

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

The decision under appeal is the Reconsideration Decision of the Ministry of Education and Child Care (“Ministry”) dated February 24, 2025, in which the Ministry denied the Appellant’s request for the Affordable Child Care Benefit (“Benefit”) under the Early Learning and Child Care Regulation for the period between September 5, 2023 and December 31, 2024.

The Ministry determined that the Appellant was eligible to receive the Benefit from January 1, 2025, which was the first day of the month in which the Appellant submitted the application for the Benefit. The Ministry also determined that there was no administrative error that might authorize the Ministry to backdate the Benefit for thirty days before the date the Applicant submitted the application.

### **Part D – Relevant Legislation**

*Early Learning and Child Care Act (“Act”), section 4*

*Early Learning and Child Care Regulation (“Regulation”), section 20*

*Employment and Assistance Act, section 22(4)*

The full text of this legislation is in the Schedule of Legislation at the end of the Reasons for Panel Decision.

**Part E – Summary of Facts**

The hearing took place by videoconference on April 2, 2025.

**Evidence Before the Ministry at Reconsideration**

The Appellant received the Benefit when her child was attending daycare from February 1, 2023 to August 31, 2023. The Benefit was not renewed when it ended on August 31, 2023.

On November 27, 2024, the Appellant requested access for messaging through the MyFS portal. On December 18, 2024, when the Appellant called the Ministry, the Ministry told her that they had not received a Benefit application from her. The Appellant told the Ministry that she had accidentally selected access for messaging rather than a new application. The Ministry told the Appellant that she had to submit a new application form to open her file, and then the Ministry could provide the Benefit from the first day of the month the application was signed. The Appellant said that she understood.

The Appellant submitted the application on January 9, 2025, with a Child Care Arrangements form stating that child care started on September 3, 2024 and would end on August 31, 2025. The Appellant also provided a statement from the child care provider that they had provided child care for the Appellant's child from January 1, 2024 to December 31, 2024, for which the Appellant had paid the daycare \$4,591.00.

The Ministry approved the Benefit for the period from January 1, 2025 to August 31, 2025, but determined that the Appellant was not eligible to receive the Benefits between January 1 and December 31, 2024. The Ministry notified the Appellant of its decision by letters dated January 13, 2025 and January 15, 2025.

At reconsideration, the Appellant explained that she is a single parent, self-employed, receiving no child support, with an annual income below \$40,000.00.

**Additional Evidence:**Appellant:

At the hearing, the Appellant stated:

- She knew the Benefit was available for daycare, but when her son entered kindergarten in September 2023, she had not understood that the Benefit was available for after-school care as well.

- When her child was two or three years old, the Ministry had provided her with a backdated payment of about \$2,300.00 for the Benefit for daycare costs incurred in a previous year when she had not signed up for the Benefit, so she hoped they would provide a backdated payment in this circumstance as well.
- After she spoke to the Ministry on December 18, 2024, she was delayed in submitting the application until January 2025 because she had to wait for the child care provider to do its year-end and provide the Child Care Arrangement form.
- Things are hard financially these days and the Benefit would be very helpful for her.

Ministry:

The Ministry did not provide additional evidence.

**Admissibility of Additional Evidence**

The Ministry did not object to the Appellant's additional oral evidence. The Panel finds that the additional oral evidence of the Appellant is reasonably necessary to determine the issues in the appeal, and therefore it is admissible under section 22(4) of the *Employment and Assistance Act*.

## **Part F – Reasons for Panel Decision**

The issue on appeal is whether the Ministry's Reconsideration Decision dated February 24, 2025, in which the Ministry denied the Appellant's request for the Benefit for the period between September 5, 2023 and December 31, 2024, was reasonable. The Ministry determined that the Appellant was eligible to receive the Benefit from January 1, 2025, which was the first day of the month in which the Appellant submitted the application for the Benefit. The Ministry also determined that there was no administrative error that might authorize the Ministry to backdate the Benefit for thirty days before the date the Applicant submitted the application.

### **Appellant's Position**

The Appellant submits that she meets the criteria to be eligible for the Benefit. Although she had been receiving the Benefit for daycare, she says that she did not know that the Benefit was available for child care after the child starts school, so she did not apply for the Benefit when her child started kindergarten in September 2023. The Ministry had given her backdated Benefit payments for a year of daycare expenses in the past, so she hopes the Ministry will provide backdated payments again, because her child has been in before- and after-school care from September 5, 2023 to January 31, 2025.

### **Ministry's Position**

The Ministry submits that, under the legislation, it does not have discretion to backdate Benefit payments, except as provided under section 20(2) of the Regulation, if there has been an administrative error. The Ministry is not able to explain why the Appellant received the Benefit backdated for a longer period in the past. As the Appellant submitted the application on January 9, 2025, the Ministry is only authorized to provide the Benefit starting January 1, 2025.

### **Panel Decision**

Under section 20(1) of the Regulation, the Ministry may pay the Benefit from the first day of the month in which the parent completes the application. The Appellant completed the application on January 9, 2025, therefore under section 20(1) of the Regulation, the Ministry may pay the Benefit starting January 1, 2025.

Under section 20(2) of the Regulation, the Ministry is only authorized to backdate the Benefit for 30 days before the date the application was completed, if there has been an administrative error. There is no evidence of an administrative error, therefore the Panel

finds that the Ministry is not authorized to provide a backdated Benefit under section 20(2) of the Regulation.

Neither the Ministry nor the Panel can explain why, on a previous occasion, the Ministry backdated the Benefit for the Appellant for a year. The Panel can understand why, based on that experience, the Appellant might expect that the Ministry would consider backdating the Benefit for the period she requests, and the Panel acknowledges that there is a financial need for the Benefit. However, both the Ministry and the Panel are bound by the legislation and the Ministry is not authorized to provide a backdated Benefit except as permitted under section 20(2) of the Regulation.

## **Conclusion**

The Panel finds that the Ministry's Reconsideration Decision, in which the Ministry denied the Appellant's request for the Benefit for the period between September 5, 2023 and December 31, 2024, was a reasonable application of the legislation in the Appellant's circumstances. The Panel confirms the Reconsideration Decision. The Appellant is not successful in the appeal.

Schedule of Legislation

Early Learning and Child Care Act

**Child care benefits**

s. 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

**When child care benefit may be paid**

s. 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.

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.

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**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

Susan Ferguson

Signature of Chair

Date (Year/Month/Day)  
2025/04/03

Print Name

Daniel Chow

Signature of Member

Date (Year/Month/Day)  
2025/04/03

Print Name

Susanne Dahlin

Signature of Member

Date (Year/Month/Day)  
2025/04/03