

**Part C – Decision Under Appeal**

The issue under appeal is the Ministry of Education and Child Care (“the Ministry”) Reconsideration Decision of May 30, 2024, in which the Ministry confirmed an April Affordable Child Care Benefit (“ACCB”) agreement superseded a March ACCB agreement. In March 2024, the Ministry made an ACCB agreement with the Appellant for one of his children which relied on his family income from 2022. This agreement was to run until December 2024 and had an ACCB benefit of \$169.17 per month. In April 2024, the Appellant submitted an ACCB application to include both of his children using his 2023 income, which had increased from 2022. The Ministry held the Appellant was eligible for a reduced ACCB benefit beginning June 1, 2024, with a maximum of \$5.35 per month for both children. The Appellant contended the March agreement should continue until December.

In its Reconsideration Decision, the Ministry said it is obligated to rely on the relevant legislation to determine benefits for each application and acted accordingly in the case of the Appellant’s April application. Specifically, the Ministry applied the income limits from Section 7 of the Regulation, the formula for determining benefits from Section 8 and the family’s income from the most recent year as required by Section 9(3) to determine the April agreement benefit amount.

**Part D – Relevant Legislation**

*Child Care Subsidy Act* Section 5 (the "Act")

Child Care Subsidy Regulation Sections 7,8,9, 9.1, 13 and 14 (the "Regulation")

See Appendix for the full copy of the legislation.

**Part E – Summary of Facts**

The hearing took place in-person on July 8, 2024. The Ministry representative attended via telephone. At a point during the hearing, the Ministry representative requested an adjournment to verify a response to a question regarding the authority (legislation or policy) for the Ministry's practice of reassessing eligibility for benefits when an existing agreement is in place. The Chair granted the adjournment, and the Appellant was asked to leave the hearing room. After five minutes the hearing resumed.

Evidence before the Ministry at Reconsideration

On January 24, 2024, the Appellant applied for the ACCB for Child N. Included in this application was a consent for the Ministry to gather his and his spouse's Canada Revenue Agency records. Based on the Appellant's 2022 income tax return, the Appellant's family's combined income was **\$98,628**. Adjustments for family size as set out in Section 9(5) of the Regulation were made. Specifically, \$2,000 per person, not including the first two of the four family members, or \$4,000 was subtracted from the combined income. The adjusted family income for calculating the benefit was **\$94,628**.

On February 7, 2024, the Ministry provided the Appellant a letter saying he was eligible for a partial ACCB in the amount of \$169.17 per month for 16 full time days/month of child care for Child N. The benefit period was March 01, 2024, to December 31, 2024.

On April 17, 2024, the Appellant and his spouse submitted an ACCB application seeking subsidy for Child A as well as Child N. The Ministry calculated the ACCB based on their combined income for 2023 of **\$114,625** as determined by the Canada Revenue Agency.

Adjustments to this income were made per Section 9(5) as set out above, that is \$4,000 was subtracted. The family's adjusted family income for calculating the ACCB was **\$110,625**.

Based on this revised adjusted family income of \$110,625, on April 23, 2024, a letter was sent to the Appellant advising him that he was eligible for a reduced amount of ACCB beginning June 1, 2024, up to a maximum amount of \$5.35 per month. That is \$3.87 for Child N and \$1.48 for Child A per month respectively.

On May 10, 2024, the Appellant submitted a Request for Reconsideration to the Ministry, stating it did not have authority to change the \$169.17 per month offered in the February 7, 2024, letter and that the Ministry must honour this amount. The Appellant argued only after December 31, 2024, would the Ministry have the latitude to revise the amount of the benefit.

On May 30, 2024, the Ministry completed its review of the Appellant's request.

