

Appeal Number 2025-0122

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

The decision under appeal is the Ministry of Education and Child Care (ministry) Reconsideration Decision dated March 6, 2025, which determined the appellant was not eligible for the Affordable Child Care Benefit for the period between February 1, 2024 and November 30, 2024 because she did not apply in February 2024, as required under section 20 of the Early Learning and Child Care Regulation.

Section 20 states the benefit may only be paid from the first of the month in which the application was completed - in this case December 2024.

### **Part D – Relevant Legislation**

*Early Learning and Child Care Act (Act) section 4*

Early Learning and Child Care Regulation (Regulation), sections 9 and 20

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 was held as a videoconference on May 23, 2025.

### **Relevant Evidence Before the Minister at Reconsideration**

#### **Ministry Records show:**

- On December 18, 2024, the appellant submitted an Affordable Child Care Benefit application (application) and an Affordable Child Care Benefit child care arrangement form for the period from February 1, 2024 to October 31, 2025.
- On December 23, 2024, a benefit plan covering February 1, 2025 to October 31, 2025 was issued.
- On January 17, 2025, the child care provider contacted the ministry and stated that the appellant's Affordable Child Care Benefit should begin in February 2024 as the appellant's child has attended the facility since February 2024.
- As well, on January 17, 2025, the appellant explained to the ministry that she was advised she would receive the Affordable Child Care Benefit beginning February 1, 2024 and that she was new to Canada.
- The ministry requested that the appellant receive the Affordable Child Care Benefit for December and January, as her current benefits start in February 2025. A benefit plan was issued from December 1, 2024 to January 31, 2025.

#### **Reason for Request for Reconsideration (February 11, 2025)**

The appellant states she is requesting eligibility for child care benefits from February 1, 2024, to November 30, 2024. As a newcomer to Canada, the appellant was not fully aware of the requirements related to the application for these benefits.

As well, the appellant states she began sending her child to daycare on February 1, 2024, and has been paying for daycare services out-of-pocket. The appellant did not know about the Affordable Child Care Benefit program until November 2024 and immediately submitted her application. The appellant states that on December 18, 2024, the ministry confirmed that as a first-time applicant she would be eligible for benefits from February 2024. However, the appellant was disappointed to find this was not reflected in the decision.

Additionally, the daycare informed the appellant it would be willing to reimburse the payments made from February 2024, provided she is eligible for the benefits from that time. As a newcomer to Canada, the appellant respectfully requests that her application be

reconsidered, considering her household income in 2023 and the need for child care support.

**Letter from the Ministry to the Appellant (January 20, 2025)**

The ministry denied child care benefits between February 1, 2024 and November 30, 2024 and stated the reasons for the denial.

**Letter from the Ministry to the Appellant (December 23, 2024)**

The letter provides the following Affordable Child Care Benefit summary.

**Benefit Period**

- start date February 1, 2025
- end date October 31, 2025

**British Columbia Ministry of Education and Child Care - Affordable Child Care Benefit Application (December 18, 2024)**

The application describes the requirement for child care for one child.

**Information Received After Reconsideration**

**Notice of Appeal (April 3, 2025)**

The appellant writes that as a newcomer to Canada she was unaware of the specific legislation requirement at the time of her application. However, she fully met the financial eligibility criteria. The appellant adds that it's unfair to deny eligibility due to a late submission.

**At Hearing**

At the hearing, the appellant stated that she came to Canada in 2023 with her family and as a newcomer was not aware of benefits available for child care. At the beginning of November 2024, she spoke with another parent at her child's daycare, who advised her about possible assistance through the ministry's Affordable Child Care Benefit program. A link to the ministry site was shared with the appellant and the appellant set out to research the benefits. The appellant added that she has no friends or neighbours to help her, she was confused and wasn't aware of the legislation. She called the ministry before applying to inquire whether or not she would receive back pay. The appellant stated that she was advised by the ministry that as she is a first-time applicant, she would be paid from the first day she was eligible. The appellant added that she was financially eligible from February 1, 2024.

The appellant acknowledged that she signed the application, which includes a declaration stating, "I understand a benefit may be paid from the first day of the month in which the application is completed, or the date child care begins, whichever is later. I am responsible for child care fees prior to this date".

At the hearing, the ministry stated that it must follow the legislation and cannot consider individual circumstances. The ministry added that according to the legislation, even if the ministry had made a mistake, it could only backdate the application 30 days. The ministry also explained that a file is not created until an application is received. Therefore, there would be no record of any conversation the appellant had with the ministry before she applied.

