Ministry needs to determine eligibility. Section 9.1 in particular covers requests for Income Information. The panel finds that the wording of sections

5(1)(a) and 9.1 confirms that the parent has applied for the subsidy when they submit the Child Care Subsidy Application form CF2900.

The panel finds that the Appellant applied for the subsidy when she completed and submitted the application form on March 29, 2022. The Ministry then goes on to request further information under section 5(1)(a) and 9.1(1) of the Regulation, to determine eligibility.

Notification of Outcome under Section 12 of the Regulation:

The Appellant did not provide the Income Information within the time specified. Under section 5(3) of the Act, if a person does not provide information requested under section 5(1), within the time specified by the minister, the minister may declare the person ineligible for a child care subsidy.

Section 12 of the Regulation provides:

- (1) The minister must notify an applicant as to whether or not an application is approved.
- (2) If the application is not approved, the notification must be in writing and must include the minister's reason for refusing to pay a child care subsidy.

When the Appellant did not provide Income Information within 60 days of the May 13, 2022 message, the Ministry could have declared her ineligible for the subsidy under section 5(3) for failing to comply with a direction under section 5(1). The Ministry then could have notified the Appellant, in writing, of the outcome of her application, under section 12 of the Regulation. However, the panel finds that the Ministry did not notify the Appellant, in writing or at all, as to whether or not the March 29, 2022 application was approved. Instead, the Appellant's file was closed on October 1, 2022 "due to no activity." The next communication from the Ministry to the Appellant after the May 13, 2022 post was on November 16, 2022, when the Ministry told the Appellant that she was eligible for the subsidy starting October 1, 2022.

The panel has considered whether the Ministry might reasonably have considered its May 13, 2022 post about the consequences of not providing Income Information within 60 days, to be a notification under section 12 of the Regulations.

The panel finds that it would not be a reasonable application of the legislation to find that the May 13 post was notification as to whether or not the application is approved. The statement that the Appellant "would be deemed ineligible for benefits **and/or** [emphasis added] the Ministry may require a new application" is not a clear notification of the outcome of the application. The Appellant would be deemed ineligible **and** the Ministry may require a new application; **or** the Ministry might just require a new application, without any determination of eligibility. The Ministry gave the Appellant an appropriate warning of the possible consequences if she did not provide Income Information within 60 days, including a future decision that she would be deemed ineligible. However, at the end of the 60 day period, the Ministry did not tell the Appellant which outcome had occurred.

Under section 6 of the Act, a decision that results in refusal to pay a child care subsidy attracts reconsideration and appeal rights. Those rights are time-limited. Closing the file without notifying

the applicant of a final decision on the application deprives the applicant of those rights under the Act.

Even if the May 13 post did not include an alternate outcome, the panel finds that it would not be notification under section 12, because it does not provide a clear and reasonable date for delivering a request for reconsideration of a decision made under the Act.

Section 17 of the Regulation states that a person who wishes the minister to reconsider a decision must deliver a request “within 20 business days after the person is notified of the decision.” If the May 13 post was notification of a decision that the appellant was ineligible for failing to provide the requested information within the time specified by the Ministry, then under the legislation, the Appellant would have had to deliver a request for reconsideration by June 12, 2022, when it was not yet known if she would provide the Income Information in the time specified. Nor would it be reasonable to say that the Appellant was notified of the decision on any day other than May 13. Therefore, the panel finds that it would not be a reasonable application of the legislation to find that the May 13 post satisfied the section 12 requirement that the Ministry notify the Appellant of the outcome of the application submitted on March 29, 2022.

The panel notes that neither the Ministry nor the Appellant proceeded as if there had been a final determination that, as of July 13, 2022 (60 days after May 13) the Ministry had deemed the appellant ineligible for the subsidy and her application was not approved. The Ministry did not close the Appellant’s file or note that she was now deemed ineligible for the subsidy. The Appellant intended to continue her application, although she did not do so in a timely way. It appears that the Appellant might still have been able to provide the Notices of Assessment for the income review, up to the point when her electronic file was closed due to inactivity.