- The Ministry held that eligibility for the ACCB follows the laws set out in the *Act* and Regulation. It stated that the purpose of reconsideration is to determine if the *Act* and Regulation are applied correctly and consistently which it did in this case.
- Eligibility for the ACCB is affected by the type of child care selected. According to the Regulation, in the case of a licensed child care setting as used by the Appellant:
  - Section 7 says that an applicant is not eligible for a subsidy if their income equals or exceeds \$111,000.
  - Section 8 says if the family’s adjusted annual income exceeds \$45,000, the monthly child care subsidy for a child is the parent fee or the amount determined in accordance with the applicable formula in Schedule A, whichever is less.
  - Section 9 says the Minister must calculate the family’s adjusted annual income based on the applicant and their spouse’s income from the previous year’s notice of assessment. The year prior to that may be used if the previous year is not available.
  - Section 9.1 sets out the term “estimated annual income” meaning the estimated income from all sources (except social assistance payments) for the applicant and their spouse, for the 12-month period beginning after the month in which their combined income increased.

On June 14, 2024, the Appellant submitted his Notice of Appeal to the Tribunal. The Appellant stated as follows:

*The Ministry failed to justify any kind of legislative authority to nullify an existing subsidy agreement, as my son had until December 2024, and implement a renewal with immediate effect rather than at the expiry of said subsidy agreement.*

He further states:

*I am not challenging CCSR Sections 7, 8 or 9.*

### Appellant’s Submission

On July 3, 2024, the Appellant provided a submission to the Tribunal in support of his appeal. The submission included a copy of his letter from the Ministry, dated February 7, 2024, confirming his ACCB beginning March 1, 2024, and ending December 31, 2024. The benefit was for Child N: \$169.17 per month, based on 16 days/month of care.

The letter sets out:

Appellant’s income of \$71,558.00  
 Spouse’s income of \$27,070.00  
 Total family income of \$98,628.00

Adjustment for size of the Appellant's family, \$-4,000.00

**Adjusted Family Income: \$94,628.00\***

\*Note that although not referenced in the February 7 letter, the Appellant says in his reasons for requesting reconsideration that the income submitted at the time of this application was his 2022 income.

The submission included a copy of a check list for submitting renewals (for the ACCB) from My Family Services. The words "Submit Renewal" are circled. Also included was a screen shot of the Merriam Webster Dictionary definition of renewal as follows: "to grant or obtain an extension of or on."

#### Evidence at the Hearing

The Appellant reiterated his position as set out in his reasons for requesting a reconsideration. He emphasized, his concern is not about the new amount of the child care subsidy. Rather his concern is about the implementation date of June 2024 for the new amount. He believes the timelines as set out in the February 2024 agreement should be honoured, such that he would continue to receive the higher level of benefit until December 2024; starting in January 2025 the new amount could be put into effect. The Appellant says that he sees nothing in legislation that authorizes the minister to cancel or replace an existing agreement. He stated that the website for applying for the ACCB uses the term "renewal" and noted that this term is not found anywhere in the Act or Regulation. He drew the Panel's attention to the dictionary definition of "renewal" as something that continues an existing arrangement.

The Appellant stated that he called the Ministry more than once in April to seek clarification about why his funding amount had changed. The Ministry advised him that his ACCB had been reassessed further to his submission of a new application including both Child A and Child N. No adequate explanation was provided about why his "renewal" of his ACCB agreement resulted in a reassessment leading to the February agreement being superseded with a new agreement.

When asked, the Appellant made the following comments:

- He was aware that his 2023 income had changed when he applied for the ACCB in January 2024 for the ACCB. He relied on his 2022 income as his 2023 tax returns were not yet available. There was no attempt to mislead the Ministry.
- An ACCB agreement should not be changed even in a situation where the applicant had a significant loss of income (meaning they would be eligible for an increase in the ACCB).
- He clarified that although his Request for Reconsideration referred to Section 14 of the *Act*, he meant Section 14 of the Regulation.

