

### **Part C – Decision Under Appeal**

The decision under appeal is the Ministry of Education and Child Care (ministry) reconsideration decision dated October 10, 2023 that determined the appellant was not eligible for the Affordable Child Care Benefit (ACCB) from March 1 to June 30, 2023 as per the Child Care Subsidy Act (CCSA), section 4 and the Child Care Subsidy Regulation (CCSR), sections 4 and 13.

Specifically, the ministry determined the appellant was not eligible for the ACCB between March 1 and June 30, 2023 as she did not complete the ACCB application until July 31, 2023.

### **Part D – Relevant Legislation**

Child Care Subsidy Act, section 4  
Child Care Subsidy Regulation, sections 4 and 13

**A full text of the relevant legislation is provided in the Schedule of Legislation after the Reasons in Part F below.**

**Part E – Summary of Facts**

The appellant was assisted throughout the hearing by an interpreter who translated the proceedings. The appellant confirmed her appeal package contained 31 pages, rather than the 34 pages in the panel's and ministry's package. The appellant indicated that she wished to continue with the hearing despite this discrepancy.

**Relevant Evidence Before the Minister at Reconsideration**

- The appellant is receiving the (ACCB) for her child. As noted on the appellant's Benefit Plan dated September 13, 2023, her current authorization expires on July 31, 2024. The ministry notes she is a new applicant and was not in receipt of the ACCB prior to July 1, 2023.
- The appellant submitted an ACCB application form (CF2900) to the Child Care Service Centre (CCSC) via MyFS signed and dated by her on July 31, 2023, and by her spouse, on August 19, 2023.
- On September 13, 2023, the CCSC found the appellant eligible for subsidy and issued her a Benefit Plan for the period beginning July 1, 2023.
- On September 13, 2023, the appellant contacted the CCSC to advise her child has been attending an Early Childhood Education Centre since March 1, 2023; the appellant requested her eligibility for the ACCB be backdated to March 1, 2023.
- The ministry denied the appellant's request and sent her a letter advising that she is not eligible for the ACCB for the period between March 1, 2023, and June 30, 2023

**From the Reconsideration Submission**

- On September 22, 2023, the appellant requested a reconsideration of the decision and submitted a letter advising that she believes she is eligible to receive child care benefits from March 1, 2023 as the provider delayed in signing/providing the necessary forms, and this delay prevented her from applying until July.
- The appellant's husband was another country for medical reasons, and she was taking care of their child alone, without financial support. This is causing her to struggle financially and mentally.
- The appellant is also fighting disease and states that she desperately needs the child care benefit from March 1, 2023 to July 31, 2023.
- The appellant signed the application July 31, 2023, to ensure her benefits would start in July, but the child care provider wrote in August 1, 2023, thus delaying her benefits.

- The appellant stated that in her circumstances, a more fair and humanitarian decision would give her the benefits as she has requested.

Affordable Child Care Benefit Application (Form CF2900) (received on August 19, 2023)

Affordable Child Care Benefit Child Care Arrangement Form (Form CF2798) (dated May 17, 2023)

Affordable Child Care Benefit Child Care Arrangement Form (dated August 31, 2023)

Affordable Child Care Benefit – Summary, -Your Affordable Child Care Benefit expires on July 31, 2024, dated September 13, 2023.

Letter from the Ministry to the Appellant (September 13, 2023), which states:

“The Affordable Child Care Benefit may only be paid from the first day of the month in which the parent completes the application. The application you submitted was completed on July 31, 2023. Therefore, you are only eligible to receive the benefit from July 1, 2023. You are responsible for paying for the costs of any child care that you received prior to this date.”

## **Additional Information**

### **Appellant**

Notice of Appeal (October 30, 2023)

The appellant states there was a misunderstanding regarding which date to put on the form. She asked the child care provider to fill out the form from March 1, 2023, but they did not. The appellant also tried to submit the form in May, but due to a medical emergency, her husband could not complete his part of the application in time.

Appellant’s Submission (November 7, 2023) – Screenshot of British Columbia Health Gateway web page, displaying what appears to be links to 13 lab results.

At the hearing, the appellant reiterated much of what she included in her submissions, however, she explained further:

- that after she submitted the Affordable Child Care Benefit Child Care Arrangement Form (dated May 17, 2023), she never received any email from the ministry to indicate that she still needed to submit an application complete with her husband’s

consent form. She therefore did not complete her application within the necessary time.

- The appellant asked the panel if she could provide earlier pre-March dates when her child was in daycare, to get that period covered as well by the ACCB.
- The appellant's husband was in hospital and consequently, the family was at the hospital most of the time. She was therefore not available to receive emails, even if the ministry had sent an email.
- Further as the appellant's husband was in the hospital, he was not available to complete his consent portion of the ACCB application.

## Ministry

The ministry representative explained the ministry's process in handling applications for the ACCB:

- It is critical to understand that when the ministry receives the **application** form (CF2900), referred to in section 4 of the CCSR, it is only then in the process, that the ministry information system can set up a file for the applicant, thus allowing communication (emails, etc.) with the applicant.
- Critically, the Affordable Child Care Benefit Child Care Arrangement Form (Form CF2798) (dated May 17, 2023) did not constitute an **application**, although the appellant clearly believed that with the submission of this form she had applied to the ACCB program.
- Thus, in May 2023 the appellant's understanding was she had applied for the ACCB, and she anticipated hearing further from the ministry. This did not occur, as no file had been opened, and no communication was forthcoming to advise the appellant that further steps were necessary to advance her "application". The application was not received until August 19, 2023.
- The ministry explained that the file was created in August, but as the application form was signed July 31, 2023, the ACCB was backdated to July 1, 2023.
- The ministry also explained the operation of section 13 of the CCSR. 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. If there had been an administrative error in this case, the most the ACCB could be backdated would be to June 1, 2023. However, in this case, no error was made by the ministry.
- In response to a question, the ministry stated that the ministry website sets out the application process in very clear and plain language, and the onus is on the applicant to ensure this is understood and followed.

The panel determined the additional information provided by the appellant respecting the impact of her husband's hospitalization on their availability to receive emails and to complete the application for the ACCB, is reasonably required for a full and fair disclosure of all matters related to the decision.

The panel determined the additional information provided by the ministry relating to its procedures and processes was helpful and is reasonably required for a full and fair disclosure of all matters related to the decision under appeal.

Therefore, this additional information from the appellant and the ministry is admissible under section 22(4) of the Employment and Assistance Act.

The panel determined the other 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 March 1 to June 30, 2023, 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 March 1 to June 30, 2023, because she did not complete the ACCB application until July 31, 2023.

**Appellant Argument**

The appellant argues:

- that after she submitted her "application" (Form CF2798), dated May 17, 2023, she never received any email from the ministry to inform her that she still needed to submit an actual application (Form CF2900), complete with her husband's consent form.
- The appellant's husband was in hospital and consequently, neither he nor she was available to receive emails and to complete an ACCB application (Form CF2900).
- In her circumstances, a more fair and humanitarian decision would give her the benefits as she has requested.

**Ministry Argument**

The ministry argues:

- that as the appellant submitted an ACCB application dated July 31, 2023 on August 19, 2023, eligibility for the ACCB began on July 1, 2023 - the first day of the month in which the application (Form CF2900) was completed.
- The ministry also argues that although it received an ACCB Child Care Arrangement form on May 19, 2023, an ACCB application is **first** required, to obtain information about the applicant's family.
- As an ACCB application (Form CF2900) was not submitted in May 2023, a file was not even opened for the appellant. It was only opened once the application dated July 31, 2023 was received.
- In this case, the ministry argues that payment of a child care subsidy is only payable, from the first day of the month when the appellant completes the application, namely, July 31, 2023.
- In section 13(2) of the CCSR, 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. However, 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 (CCSR) – how to apply**

Section 4 of the CCSR states, to be eligible for a child care subsidy, one parent must complete an application (Form CF2900) in the form required by the minister and supply the minister with required authorizations. At the hearing, the appellant stated she submitted an Affordable Child Care Benefit Child Care Arrangement Form (Form CF2798) (dated May 17, 2023), and she did not submit the ACCB application form (Form CF2900) at that time. Evidence from the ministry shows two ACCB Child Care Arrangement forms were received by the ministry (May 17 and August 31, 2023) and one Affordable Child Care application (dated July 31, 2023) received on August 19, 2023. The panel finds, as the ministry requires the ACCB application for a parent to be eligible for the child care subsidy, the appellant did not meet the requirement of section 4 until July 31, 2023.

### **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 May 17, 2023) was received. However, no ACCB application was submitted at this time. The ministry indicated that this document is “held in limbo” until such time an application is received by the ministry. It is only then that a file is opened for the applicant. Evidence shows the appellant submitted an ACCB application, signed and dated July 31, 2023. The panel finds that the absence of contact from the ministry cannot be viewed as an administrative error since no file is even opened until an application for the benefit is received from the applicant.

The panel therefore finds that the ministry reasonably determined the date of eligibility for the ACCB to be July 1, 2023 - 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, and the application process, since English is a second language for the appellant. It was very apparent to the panel on a review of all evidence that the appellant that she did not understand that the application process required the ACCB application together with the ACCB Childcare Arrangement form. She certainly did not understand that submitting the first ACCB Child Care Arrangement form (dated May 17, 2023) was insufficient to open a new file and permit future communication. Understanding the ministry process clarified the reconsideration decision. However, 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 March 1 to June 30, 2023, because she did not complete the ACCB application until July 31, 2023, 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.

...

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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

Bill Farr

Signature of Chair

Date (Year/Month/Day)

2023/11/17

Print Name

Kulwant Bal

Signature of Member

Date (Year/Month/Day)

2023/11/17

Print Name

Dawn Wattie

Signature of Member

Date (Year/Month/Day)

2023/11/17