

Appeal Number 2025-0045

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

The decision under appeal is the Ministry of Children and Family Development (ministry) Reconsideration Decision dated January 22, 2025, which denied the Appellant's request for a Child Care Subsidy ("CCS") for the period of September 3, 2024 to November 30, 2024 pursuant to the *Early Learning and Child Care Regulation* sections 9 and 20 because the Appellant's Affordable Child Care Benefit ("ACCB") application was not submitted in its complete form until December 20, 2024.

### **Part D – Relevant Legislation**

Early Learning and Child Care Act ("Act") Sections 4.

Early Learning and Child Care Regulation ("Regulation") Sections 9 and 20.

**Part E – Summary of Facts**

\*Note: At the hearing, the Appellant stated that he did not have the appeal package present at the hearing. When asked if he would like to continue with the hearing, the Appellant stated "yes".

**Evidence at Reconsideration**

1. ACCB application, signed and dated October 16, 2021.
2. ACCB Child Care Arrangement ("CCA") form signed and dated September 24, 2021 by the child care provider.
3. ACCB-CCA form signed and dated October 30, 2021 by the child care provider.
4. ACCB-CCA form signed and dated September 5, 2024 by the child care provider.
5. ACCB-CCA form dated October 15, 2024 by the child care provider (first page only).
6. ACCB application, signed and dated December 11, 2024.
7. ACCB application, signed and dated December 16, 2024.
8. ACCB application, signed and dated December 20, 2024.
9. Identification for the Appellant, his wife and two children.
10. 2024/2025 Child Care Centre Enrollment application.
11. 2024/2025 Child Care Centre Parent Agreement.
12. Request for Reconsideration dated January 15, 2025. In part it stated the following:
  - He signed the enrollment agreement and completed the CF2900 form on September 5, 2024.
  - He was advised by the child care centre that the ACCB application would be submitted to expedite the process and assured him that his children would be eligible starting from their first day of care.
  - In October (2024) he followed up with the child care centre and was advised that there were no updates and that the necessary documents would be re-submitted.
  - Shortly after he received a phone call from ACCB program requesting additional information including his children's identification and the reason for the enrollment.
  - After all the information was submitted, he experienced many delays.
  - Corrections were requested and information went missing from his checklist. This caused him to restart the process.
  - He has been paying for child care since September 2024. He would like his children's eligibility to be adjusted to this date.

**Evidence on Appeal**

Notice of Appeal, signed and dated February 6, 2025 was left blank.

### **Evidence at the Hearing**

At the hearing, the Appellant reiterated the arguments as stated in the Request for Reconsideration. The Appellant also explained that he needs childcare due to his work and his wife medical condition. To this, the Appellant added the following:

- The children have been on a waitlist for care for 3 years with another child-care centre.
- Spaces opened up at the current child-care centre and the children have been attending since September 2024.
- He reiterated that he was simply following the directions given to him by the child-care centre. He added that he was not aware of the application process. He also acknowledged that he made an error in not understanding the process.
- He stated that in October 2024, a Ministry representative advised him that CCS eligibility would start from October 2024. When he requested that it started from September 2024, the representative stated that she would need to inquire with a manager because she may have made a mistake.
- He was then told by another Ministry representative that eligibility would start from November 2024.
- He was not advised that the eligibility date depended on the ACCB application.
- When asked if he received a confirmation email indicated that his previous ACCB application was received, the Appellant stated that he did receive an email confirmation but was not sure when. He guessed that for the first ACCB application the confirmation email came in October 2024 and for the second ACCB application the confirmation email came in November 2024.

At the hearing, the Ministry relied on its Reconsideration Decision. When asked why the Appellant file was previously closed, the Ministry stated that typically parents receive an email 1 month before the CCS benefit is about to expire. At that time the parents must indicate whether continued CCS benefits are required. If the Ministry does not hear back from the parent, the file is automatically closed in 4 months for being inactive.

When asked if the Appellant was informed about the application process, the Ministry stated that the record shows that on October 15, 2024 the Appellant was advised that the ACCB application must be submitted to start the process.

### **Admissibility of Additional Evidence**

A Panel may consider evidence that is not part of the record and the Panel considers is reasonably required for a full and fair disclosure of all matters related to the decision under appeal.

Appeal Number 2025-0045

The Panel found that the Appellant's testimony and the Ministry's testimony at the hearing provided additional detail or disclosed information that provides a full and fair disclosure of all matters related to the decision under appeal. The Panel has admitted this new information as being in accordance with s. 22(4) of the *Employment and Assistance Act*.

## Part F – Reasons for Panel Decision

The purpose of the Panel is to review and assess whether the Ministry's Reconsideration Decision satisfied a standard, or benchmark, of reasonableness - not if the Panel might disagree with the outcome. The standard applied is whether the applicable laws were reasonably applied and whether the evidence was also reasonably applied in the circumstances at appeal.

The issue on appeal is whether the Ministry's Reconsideration Decision, which found that the Appellant is not eligible a CCS from September 3, 2024 to November 30, 2024 because the Appellant CCS application was not completed until December 20, 2024 was reasonably supported by the evidence or was a reasonable application of the legislation.

### The Appellant's Position

The Appellant stated that he made several attempts to submit the required information. He has been paying for child care since September 3, 2024 and he would like the Ministry to backdate his application to this date.

### The Ministry's Position

The Ministry stated that the Appellant's previous authorization ended on June 30, 2022, and he submitted a completed application on December 20, 2024 that was signed and dated on December 20, 2024. Therefore, as per the Section 20(1) of the Regulation, the Appellant's eligibility for the Affordable Child Care Benefit began on December 1, 2024, which is the first day of the month in which the application was completed.

As set out in Section 20(2) of the Regulation, payment of a CCS may only be backdated 30 days from when the parent completes the application under section 9 if there has been an administrative error. The Ministry noted that the intent of Section 20(2) of the Regulation is to ensure that the Ministry follows the necessary procedures to deliver service to an applicant in accordance with the legislation. The Ministry noted that the daycare provider is independent of the Ministry. Subsequently, any information provided by the daycare provider to the applicant is outside of the scope of Section 20(2) of the Regulation.

### Panel Decision

In the Reconsideration Decision the Ministry provided a summary of the Appellant's account history. In its Reconsideration Decision the Ministry also explained that the ACCB is governed by laws set out in the Act and the Regulation. Section 4 of the ELCC Regulation states that to be eligible for a CCS a parent must complete an application in the form required by the Minister. The evidence establishes that the Appellant submitted a completed ACCB application on December 20, 2024. The Appellant does not dispute this.

Appeal Number 2025-0045

The Panel finds that there is no evidence that a completed ACCB application was submitted prior to December 20, 2024. As a result, the Panel finds that the Ministry was reasonable in determining the Appellant's CCS begins December 2024.

The Appellant submitted that since he has been paying for child care since September 3, 2024, he would like the Ministry to backdate his application to this date. Section 20 of the Regulation states that a CCS may be paid from the first day of the month in which the parent completes an application under Section 9 of the Regulation. The Panel finds that the evidence demonstrates that the Appellant's completed ACCB application was submitted on December 20, 2024, and that pursuant to Section 20 of the Regulation, the CCS would start in the month of December 2024.

Section 20 of the Regulation states that if an administrative error has been made, a CCS may be paid for child care provided in the 30 days before the parent completes an application under section 9 of the Regulation. The Appellant submitted that he was provided with the incorrect information from the daycare provider which delayed his application and that he experienced computer system delays. The Panel interprets the legislation to require that in order to backdate the application, the administrative error must be made by the Ministry. The daycare provider is not a representative of the Ministry. The Ministry is not responsible for any information the daycare provider provided to the Appellant. In the case of the Appellant, the Panel finds that there is no evidence that an administrative error occurred when he received the incorrect information from the daycare provider.

Furthermore, the Panel notes that the Appellant had received ACCB in December 2021 and this file expired in June 2022. The Panel finds that if the Appellant had previously received the ACCB he would have likely had some knowledge about the process.

The Ministry record shows that during the November 6, 2024 telephone conversation, the Appellant was advised by the Ministry that the Ministry would not backdate his application to September and that the Ministry can only issue the childcare benefit from the 1<sup>st</sup> day of the month the application is received and signed. The evidence shows that the Appellant completed the application on December 20, 2024 and the Ministry correctly determined the start date of eligibility as December 1, 2024. As such, there is no administrative error on the part of the Ministry.

**Conclusion**

Having considered all of the evidence, the Panel finds that the Ministry's decision, which concluded that the Appellant was not eligible for a child care subsidy for the period of

Appeal Number 2025-0045

September 3, 2024 to November 30, 2024, pursuant to Sections 9 and 20 of the *Early Learning and Child Care Regulation*, was reasonably supported by the evidence and is a reasonable application of the relevant enactment. The Ministry decision is confirmed, and the Appellant is not successful at appeal.

## Appendix A

### Early Learning and Child Care Act

#### ***Child care benefits***

**4** *On application by a parent and subject to the regulations, the minister may pay a benefit to or for the parent if the parent is eligible for the benefit, for the purpose of reducing or eliminating the cost of child care to the parent.*

### Early Learning and Child Care Regulation

#### ***Applications and eligibility for child care benefits***

**9** (1) Subject to subsection (2), a parent may apply for a child care benefit by completing and submitting to the minister an application in the form required by the minister.

(2) Only one parent in each family unit is eligible to apply for a child care benefit.

(3) An applicant is eligible for a child care benefit only if all of the following apply:

- (a) the applicant is a resident of British Columbia;
- (b) the child care for which the child care benefit is sought by the applicant is received for one or more qualifying reasons set out in section 10;
- (c) the applicant satisfies the citizenship or other requirements set out in section 11;
- (d) unless an exception under section 13 (2) applies in relation to the applicant's child, the applicant's family unit satisfies the income requirements set out in section 12;
- (e) the applicant and the applicant's spouse, if any, supply the minister with the information and records required under section 14;
- (f) the applicant has completed and submitted an application form in accordance with subsection (1).

#### ***When child care benefit may be paid***

**20** (1) The minister may pay a child care benefit to or on behalf of a parent from the first day of the month in which the parent completes an application under section 9 [*applications and eligibility for child care benefits*].

(2) If an administrative error has been made, the minister may pay a child care benefit to or on behalf of a parent for child care provided in the 30 days before the parent completes an application under section 9.

2025-0045

**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

Neena Keram

Signature of Chair

Date: 2025/02/24

Print Name

Mimi Chang

Signature of Member

Date: 2025/02/24

Print Name

Rubina Sidhu

Signature of Member

Date: 2025/02/27