The Ministry representative reviewed the Reconsideration Decision. The representative made the following comments:

- The Ministry received a new application on April 17, 2024. Section 13(1) of the Regulation applies such that the benefit is available the 1<sup>st</sup> day of the month in which an application for the benefit is completed. Child A received funding beginning April 1, 2024. The rate for Child N would begin June 1, 2024.
- In this case, a new application was submitted. If there is a change in income the Ministry must be advised. The goal is to avoid an overpayment. When asked the Representative provided the following information:
  - It would not be Ministry practice to compel an ACCB beneficiary to provide information or complete a new application.
  - Generally, beneficiaries are prompted to reapply at the end of an existing agreement.
  - In the case of the Appellant, he submitted a new application to apply for Child A as well as Child N. This included more current income information therefore his subsidy amount was reassessed.
  - Information in a new application takes precedence over an existing agreement.
  - An ACCB agreement contemplates all the children in a family. They are not one per child. A request to amend an existing agreement would be a new application.
  - It would not be Ministry practice to simply initiate an audit on a family's agreement.
  - The legislation does require a beneficiary to advise the Ministry of a change in circumstance.
  - The Representative was not able to clarify why the benefit period for Child N's subsidy began in June 2024 rather than April 2024 as was the case for Child A.
  - Section 9.1(8) is a provision the Ministry would rely on to authorize a change in an agreement where there is an increase in the beneficiary's salary.

As noted above, the Ministry representative requested an adjournment to verify a response to a question regarding the authority (legislation or policy) for the Ministry's practice of reassessing eligibility for benefits when an existing agreement is in place. Following the adjournment the representative reiterated that the Ministry's authority for undertaking a reassessment and for putting forward a new ACCB agreement was founded in legislation (that is the provisions set out in the Reconsideration Decision) as well as policy.

#### Admissibility of New Evidence

The Panel is authorized under Section 22(4) of the *Employment and Assistance Act*, to consider evidence in addition to the information the Ministry had at the time of the Reconsideration Decision if it is reasonably required for a full and fair disclosure of all matters related to the decision under appeal. In this case the Appellant provided an additional submission as well as additional evidence only at the hearing. No new evidence was submitted by the Ministry before

the hearing, although the Representative provided new evidence during the hearing. Neither party objected to the new evidence of the other party. The Panel admits the Appellant's additional evidence as well as that of the Ministry as it meets the above criteria.

**Part F – Reasons for Panel Decision**

The issue on appeal is the Ministry's Reconsideration Decision, which found the Ministry had appropriately applied the legislation regarding the start date for the Appellant's ACCB benefit agreement which included both Child A and Child N.

**Appellant's Position**

The Ministry has acted outside the scope of the Act by replacing rather than renewing the ACCB agreement for Child N, effective March 1, 2024 to December 31, 2024.

- A new application for benefits for Child A in April 2024 resulted in a reassessment of program eligibility which inadvertently triggered a new calculation of benefits for Child N, resulting in a reduced monthly amount. This assessment was based on 2023 income rather than 2022 income as had been the case for determining benefits for Child N.
- Section 9 of the Regulation does not grant the Ministry permission to replace an existing arrangement with a new one due to change in family income.
- Section 14 of the Regulation requires beneficiaries to notify the Ministry of changes in circumstances that would affect eligibility. That is, there is only an obligation to notify the Ministry if eligibility changes from yes to no. It is not about changes of family income that are below the threshold of \$111,000. The effect on existing benefit agreements for changes in the family income that remain below the \$111,000 are not addressed in Section 14 nor anywhere else in the Act.
- The application completed in April 2024 was explicitly labelled a renewal. However, program staff refer to the renewal as a reassessment. The word renewal is not synonymous with reassessment.
- The word "renewal" is not a defined term in the Act. To understand it a dictionary definition must be used. In the Cambridge Dictionary, the word renewal is defined as "the act of making an agreement continue for an extra period of time after it has come to an end." The new subsidy agreement for Child N should only take effect after the expiry of the existing ACCB agreement.
- The only option consistent with the definition of renewal, is to have the new arrangement take effect at the expiry of an existing arrangement. He does not disagree with the new amount for the ACCB, rather he states the implementation date should follow the conclusion of the February 2024 agreement. This should be January 1, 2025.

**Ministry's Position**



The Ministry says that it is bound by the legislation and regulations and has no latitude not to follow them. Their reason as follows:

- Section 8 of the Regulation sets out how to calculate the amount for the ACCB. In this case the family's 2023 adjusted annual income is \$110,625 or just below the threshold of \$111,000.00 at which point the Appellant would not be eligible for partial benefits. The Appellant is not eligible for full benefits as the family's income is above the \$45,000 threshold.
- The formula applied by the Ministry to determine benefits is set out in Schedule A of the Regulation.

$$(0.728 \times \text{maximum benefit}) \times \left[ 1 - \frac{\left[ \text{family's adjusted annual income} - \$80,000 \right]}{\$31,000} \right]$$

- The monthly child care subsidy for a child receiving full time child care is the parent fee or the amount determined in accordance with the applicable formula in Schedule A, whichever is less, for the type of child care the child is receiving.
- Based on this calculation, the Appellant is eligible for a maximum ACCB of up to \$5.35 per month.
- As the family's adjusted annual income from the most recent year is higher than that of the previous year, the Appellant's ACCB was reduced.
- The Ministry notes that the Appellant changed his request for subsidy to include Child A as well as Child N. This is considered a new application. In April, the Appellant's most current CRA information was available. As a result, the Appellant's eligibility for subsidy was reassessed to include the entire family, not just Child A.
- Per Section 9(3) of the Regulation, the Ministry relied on the applicant's previous year's income as it was available. It has no discretion about this.
- As there was an increase in the family's adjusted annual income, the subsidy was reduced beginning June 1, 2024.

### Panel Reasons

The Panel must consider whether the Ministry was reasonable in determining that the Appellant should only receive an ACCB of \$5.35 per month beginning June 1, 2024, as a result of the increase in his annual income reported in the Application for benefits for Child A as well as Child N.

In this case, the Appellant's requirements for completing an ACCB application for both Child A and Child N were met and a new amount was calculated for benefits based on the Appellant's 2023 income. The amount of the benefit based on his current circumstance is not challenged by

the Appellant. Instead, his appeal is regarding the timing of implementing the amount, which is June 2024, rather than at the expiry of his February ACCB agreement of December 2024. The Panel finds:

- The Ministry was reasonable in considering the Appellant's April 2024 application to be a new application as it contemplated both Child A and Child N as opposed to only Child N which was the case in the previously approved application. Moreover, there is nothing in the April 2024 application to indicate it was not a new application, such as a request to consider only consider Child A.
- As provided by Section 9(3)(a) of the Regulation, the Ministry relied on the Appellant and his wife's most recent tax return of 2023 to establish his income. The Panel finds the Ministry was reasonable in so doing as the Regulation states that, under Section 9(3)(a)(i) that the Ministry should determine the Appellant's income through "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". The Panel further finds the Ministry's determination regarding the eligibility or amount of the ACCB to be consistent with the method of calculation set out in Section 8 of the Regulation.
- Regarding the Appellant's contention that there is no legal authority for the Ministry to supersede an existing agreement, in this case a new application was submitted by the Appellant and his spouse, and the Ministry followed the legislated requirements to determine the amount of ACCB and its start time. The new agreement began April 1. The Panel notes that the start of Child N's benefit at the lower amount was delayed two months. This seems to be an exercise of discretion by the Ministry which is to the benefit of the Appellant.
- The Panel notes, the Appellant contends that Section 5 of the Act, which requires a beneficiary to notify the Ministry of any change in circumstance which would affect their eligibility, only applies where a beneficiary would no longer be eligible for the benefit. That is their adjusted income exceeds \$111,000, which is the upper limit set out in Section 7 of the Regulation. Section 9.1 of the Regulation sets out criteria for which ACCB benefits can be increased or decreased based on changes to a beneficiary's income. Logically, as the ACCB is intended to make child care more affordable, it must allow for changes to happen within the timeframe of an existing agreement as the financial and other circumstances of the family change. This benefits those whose income decreases by increasing their benefits and prevents overpayment of benefits for those whose income increases. The Panel is satisfied that, even if the Appellant had not made a new application as he did, the legislative authority exists for the Ministry to adjust the terms of an existing agreement should it find it appropriate to do so.

## Conclusion

In the Reconsideration Decision, the Ministry confirmed the Appellant met all requirements to be eligible for the ACCB and that his benefit period started on April 1, 2024 for Child A and June 1, 2024 for Child N, notwithstanding that an agreement was already in place for Child N that was to end December 2024. The Panel found the Ministry was reasonable in evaluating the Appellant's April 2024 application as a new application and applied the requirements in the Regulation appropriately, regarding the beginning of the benefit period.

The Panel finds the Ministry reasonable in its application of the legislation in the case of the Appellant. The Appellant is not successful on appeal.

## The Act

### Information and verification

**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.

## The Regulation

### Income test

**7** (1) An applicant is not eligible for a child care subsidy if the family's adjusted annual income equals or exceeds the following:

- (a) \$111 000 for a child receiving child care in a licensed child care setting;
- (b) \$85 000 for a child receiving child care in a registered licence-not-required child care setting;
- (c) \$70 000 for a child receiving child care
  - (i) in a licence-not-required child care setting, or
  - (ii) in the child's own home as described in section 2 (c).

- (2) Subsection (1) does not apply to an applicant if the child care is for a child
- (a) in relation to whom the applicant has entered into an agreement with a director under section 8 of the *Child, Family and Community Service Act*,
  - (b) in relation to whom the applicant, by agreement under section 94 of the *Child, Family and Community Service Act*, exercises a director's rights or carries out a director's responsibilities,
  - (c) of whom the applicant has interim or temporary custody under an order of the court under section 35 (2) (d), 41 (1) (b), 42.2 (4) (c), 49 (7) (b) or 54.01 (9) (b) of the *Child, Family and Community Service Act*,
  - (c.1) of whom the applicant has been permanently transferred custody under an order of the court under section 54.01 (5) or 54.1 (3) of the *Child, Family and Community Service Act*,
  - (d) of whom the applicant has custody under an order of the court under section 42.2 (4) (a) of the *Child, Family and Community Service Act*, if the applicant is the other person referred to in section 42.2 (4) (a) (i),
  - (e) who is receiving assistance under the authority of the Child in the Home of a Relative Program Transition Regulation, B.C. Reg. 48/2010, and the applicant is the relative with whom that child resides, or
  - (f) who is receiving assistance under a program, similar in nature to the program referred to in paragraph (e), provided
    - (i) on a reserve, within the meaning of the *Indian Act* (Canada), by the government of Canada, or
    - (ii) by the Nisga'a Nation or a treaty first nation.

**Amount of subsidy**

**8** (1) In this section:

**"full time child care"** means child care for which the minister may pay a child care subsidy that is provided for the equivalent of at least 20 full days per month;

**"full time subsidy amount"**, in relation to a child receiving part time child care, means the monthly child care subsidy determined in accordance with subsection (3), (4) or (5), as applicable, that would apply if the child were receiving full time child care;

**"number of full days"** means the number of full days per month for which the minister may pay a child care subsidy;

**"number of half days"** means the number of half days per month for which the minister may pay a child care subsidy;

**"parent fee"** in relation to a parent, means the fee the parent is charged by the applicable child care provider for child care for which the minister may pay a child care subsidy;

**"part time child care"** means child care for which the minister may pay a child care subsidy that is provided for less than the equivalent of 20 full days per month.

