

Part C – Decision Under Appeal

The decision under appeal is the Ministry of Children and Family Development (the ministry) decision dated July 17, 2020, which determined the appellant's request for reconsideration dated July 6, 2020 exceeded the legislated time limits permitted to submit the request. Therefore, the ministry's decision about an overpayment of childcare subsidy cannot be reconsidered.

Part D – Relevant Legislation

Child Care Subsidy Act (Act), section 6

Child Care Subsidy Regulation (Regulation), section 17

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

Part E – Summary of Facts

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

Summary of Relevant Evidence**Ministry records show:**

- On February 5, 2020, the ministry determined the appellant was paid \$9,120.00 in childcare subsidy benefits they were not entitled to. A final debt letter advising the appellant of the amount of overpayment and supporting legislation outlining their right to request a reconsideration of the decision, was sent to the appellant using Canada Post Expedited Parcel.
- On February 12, 2020, Canada Post confirmed the debt notification letter was successfully delivered. No request for reconsideration of this decision was received by the ministry within the legislated 20 business days. The appellant's file was transferred to the Minister of Finance.
- On June 1, 2020, the appellant requested a reconsideration of the ministry's decision dated February 5, 2020.
- On June 5, 2020, Canada Post confirmed the request for reconsideration form was successfully delivered.
- On July 7, 2020, the ministry received the request for reconsideration signed and dated on July 6, 2020.
- On July 17, 2020, the ministry completed its review of the request and determined it was unable to conduct a reconsideration because the 20 business-day time limit for filing the request had expired.

Letter to the Appellant from the Ministry (February 5, 2020)

The ministry wrote that on January 30, 2020, it reviewed childcare subsidy payments issued for the period November 2016 to March 2019 and determined the appellant was issued \$9,120.00 in childcare subsidy benefits for which they were not eligible.

The letter states, "If you disagree with the ministry's decision, you may request a reconsideration of that decision. Your request for reconsideration must be received by the Verification and Audit Unit within 20 business days (not including weekends or holidays) after you were notified of this decision."

Notice from Canada Post

– delivery date February 12, 2020, signed by the appellant

Request for Reconsideration - from the Appellant to the Ministry of Finance (July 6, 2020) - summary

The appellant provided historical information regarding their history with a child needing care, their financial difficulties raising this child and lack of financial ministry support.

Notice of Appeal (December 5, 2023)

The appellant did not provide any reasons for the appeal.

At the hearing, the ministry reiterated that the appellant did not meet the 20-day timeline for requesting a reconsideration, as per the legislation and emphasized that there is no discretion with this timeline. The ministry added that the final date for the appellant to have submitted a request for reconsideration was February 27, 2020.

Part F – Reasons for Panel Decision**Issue on Appeal**

The issue on appeal is whether the ministry's reconsideration decision 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 that the appellant's request for reconsideration dated July 6, 2020 exceed the legislated time limits permitted to submit the request?

Appellant's Position

The appellant did not provide a reason for the request for reconsideration, or reasons for the delay in filing their request for reconsideration.

Ministry's Position

The ministry notes the debt notification letter from the ministry, dated February 5, 2020 advises the appellant that if they disagree with the ministry's decision, they may request a reconsideration of that decision and that the request must be received by the ministry within 20 business days after they were notified of the original decision.

The ministry states as per section 17(4) of the Regulation, 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. The ministry found that the appellant failed to deliver their completed childcare subsidy request for reconsideration to the ministry within the legislated 20 business-day time limit. Therefore, the ministry argues it cannot make a reconsideration of this matter available to the appellant.

Panel AnalysisSection 6, Act- Reconsideration and appeal rights

Section 6 states a person may request the minister to reconsider a decision that results in a refusal to pay a childcare subsidy to the person and the request must be made, and the decision reconsidered, within the time limits specified in the regulations.

Section 17(1)(b), Regulation – reconsideration of decisions

Section 17(1)(b) states a person who wishes the minister to reconsider a decision must deliver to the Child Care Service Centre a request for reconsideration within 20 business days after the person is notified of that decision.

The panel notes the letter to the appellant from the ministry that determined they were issued \$9,120.00 in childcare subsidy benefits for which they were not eligible is dated February 5, 2020, and a notice from Canada Post signed by the appellant shows a delivery date of February 12, 2020.

The panel also notes that the signed request for reconsideration is dated July 6, 2020, approximately five months later. As section 17(1)(b) of the Regulation states the appellant must have delivered their request for reconsideration within 20 business days of the decision, the panel finds section 17(1)(b) of the Regulation was not met.

Conclusion

In conclusion, the panel finds the ministry decision that determined the appellant is not entitled to a reconsideration of the decision dated February 5, 2020, was a reasonable application of the legislation in the circumstances of the appellant.

The appellant is not successful on appeal.

Schedule of Legislation

Child Care Subsidy 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

Reconsideration of decisions

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.

...

APPEAL NUMBER 2023-0375

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)

2024/04/22

Print Name

Susanne Dahlin

Signature of Member

Date (Year/Month/Day)

2024/04/22

Print Name

Rick Bizarro

Signature of Member

Date (Year/Month/Day)

2024/04/22