

Appeal Number 2025-0181

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

The Decision under appeal is the Ministry of Education and Child Care (the “Ministry”) Reconsideration Decision, dated April 25, 2025. In the Reconsideration Decision, the Ministry determined the Appellant was not eligible for child care subsidy received between April 2012 and July 2024 and as a result received an overpayment of \$235,025.07. The Ministry stated that this overpayment must be repaid to the Ministry pursuant to section 7(1) of the *Child Care Subsidy Act*.

### **Part D – Relevant Legislation**

*Child Care Subsidy Act*, RSBC 1996, 26, section 7(1)

Child Care Subsidy Regulation, B.C. Reg. 74/97, sections 1, 3, 4, 7(1)

*Early Learning and Child Care Act*, SBC, c. 22, section 10

*Employment and Assistance Act*, SBC 2002, c. 40, section 22

Full text of this legislation is included in the Schedule of Legislation at the end of this decision.

## **Part E – Summary of Facts**

This appeal stems from an audit of the affordable child care benefit program performed by the Ministry's Verification and Audit Unit.

### **Evidence at the time of Reconsideration**

The Appellant initially applied for child care subsidy as a single parent and was awarded the amount of \$235,025.07 for the care of eight children in her care for the period of April 2012 to July 2024.

On January 22, 2025 the Verification and Audit Unit sent the Appellant a letter setting out the Ministry's initial decision that the Appellant was ineligible for child care subsidy funds received and that the overpayment must be repaid.

The Appellant requested reconsideration of the initial decision and her Request for Reconsideration was received by the Ministry on March 30, 2025.

On April 25, 2025, the Ministry issued the Reconsideration Decision that is the subject of this appeal. The Reconsideration Decision upheld the Ministry's initial decision, which determined that the Appellant lived with Individual A and Individual A was the Appellant's spouse. