

### Part C – Decision Under Appeal

The decision under appeal is the Reconsideration Decision of the Ministry of Education and Child Care (“Ministry”) dated April 23, 2025, in which the Ministry determined that the Appellant was not eligible to receive the Affordable Child Care Benefit (“Benefit”) between July 1, 2024 and February 28, 2025.

The Ministry determined that the Appellant submitted her application for the Benefit on March 17, 2025, and therefore under section 20(1) of the Early Learning and Child Care Regulation, the Appellant was eligible to receive the Benefit from the first day of March 2025. The Ministry also determined that there was no administrative error that would permit the Ministry to pay the Benefit for child care provided in the thirty days before the Appellant submitted the application, under section 20(2) of the Early Learning and Child Care Regulation.

### Part D – Relevant Legislation

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

Early Learning and Child Care Regulation (“Regulation”), section 1, definition of “applicant”, sections 9 and 20

*Employment and Assistance Act, sections 22(4) and 24(1) and (2)*

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 teleconference on May 15, 2025. Both the Appellant and the Ministry attended.

**Evidence Before the Ministry at Reconsideration**

The Appellant submitted an online CF2900 Affordable Child Care Benefit Application form ("CF2900") through the Ministry's My Family Services ("MyFS") portal on March 17, 2025. The Appellant also uploaded a CF2914 Affordable Child Care Benefit Medical Condition form ("CF2914"), signed by a doctor, confirming that the Appellant's spouse has a medical condition that interferes with their ability to care for their children. The CF2914 is dated March 16, 2025, and indicates that the medical condition is temporary, with a start date of January 13, 2025.

The Appellant had been trying to get the doctor to sign the CF2914, without success, since January 2025. The Appellant made repeated phone calls to the doctor's office, and her spouse brought the form to a medical appointment, but the doctor said they did not have time to sign it. The doctor finally signed the form on March 16, 2025.

The Ministry determined that the Appellant was eligible to receive the Benefit starting March 1, 2025, which was the first day of the month the Appellant submitted the application. The Ministry denied the Benefit for the period from July 1, 2024 to February 28, 2025.

**Additional Evidence**Appellant:

At the hearing, the Appellant stated:

- She has never asked for the Benefit to be backdated to July 2024, she has only asked that it be backdated to January 1, 2025.
- She made twelve phone calls to the doctor's clinic, sent five emails and her spouse went in person once, to try to get the CF2914 signed by the doctor, but the doctor did not have time to sign the CF2914.
- It was not her fault that she could not apply until March 2025, because she had to wait for the form to be signed by the doctor.
- She completed the application through the portal, answering questions through the electronic prompts, but until she received the Appeal Record she did not see the CF2900 form that was generated.
- When she answered the questions on the portal, at the end it asked her for the CF2914, which she did not have until March 2025.

In answer to a question from the Ministry, the Appellant stated that she did not talk on the phone to anyone from the Ministry before March 2025, she only went through the MyFS portal and tried to fill out the information as best she could.

In answer to questions from the Panel, the Appellant stated:

- She did not call the Ministry to say that she was having a problem getting the CF2914 signed.
- She used MyFS to understand what she needed to provide for the application.
- The portal lets the applicant start filling out the application and there is an option to save for later; one of the questions is the reason for needing childcare, which in their case was the spouse's medical condition.
- If she had known that she could have submitted the application without the CF2914 she would have done that in January 2025, but that information was not clear on the portal.

Ministry:

At the hearing, the Ministry stated:

- The "application" is the CF2900 form, not including the medical form or other documents, which can be submitted later, although the Ministry does not make a decision until all the forms are submitted.
- If the Appellant had submitted the CF2900 in January 2025, and then submitted the CF2914 in March, the Ministry could have approved the Benefit starting January 1, 2025.

In answer to a question from the Appellant about where on the portal it is stated that the Appellant can submit the CF2900 without the CF2914, the Ministry representative stated that they did not have access to the portal at the hearing and they have never used it, so they could not answer that question.

In answer to a question from the Appellant about why, in the Request for Reconsideration and the Reconsideration Decision, the Ministry repeatedly refers to a request to backdate the Benefit to July 1, 2024 when the Appellant was only asking for the Benefit for January and February 2025, the Ministry representative stated that they were not sure.