(2) For the purposes of applying the definitions of "full time child care" and "part time child care" in subsection (1), 2 half days are the equivalent of one full day.

(3) If a family's adjusted annual income is less than or equal to the following, the monthly child care subsidy for a child receiving full time child care is the parent fee or the amount set out in Column 3 of the applicable table in Schedule A, whichever is less, for the type of child care the child is receiving:

(a) \$45 000 for a child receiving child care in a licensed child care setting;

(b) \$39 000 for a child receiving child care in a registered licence-not-required child care setting;

(c) \$24 000 for a child receiving child care

(i) in a licence-not-required child care setting, or

(ii) in the child's own home as described in section 2 (c).

(4) If a family's adjusted annual income exceeds the applicable amount under subsection (3) (a), (b) or (c), the monthly child care subsidy for a child receiving full time child care is the parent fee or the amount determined in accordance with

the applicable formula in Schedule A, whichever is less, for the type of child care the child is receiving.

(5) Despite subsections (3) and (4), the monthly child care subsidy for a child described in section 7 (2) who is receiving full time child care is the parent fee or the amount set out in Column 3 of the applicable table in Schedule A, whichever is less, for the type of child care the child is receiving.

(6) If child care is provided through a Young Parent Program and the child care provider operating the Young Parent Program confirms, in the form specified by the minister, that the parent is participating in the Young Parent Program,

(a) despite subsections (3) and (4), the monthly child care subsidy for a child who is receiving full time child care provided through the Young Parent Program is \$1 500, and

(b) despite subsection (7), the monthly child care subsidy for a child receiving part time child care provided through the Young Parent Program is the amount determined in accordance with the following formula:

$$\left[ \frac{(\text{number of half days} \times 0.5) + \text{number of full days}}{20} \right] \times 1\,500$$

(7) The monthly child care subsidy for a child receiving part time child care is the parent fee or the amount determined in accordance with the following formula, whichever is less, for the type of child care the child is receiving:

$$\left[ \frac{(\text{number of half days} \times 0.5) + \text{number of full days}}{20} \right] \times \text{full time subsidy amount}$$

(8) Despite subsection (7), the monthly child care subsidy for a child receiving part time child care provided in a licensed preschool is the parent fee or the amount determined in accordance with the following formula, whichever is less, for that type of child care:

$$\left[ \frac{\text{number of half days}}{20} \right] \times \text{full time subsidy amount}$$

(9) Despite subsection (7), the monthly child care subsidy for a child receiving part time child care that is care surrounding school day is the parent fee or the amount determined in accordance with the following formula, whichever is less, for that type of child care:

$$\frac{(\text{number of half days} \times 0.83333) + \text{number of full days}}{20} \times \text{full time subsidy amount}$$

(10) If the child care is arranged or recommended by staff delegated under the *Child, Family and Community Service Act*, after staff have

- (a) offered support services or agreements to the child and family under section 16 (2) (a) of that Act,
- (b) begun an assessment under section 16 (2) (b.1) of that Act, or
- (c) begun an investigation under section 16 (2) (c) of that Act,

the minister may pay any increase in the amount of the child care subsidy that the minister considers necessary to ensure that the child care is provided.

### Calculation of family's adjusted annual income

**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

**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.

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

**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.

[am. B.C. Reg. 337/2008, s. 4.]

**Notifying the minister of change in circumstances**

**14** The notification required by section 5 (2) of the Act must be given in writing or by telephone,

(a)as soon as possible after any change in circumstances affecting the eligibility of the parent, and

(b)to an employee in the Child Care Service Centre.

APPEAL NUMBER 2024-0226

**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

Signature of Chair

Date (Year/Month/Day)

2024/07/15

Print Name

Gordon Thompson

Signature of Member

Date (Year/Month/Day)

2024/07/15

Print Name

Signature of Member

Date (Year/Month/Day)

2024/07/15