The panel also notes the difference in the Appellant’s response to the November 17th letter, which is a clear statement of the outcome of her application, compared to her response to the May 13th post, which the panel finds was a conditional statement of a future intention. After the November 17th letter, the Appellant filed a Request for Reconsideration, and then a Notice of Appeal.

The panel finds that the March 29, 2022 application was not concluded in accordance with the legislation, because the Ministry did not notify the Appellant of the outcome of her application as required under section 12 of the Regulations.

The panel recognizes that the Ministry apparently was giving the Appellant more than 60 days to provide information, which was a benefit to the Appellant. Nevertheless, the question is not what approach is more beneficial to the parties, but whether the Ministry satisfied the requirement in the legislation to give a clear determination of eligibility to a parent who has applied under section 4 of the Regulation. If the Ministry had sent a letter after July 13, 2022, similar to the letter it sent on November 17, 2022, the Ministry would have satisfied the section 12 requirement for notification, and the Appellant’s application would not have been approved in the first instance. However, either at reconsideration or on appeal, the Appellant could have provided the Income Information, which would have established that she was eligible for the subsidy. Then the subsidy would have been payable from March 1, 2022, the first day of the

month in which she completed the application in the form required by the Ministry. By not clearly communicating a final decision about the application, the Ministry deprived the Appellant of her rights to reconsideration and appeal of that decision.

Date of Commencement of Payments under Section 13:

The Appellant provided the Income Information requested by the Ministry before the Ministry made its decision based on the October 24, 2022 application form. The Ministry found the Appellant eligible for the subsidy, but only from October 1, 2022.

The panel finds that, although the Ministry closed the electronic file on October 1, 2022, the March 29, 2022 application was still awaiting the Ministry's determination of eligibility and notification to the Appellant. Therefore, the panel finds that, as the Ministry has determined that the Appellant is eligible for the child care subsidy, under section 13 of the Regulation the Appellant is eligible for the child care subsidy from March 1, 2022, which is the first day of the month in which the Appellant completed an application under section 4 of the Regulation.

Conclusion:

The panel rescinds the Ministry's decision that the Appellant is not eligible for the child care subsidy before October 1, 2022. While the panel finds that the Ministry was reasonable in not backdating the subsidy to October 15, 2021 as the Appellant requested, the panel finds that the Ministry's decision that the Appellant was only eligible for the subsidy from October 1, 2022 is not a reasonable application of the legislation in the Appellant's circumstances. The Ministry failed to consider the Appellant's application on March 29, 2022, which the Ministry did not conclude in accordance with sections 5(3) of the Act and section 12 of the Regulation. The panel finds that the Appellant is eligible to receive the subsidy commencing March 1, 2022. The Appellant is successful in the appeal.

Schedule of Legislation

Child Care Subsidy Act

Child care subsidies

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

Information and verification

s. 5(1) For the purpose of determining or auditing eligibility for child care subsidies, the minister may do one or more of the following:

- (a) direct a person who has applied for a child care subsidy, or to or for whom a child care subsidy is paid, to supply the minister with information within the time and in the manner specified by the minister;
- (b) seek verification of any information supplied by a person referred to in paragraph (a);
- (c) direct a person referred to in paragraph (a) to supply verification of any information supplied by that person or another person;
- (d) collect from a person information about another person if
 - (i) the information relates to the application for or payment of a child care subsidy, and
 - (ii) the minister has not solicited the information from the person who provides it.

(2) A person to or for whom a child care subsidy is paid must notify the minister, within the time and in the manner specified by regulation, of any change in circumstances affecting their eligibility under this Act.

(3) If a person fails to comply with a direction under subsection (1) (a) or (c) or with subsection (2), the minister may

- (a) declare the person ineligible for a child care subsidy until the person complies, or
- (b) reduce the person's child care subsidy.

(4) For the purpose of auditing child care subsidies, the minister may direct child care providers to supply the minister with information about any child care they provide that is subsidized under this Act.

Reconsideration and appeal rights

6 (1) Subject to section 6.1, a person may request the minister to reconsider a decision made under this Act about any of the following:

(a) a decision that results in a refusal to pay a child care subsidy to or for the person;

(b) a decision that results in a discontinuance or reduction of the person's child care subsidy.

(2) A request under subsection (1) must be made, and the decision reconsidered, within the time limits and in accordance with any rules specified in the regulations.

(3) Subject to section 6.1, a person who is dissatisfied with the outcome of a request for a reconsideration under subsection (1) may appeal the decision that is the outcome of the request to the Employment and Assistance Appeal Tribunal appointed under section 19 of the [Employment and Assistance Act](#).

(4) A right of appeal given under subsection (3) is subject to the time limits and other requirements set out in the [Employment and Assistance Act](#) and the regulations under that Act.

Child Care Subsidy Regulation

How to apply for a subsidy

s. 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

s. 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).

Calculation of family's adjusted annual income

s. 9 (1) In this section, "previous year" means the year previous to the current calendar year.

(2) In relation to a child care subsidy that is to be determined based on a family's adjusted annual income, the minister must calculate the family's adjusted annual income as follows:

(a) by adding, for the applicant and the applicant's spouse, if any, the annual income for the person determined under subsection (3) or (4), as applicable;

(b) by deducting from the amount calculated under paragraph (a) any applicable amounts under subsection (5).

(3) For the purposes of subsection (2), the minister must calculate the annual income of the applicant and the applicant's spouse, if any, by

(a) determining the person's income for the previous year, or for the year before the previous year if a notice of assessment is not available for the person for the previous year, as

(i) the amount reported on line 150 of the person's notice of assessment if there has been no notice of reassessment for the applicable year, or

(ii) if there was a notice of reassessment for the person, the amount reported on line 150 of the notice of reassessment, and

(b) deducting from the income determined under paragraph (a) all amounts, if any, reported on line 145 of the applicable notice of assessment or notice of reassessment under paragraph (a).

(4) If a notice of assessment is not available for either of the 2 calendar years before the current year with respect to the applicant or the applicant's spouse, if any,

(a) the applicant may give to the minister a statement, in the form required by the minister, attesting to the applicant's or the applicant's spouse's, as applicable, total income from all sources except social assistance payments, stated in Canadian dollars, for the previous year, and

(b) on receiving income information satisfactory to the minister under paragraph (a), the minister may determine the annual income of the person based on that information.

(5) For the purposes of this section, the following deductions may be made, if applicable:

(a) \$0 for the first dependant in the family who is not a child with special needs;

(b) \$2 000 for each additional dependant in the family;

(c) \$3 000 for each child with special needs in the family.

Income review

s. 9.1 (1) In this section:

"estimated decreased annual income" means the estimated income from all sources except social assistance payments, stated in Canadian dollars, for the applicant or the applicant's spouse, if any, for the 12-month period beginning the month after the month in which the applicant requests an income review under this section;

"estimated increased annual income" means the estimated income from all sources except social assistance payments, stated in Canadian dollars, for the applicant, or the applicant's spouse, if any, for the 12-month period beginning the month after the month in which the income of the applicant or the applicant's spouse, as applicable, increased;

"new applicant" means a parent who

(a) is not currently receiving a child care subsidy, and

(b) has applied for a child care subsidy under section 4 but no determination has yet been made whether the parent is eligible for a child care subsidy.

(2) Despite section 9 (3), if the income of the applicant or of the applicant's spouse, if any, has decreased,

(a) the applicant may request the minister to conduct an income review by giving to the minister a statement, in the form required by the minister, attesting to the estimated decreased annual income of the applicant or the applicant's spouse, as applicable, and

(b) the minister may determine the annual income of the person based on that information.

(3) Despite section 9 (2), on receiving a request for an income review under this section, if the minister is satisfied that the income decrease may result in an increase in the amount of child care subsidy, the minister must calculate the family's adjusted annual income as follows:

(a) by adding, for the applicant and the applicant's spouse, if any,

(i) the lesser of

(A) the annual income of the person referred to in subsection (2) of this section whose income decreased as determined in accordance with subsection (2) (b) of this section, or

(B) the annual income of that person as determined in accordance with section 9 (3) or (4), as applicable, and

(ii) the annual income of the applicant or the applicant's spouse, if any, determined in accordance with section 9 (3) or (4), if applicable;

(b) by deducting from the amount calculated under paragraph (a) the applicable amounts under section 9 (5).

