

Part C – Decision Under Appeal

The decision under appeal is the reconsideration decision of the Ministry of Education and Child Care Development (“Ministry”) dated March 13, 2023, in which the Ministry determined that the Appellant was not eligible for the Affordable Child Care Benefit between September 1 and December 31, 2022.

Part D – Relevant Legislation

Child Care Subsidy Act, section 4
Child Care Subsidy Regulation, sections 4 and 13
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 was receiving the Affordable Child Care Benefit for his child. The authorization was due to expire on September 30, 2022.

The Child Care Service Centre (“CCSC”) notified the Appellant in July 2022 that the authorization for the benefit was due to expire “in approximately 30 days.”

The Appellant submitted an Affordable Child Care Benefit application to the CCSC, online through his MyFS account, on August 4, 2022. The CCSC noted that the application did not include the start date of care.

The Ministry sent the Appellant a message through MyFS, stating that the Ministry needed additional information to determine eligibility for benefits, and referring the Appellant to an attached letter for details. On August 24, 2022, the Ministry also sent the Appellant a letter by mail, advising that the application could not be processed because the Ministry needed additional information. The Ministry stated that the start date was missing from the Appellant’s application form, asked him to provide a Child Care Arrangement form and advised that, if the information was not provided within 45 days, “you will be deemed ineligible and/or we may require a new application.”

The Appellant did not contact the Ministry about the status of his application until January 2023, when the Appellant’s child care provider told him that he was not receiving the subsidy. When the Appellant contacted the CCSC on January 11, 2023, he was told that he had not provided the additional information they had asked for, and therefore his file had been closed. The Appellant told the CCSC that he had faxed the information to the CCSC on September 28, 2022, and when he heard nothing further from the Ministry, he had assumed the Ministry was just taking a long time to process applications. He also said he was pre-occupied dealing with illness in the family. The CCSC told the Appellant that he would have to submit a new application with supporting documentation.

On January 13, 2023 the Appellant sent another Affordable Child Care Benefit Application to the CCSC, with a completed Child Care Arrangement form showing a start date for child care on October 1, 2022.

The CCSC sent the Appellant a letter on February 22, 2023, advising that the Appellant was not eligible for the benefit between September 1 and December 31, 2022. The CCSC stated that, because the application was submitted on January 13, 2023, the Appellant was only eligible for the benefit starting January 1, 2023, which was the first day of the month in which the application was completed.

Additional Evidence:

The Appellant provided the following documents:

1. Completed Affordable Child Care Benefit Child Care Arrangement form with a date of September 28, 2022 and a fax number handwritten at the top, showing child care arrangements starting October 7, 2021 and ending August 31, 2023;
2. Letter from an individual, dated April 11, 2023, stating that the Appellant was in their office on September 28, 2022 and sent “a fax to support his ACCB application” from the office fax machine between 2:00 and 3:00 p.m. that day.

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

The additional evidence shows further information that the Appellant says he sent to the Ministry in response to their notification that information was missing from his application, and details of a fax transmission in September 2022. The Panel finds that the additional evidence is reasonably required to determine issues in the appeal, and therefore the Panel finds 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 reconsideration decision, in which the Ministry determined that the Appellant was not eligible for the Affordable Child Care Benefit between September 1 and December 31, 2022, was reasonably supported by the evidence, or was a reasonable application of the legislation in the Appellant's circumstances.

Appellant's Position:

The Appellant says that he provided the additional information that the Ministry needed, by fax on September 28, 2022. Therefore, the Appellant says that he was eligible for the benefit from September 1, 2022.

Ministry Position:

At reconsideration, the Ministry maintained that the Appellant was only eligible for the benefit from January 1, 2023, which is the first day of the month in which the Appellant's January 13, 2023 application was completed. However, at the hearing the Ministry stated that if, at reconsideration, it had the additional evidence the Appellant submitted for the appeal, it would have determined that the Appellant was eligible for the benefit between September 1 and December 31, 2022.

Panel Decision:

The Ministry says that the information missing from the August 4, 2022 application was the start date for child care. The Ministry has agreed on appeal that the Appellant provided the missing information on September 28, 2022, and that if it had that information when it made the reconsideration decision, the Ministry would have determined that the Appellant was eligible for the benefit from September 1, 2022.

The Panel finds that the Appellant provided the start date for child care in the fax transmission on September 28, 2022, and therefore it would be appropriate for the Appellant to continue to receive the benefit without interruption from September 2022 onward.

Conclusion:

The Panel finds that the Ministry's reconsideration decision is not reasonably supported by the evidence. The Panel rescinds the reconsideration decision. 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.

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.

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.

Employment and Assistance Act

s. 22 (4) 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.

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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

Susan Ferguson

Signature of Chair

Date (Year/Month/Day)

2023/April/26

Print Name

Emily Drown

Signature of Member

Date (Year/Month/Day)

2023/April/26

Print Name

Joseph Rodgers

Signature of Member

Date (Year/Month/Day)

2023/April/26