In response to a question from the panel, the ministry explained that it had initially issued a child care benefit plan starting February 1, 2025, but then realized the appellant was requesting benefits from February 1, 2024. As the appellant applied in December 2024, the ministry then issued a second benefit plan from December 1, 2024 to January 31, 2025 to cover the gap.

### **Admissibility of New Evidence**

The panel determined the additional evidence from the appellant and ministry is reasonably required for a full and fair disclosure of all matters related to the decision under appeal and therefore is admissible as evidence 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 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 the appellant was not eligible for the Affordable Child Care Benefit for the period between February 1, 2024 and November 30, 2024 because she did not apply in February 2024?

### **Appellant Position**

The appellant states that as a newcomer to Canada, she was not fully aware of the requirements related to the application for these benefits. However, the appellant submits that on December 18, 2024, the ministry confirmed that, as a first-time applicant, she would be eligible for benefits from February 2024.

Additionally, the daycare informed her they would reimburse the payments made from February 2024, provided she is eligible for the benefit from that time. The appellant requests that her application be reconsidered, considering her household income in 2023 and the need for child care support.

### **Ministry Position**

The ministry submits that as the appellant submitted her application on December 18, 2024, as stated in the Regulation, her eligibility would start on December 1, 2024, the first day of the month in which the application was completed.

The ministry adds that as set out in the Regulation, section 20(2), payment of a child care subsidy may only be backdated 30 days, if there has been an administrative error and while the appellant states the ministry advised her that as a first-time applicant she would be eligible for the Affordable Child Care benefit from February 2024, there is no record of this on her file. As well, although the appellant explained that she is new to Canada and was not aware of the requirements for this benefit, her lack of knowledge is not considered a ministry administrative error.

### **Panel Analysis**

#### Section 4, Act - childcare benefit

Section 4 of the Act states, subject to the Regulation, if a parent is eligible, the minister may pay a benefit for reducing or eliminating the cost of child care to the parent.

Section 9, Regulation - applications and eligibility for childcare benefit

Section 9 of the Regulation states, a parent may apply for a child care benefit by completing and submitting an application in the form required by the minister. The panel notes ministry records show that the appellant submitted an application form (provided by the ministry) on December 18, 2024.

Section 20, Regulation – when childcare benefit may be paid

Section 20(1) of the Regulation states the minister may pay a child care benefit to a parent from the first day of the month in which the parent completes an application under section 9 of the Regulation. The panel notes the application is dated December 18, 2024. The appellant does not dispute that the application was submitted many months after the date she is requesting the benefits for.

Section 20(2) of the Regulation provides an exception where an administrative error is made. In this case, the minister may pay a child care benefit to a parent for child care provided in the 30 days before the parent completes an application under section 9 of the Regulation.

The appellant states she was advised by the ministry during a phone call that as a first-time applicant, she would be eligible for child care benefits from February 2024, and that she was financially eligible from that date. The ministry submitted that there was no record on file regarding this phone call.

The panel finds this evidence is insufficient to confirm that the ministry had made an administrative error. The panel notes no evidence was provided to demonstrate that the ministry advised the appellant of this information. As well, even if there had been evidence of an administrative error, section 20(2) of the Regulation states in such a case, the benefits can only be backdated by 30 days.

At the hearing, the appellant acknowledged that she signed the application, which included a declaration stating that she understood that a benefit may be paid from the first day of the month in which the application is completed, or the date child care begins, whichever is later, and that she would be responsible for child care fees prior to this date.

Although the appellant states, as a newcomer to Canada, she was unaware of the requirements for applying for child care benefits, the panel finds the legislation does not allow an exemption for this reason.

As there was no evidence of an administrative error by the ministry or applicable exemption, the panel finds the ministry reasonably determined that the appellant is not eligible for child care benefits for the period February 2024 to November 30, 2024, as per section 20 of the Regulation. The panel is bound by the legislation as is the ministry.

**Conclusion**

In conclusion, the panel finds the ministry decision that determined the appellant was not eligible for child care benefits from February 1, 2024 to November 30, 2024 was a reasonable application of the legislation in the circumstances of the appellant.

The panel confirms the ministry's Reconsideration Decision and the appellant's appeal is not successful.

## **Schedule of Legislation**

### 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.

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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

Connie Simonsen

Signature of Chair

Date (Year/Month/Day)

2025/05/24

Print Name

Maryam Majedi

Signature of Member

Date (Year/Month/Day)

2025/05/25

Print Name

John Pickford

Signature of Member

Date (Year/Month/Day)

2025/05/29