In answer to questions from the Panel, the Ministry stated that, when an applicant submits the CF2900, a Ministry worker will review it and contact the applicant if additional documents are needed.

**Admissibility of Additional Evidence**

Neither party objected to the additional evidence provided by the other party. The Panel finds that the additional evidence of the parties is reasonably necessary to determine the issues in the

appeal. Therefore, the Panel finds that the additional oral evidence of the Appellant and the Ministry 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, in which it determined that the Appellant was not eligible to receive the Benefit from July 1, 2024 to February 28, 2025, is reasonably supported by the evidence, or is a reasonable application of the legislation in the Appellant's circumstances.

The Panel is aware the Appellant requested the Benefit only for the additional period from January 1 to February 28, 2025. It is unclear to the Panel why the Ministry refers to a request for the Benefit backdated to July 1, 2024. However, the Panel's role is to review the Ministry's decision, which includes the period from July 1 to December 31, 2024 as well as the period from January 1 to February 28, 2025.

The Ministry determined that the Appellant submitted their application for the Benefit on March 17, 2025, and therefore under section 20(1) of the Early Learning and Child Care Regulation, the Appellant was eligible to receive the Benefit from the first day of March 2025. The Ministry also determined that there was no administrative error that would permit the Ministry to pay the Benefit for child care provided in the thirty days before the Appellant submitted the application, under section 20(2) of the Early Learning and Child Care Regulation.

**Appellant's Position**

The Appellant submits that it is not clear from the Ministry's application process on the MyFS portal that an applicant can submit the CF2900 application and then provide the medical form later. She says that, based on the prompts on the portal, she understood that she had to have the CF2914 signed by the doctor and submit it at the same time as the CF2900, which is what she did. The Appellant maintains that she had been trying to submit the application since January 2025, and it was not her fault that she was not able to get the CF2914 signed by the doctor until March 2025. Therefore, the Appellant submits that her application for the Benefit should be backdated to January 1, 2025.

The Appellant says that the fact that the Ministry repeatedly states that she is asking for the Benefit to be paid from July 1, 2024, indicates that the Ministry is not paying proper attention to her reconsideration or her appeal.

**Ministry's Position**

The Ministry says that it is bound by the legislation, and under section 20(1) of the Regulation, the Ministry is only authorized to pay the Benefit starting on the first day of the month the parent submits the completed CF2900 form. The Ministry maintains that the Appellant could

have submitted the CF2900 form on the MyFS portal in January 2025 and then provided the CF2914 in March 2025 when the doctor signed it. In that event, the Ministry says that it would have found the Appellant eligible to receive the Benefit starting January 1, 2025.

The Ministry maintains that there was no administrative error that would allow the Ministry to backdate the Benefit thirty days before the Appellant submitted the CF2900, as permitted under section 20(2) of the Regulation. Therefore, the Ministry says that it correctly determined that the Appellant was not eligible to receive the Benefit before March 1, 2025.

## **Panel Decision**

### *Requirements under the Regulation*

The Ministry's authority to pay the Benefit is found in section 20 of the Regulation. 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. If there has been an administrative error, section 20(2) of the Regulation permits the Ministry to pay the Benefit for child care provided in the thirty days before the date the application is completed.

The Ministry advises that the "application" is the CF2900, which the Appellant submitted on March 17, 2025. The Appellant submits that she was trying to submit the application starting in January 2025 but could not get the doctor's signature on the CF2914 until March 16, 2025, despite repeated attempts.

It is very unfortunate that the doctor would not review and sign the form in a timely way, and the Panel acknowledges the Appellant's concerted efforts to get the form signed, and her frustration. However, the Panel finds that, while the Ministry requires the CF2914 to determine eligibility, the Appellant could have submitted the CF2900 in January 2025 and then provided the CF2914 when the doctor signed it. If she had done that, the Ministry would have been able to start paying the Benefit starting January 1, 2025.