(4) If the minister is satisfied that the family's adjusted annual income calculated under subsection (3) of this section will result in an increase in the amount of child care subsidy, the minister must redetermine the amount of child care subsidy using the family's adjusted annual income calculated under subsection (3) of this section as the basis for the calculation under section 8 [*amount of subsidy*].

(5) If an applicant is eligible for an increased amount of child care subsidy determined in accordance with subsection (4) of this section, the increased amount of child care subsidy may be paid as follows:

(a) in the case of a new applicant, from the first day of the month in which the parent completes an application under section 4;

(b) in all other cases, despite section 13 (1), from the first day of the month after the month in which the applicant requests an income review under this section.

(6) Despite section 9 (3),

(a) an applicant to or for whom an increased amount of child care subsidy is paid in accordance with this section must give to the minister a statement, in the form required by the minister, attesting to the estimated increased annual income of the person referred to in subsection (2) of this section whose income decreased if

(i) the income of that person increases, and

(ii) the family's adjusted annual income was calculated under subsection (3) of this section using the annual income of that person referred to in paragraph (a) (i) (A) of that subsection, and

(b) the minister may determine the annual income of the person based on that information.

(7) Despite section 9 (2), on receiving a statement referred to in subsection (6) of this section, if the minister is satisfied that the income increase may result in a decrease in the amount of child care subsidy, the minister must calculate the family's adjusted annual income as follows:

(a) by adding, for the applicant and the applicant's spouse, if any,

(i) the lesser of

(A) the annual income of the person referred to in subsection (6) of this section whose income increased determined in accordance with subsection (6) (b) of this section, or

(B) the annual income of that person determined in accordance with section 9 (3) or (4), as applicable, and

(ii) the annual income of the applicant or the applicant's spouse, if any, determined in accordance with section 9 (3) or (4), if applicable;

(b) by deducting from the amount calculated under paragraph (a) of this subsection, the applicable amounts under section 9 (5).

(8) If the minister is satisfied that the family's adjusted annual income calculated under subsection (7) of this section will result in a decrease in the amount of child care subsidy, the minister must redetermine the amount of child care subsidy using the family's adjusted annual income calculated under subsection (7) of this section as the basis for the calculation under section 8.

Applicant must be notified of outcome

s. 12 (1) The minister must notify the applicant as to whether or not the application is approved.

(2) If the application is not approved, the notification must be in writing and must include the minister's reason for refusing to pay a child care subsidy.

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

s. 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.

Reconsideration of decisions

s. 17 (1) A person who wishes the minister to reconsider a decision made under the Act must deliver to the Child Care Service Centre a request for reconsideration that

(a) is in the form specified by the minister, and

(b) is delivered within 20 business days after the person is notified of that decision.

(2) A request for reconsideration may be delivered under subsection (1) by mail or facsimile transmission to the Child Care Service Centre.

(3) A request for reconsideration that is mailed in accordance with subsection (2) is deemed to have been delivered 3 business days after the mailing date.

(4) If a request for reconsideration is not delivered in the time required by subsection (1),

(a) the person is deemed to have accepted the decision, and

(b) the decision is not open to review in a court or subject to appeal to a tribunal or other body.

(5) Within 10 business days after receiving a request for reconsideration under subsection (1), the minister must

(a) reconsider the decision, and

(b) provide the person who delivered the request with a written decision on the request.

(6) If a request for reconsideration is delivered under this section about a decision that results in a discontinuation or reduction of a child care subsidy, that decision is set aside until the minister

(a) reconsiders the decision, and

(b) provides the person who delivered the request with a written decision on the request.

(7) If a request for reconsideration is delivered under this section about a decision that results in a refusal of a child care subsidy, that decision stands until the minister

(a) reconsiders the decision, and

(b) provides the person who delivered the request with a written decision on the request.

APPEAL NUMBER 2022-0306

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
Susan Ferguson

Signature of Chair

Date (Year/Month/Day)
2023/03/21

Print Name
Daniel Chow

Signature of Member

Date (Year/Month/Day)
2023/03/21

Print Name
Robert Kelly

Signature of Member

Date (Year/Month/Day)
2023/03/21