

Part C – Decision Under Appeal

The decision under appeal is the reconsideration decision of the Ministry of Education and Child Care (the Ministry) dated September 26, 2023, in which the Ministry determined that the Appellant was not eligible to receive the Affordable Child Care Benefit between February 17 and May 31, 2023.

Part D – Relevant Legislation

Childcare Subsidy Act ("Act"), Section 4

Childcare Subsidy Regulation ("Regulation"), Sections 4 and 13

Employment and Assistance Act, Section 22(4)

Full text of the legislation is set out in the Appendix following the Panel Reasons.

Part E – Summary of Facts

The hearing took place by telephone and the Appellant did not attend but was represented at the hearing by his spouse.

Evidence Before the Ministry at Reconsideration:

The Appellant submitted an Affordable Child Care Benefit (ACCB) Child Care Arrangement form (CF2798) for his child in April 2022. The Child Care Service Centre (CCSC) noted the Appellant did not have an open file at the time and attempted to contact the Appellant by telephone to advise that a completed ACCB Application form (CF2900) was required to proceed with an assessment of eligibility for the benefit. A message was left on May 14, 2022 to contact the CCSC to discuss the application process.

The Appellant submitted another CF2798 form in March 2023. The CCSC contacted the Appellant by telephone and explained the process for submitting documents via the online service portal (MYFS). They told the Appellant that he would need to submit a completed form CF2900 and a new form CF2798, as the previous form was incomplete. They also explained that eligibility for the benefit is based on the month the completed CF2900 is received.

In April 2023, the Appellant submitted a signed ACCB Consent to Collect Canada Revenue Agency (CRA) Records form and a signed Revoke Consent to Collect CRA Records. A signed CF2798 and an Income Declaration form was also submitted. The CCSC tried to contact the Appellant by telephone to discuss the submission and to explain that a completed ACCB Application (CF2900) was still required to assess eligibility for the ACCB. The call could not be completed as the line rang "fast-busy".

The Appellant contacted the CCSC on June 5, 2023 about their application and they were advised that they did not have an open case. The Appellant was advised that a completed ACCB Application (CF2900) form was still required. The CCSC provided information on how to register for MYFS and apply online. The Appellant indicated he preferred to use paper applications and mail for document submission. The Appellant was directed to his local Child Care Resource and Referral Centre to obtain the paper forms and receive assistance with completing the application.

On July 5, 2023, the Appellant submitted the completed ACCB Application (CF2900) form required by the Ministry, signed June 6, 2023. He was found eligible to receive the benefit. The Ministry provided a benefit plan for the period June 1 to June 30, 2023.

The Appellant contacted the CCSC on July 5, 2023 by telephone to inquire about backdating his file to February 2023. The Appellant stated that he had submitted an application in February and

had been in communication with the CCSC about missing documents and his CRA consent. A MYFS support request was sent to determine if the application had been submitted prior to the application signed on June 6, 2023. The review concluded that only one electronic application had been submitted, on July 5, 2023.

The Appellant says that he experienced a technical error while submitting the online application and that when he contacted the help desk, he was told that the error he experienced was common.

The Ministry reviewed their electronic activity records and could not find any records of the Appellant attempting to submit an online application prior to July 5, 2023.

Additional Evidence:

At the hearing, the Appellant's spouse explained that they had moved from a Child Care facility in Municipality #1 to a Child Care facility in Municipality #2. The Appellant's spouse said that the facility in Municipality #1 had done everything for them with the paperwork and arranging reduced fees for child care. They expected that the same would happen in Municipality #2.

In answer to a question from the Ministry, the Appellant's spouse did not remember the date they tried unsuccessfully to submit the application online. In answer to a question from the Panel, the spouse said that they probably did not submit the application online before June 5, 2023 when the CCSC explained to them how to do it.

Admissibility of Additional Evidence:

The Ministry did not object to the additional oral evidence of the Appellant's spouse. The Panel finds that the additional evidence is reasonably required for the full and fair disclosure of all matters in the appeal. Therefore, the Panel finds that the additional evidence is admissible under s. 22(4) of the Employment and Assistance Act.

Part F – Reasons for Panel Decision

The issue on appeal is whether the Ministry was reasonable in its determination that the Appellant was not eligible for the ACCB between February 17, 2023, and May 31, 2023.