Both the Ministry and the Tribunal are bound by the legislation, and neither has discretion to change or ignore the legislated requirements and limitations. Therefore, the Panel finds that, under section 20(1) of the Regulation, the Ministry is only authorized to pay the Benefit starting March 1, 2025 as the application was ultimately submitted in March 2025. There is no evidence of an administrative error, and the Panel finds that the Ministry was reasonable in determining that there was no administrative error that would permit it to pay the Benefit for child care provided in the thirty days before the Appellant completed the application.

### *Unfair Process*

The Appellant submits that she did not submit the application in January 2025 because she was misled by the Ministry's application process on the MyFS portal, which indicated that she needed the signed CF2914 before she could submit the application. The Appellant says that it is not clear on the portal that an application can be submitted without all the required forms, or that the CF2914 is not part of the application that determines the start date of the Benefit. The Appellant says that, when she answered the questions for the CF2900 portion of the application process, the next step on the portal asked for the CF2914 form. The Appellant maintains that she was never prompted to submit the application before she was also able to upload the signed CF2914 form.

The Appellant says that the process is unfair, and that she followed the instructions on the portal to her detriment. Therefore, the Appellant maintains that the Ministry should backdate her application to January 2025, when she first began the application process as guided by the MyFS portal.

The only evidence about the application process and the directions on the MyFS portal is the Appellant's description of her experience. There is no evidence to the contrary and the Panel has no reason to doubt the Appellant's evidence about the online application process. The Panel has noted the Appellant's organized submissions, attention to detail, and explanation of her efforts to meet what she understood were the Ministry's requirements for the application. The Panel expects that, if the portal instructions included the direction to submit the CF2900 and provide the CF2914 later, that is what the Appellant would have done, and the application would have been submitted in January 2025.

However, the Panel's jurisdiction is determined under section 22 of the *Employment and Assistance Act* and is limited to determining whether the Ministry's Reconsideration Decision is reasonably supported by the evidence or is a reasonable application of the legislation in the Appellant's circumstances. Where legislation is clear, and there is no statutory discretion about the application of the legislation, the Panel's jurisdiction does not extend to consideration of whether the application process is unclear or unfair to applicants. Therefore, the Panel must confirm the Ministry's Reconsideration Decision.

## **Conclusion**

The Panel finds that the Ministry's Reconsideration Decision 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

#### **Definitions**

s. 1 In this regulation:

"applicant" means a parent who applies under section 9 [*applications and eligibility for child care benefits*] for a child care benefit;

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

s. 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).

subparagraph (ii).

(2) In addition to the information and records required under subsection (1), for the purposes of section 9 (3) (e), an applicant must submit to the minister authorizations from the applicant and the applicant's spouse, if any, for



(a) a third party to disclose to the minister personal information of the applicant and the applicant's spouse that the minister requires to determine or audit an applicant's eligibility for a child care benefit, and

(b) the indirect collection by the minister of the information described in paragraph (a).

(3) For the purposes of subsection (1) (d) (ii), the information that is the subject of the authorization from the applicant and the applicant's spouse, if any, is the personal information that is

(a) relevant to the person's income for the 2 calendar years preceding the current calendar year, whether or not the person completed an income tax return for those years, and

(b) required by the minister to calculate the adjusted annual income of the applicant's family unit.

### **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.

### Employment and Assistance Act

### **Panels of the tribunal to conduct appeals**

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.

### **Decision of panel**

s. 24 (1) After holding the hearing required under section 22 (3) [*panels of the tribunal to conduct appeals*], the panel must determine whether the decision being appealed is, as applicable,

(a) reasonably supported by the evidence, or

(b) a reasonable application of the applicable enactment in the circumstances of the person appealing the decision.

(2) For a decision referred to in subsection (1), the panel must

(a) confirm the decision if the panel finds that the decision being appealed is reasonably supported by the evidence or is a reasonable application of the applicable enactment in the circumstances of the person appealing the decision, and

(b) otherwise, rescind the decision, and if the decision of the tribunal cannot be implemented without a further decision as to amount, refer the further decision back to the minister.

**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)

2025/05/17

Print Name

David Handleman

Signature of Member

Date (Year/Month/Day)

2025/05/17

Print Name

Connie Simonsen

Signature of Member

Date (Year/Month/Day)

2025/05/17