Appellant's Position:

The Appellant in the Appeal and his spouse at the hearing said that they should be eligible for the ACCB between February 17 and May 31, 2023, for the following reasons:

- As they were not successful in getting the ACCB in 2022, they made sure to apply for the ACCB on the first day of preschool for their child. They submitted the form supplied by the care provider (CF2978) and understood this to be the beginning of the application process.
- They did not fully understand the process as it was new to them. In their previous community, the childcare centre took care of the paperwork required to reduce their fees, so they did not have to do anything to access the ACCB.
- When they tried to submit the online application, there was a technical error in the application being submitted. When they contacted Technical Support, they were told that many people had this problem trying to submit documents.
- The Appellant in the appeal and the spouse at the hearing noted they made every effort to submit all the forms that were required of them and had been actively attempting to secure the ACCB since the first day (February 17, 2023). They are struggling to meet the needs of their family with four children. Their benefit should cover the period since they initiated the application.

Ministry's Position:

The Ministry noted that the ACCB form needed to apply for the benefit is the CF2900. This was received on July 5, 2023, and signed and dated June 6, 2023. The Ministry reviewed the Regulation. Section 13(2) states that the backdating of benefits can only happen if an administrative error was made. The Ministry reviewed the technical support records to look for a possible error but could not find any record of an error.

As the ACCB application was not submitted prior to May 31, 2023, the benefits cannot be backdated for the period of February 17, 2023, to May 31, 2023.

The Ministry also clarified that the legislation for the ACCB is provincial and does not vary between municipalities. However, Childcare Facilities and Childcare Resource and Referral offices may provide different levels of service and support in helping families access benefits.

Panel Reasons:

The Panel finds that the Ministry was reasonable in its determination that the Appellant was not eligible to receive the ACCB between February 17 and May 31, 2023.

Under Section 4(1) of the Regulation, a parent must submit an application in the form required by the Minister to be eligible for the ACCB. The form required is the ACCB Application (CF2900). The Appellant did not submit the required application until the application signed June 6, 2023, was submitted. Prior to this, the appellant submitted one of the supporting forms that is used to claim the benefit. The Appellant noted that he did what the childcare provider told him to do. It is unfortunate that the Appellant did not have the correct information from the childcare provider, but the legislation still requires the CF2900 application.

Section 13(1) of the Regulation states that eligibility for the ACCB begins on the first day of the month in which the application is completed. In this case the application was completed June 6, 2023, therefore the benefit began on June 1, 2023. The panel finds that as the Appellant did not complete the ACCB application form required by the Ministry for the period of February 17, 2023, to May 31, 2023, he is not eligible for the benefit during this time frame.

Under Section 13(2) of the Regulation, the Ministry is authorized to pay the subsidy for childcare provided in the 30 days before the parent completes the application, if there has been an administrative error.

The Panel considered whether the difficulties experienced by the Appellant when the Appellant tried to submit the application online in June 2023 could be considered an administrative error that would make the Appellant eligible for the benefit beginning at some earlier date between February 17, 2023, and May 31, 2023.

Although the application was not received by the Ministry until July 5, 2023, the Ministry accepted the application as complete on the date it was signed, June 6, 2023. Therefore, there was no delay in receiving the benefit because of these challenges. The Panel finds that the Ministry's determination that there was no administrative error to support payment of the benefit before June 1, 2023, was reasonable.

Conclusion:

The Panel finds that the Ministry's reconsideration decision, that the Appellant was not eligible to receive the ACCB for the period between February 17 and May 31, 2023, was reasonable. The Panel confirms the Ministry's decision. The Appellant is not successful in the appeal.

Appendix

Relevant Legislation

Childcare Subsidy Regulation

Sections 4 (1) To be eligible for a childcare 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 childcare subsidy.

Section 13:

(1) A childcare 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 childcare subsidy may be paid for childcare 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.

APPEAL NUMBER 2023-0315

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

Mary Chell

Signature of Chair

Date (Year/Month/Day)

November 5, 2023

Print Name

Susan Ferguson

Signature of Member

Date (Year/Month/Day)

2023/11/08

Print Name

Corrie Campbell

Signature of Member

Date (Year/Month/Day)

2023/11/08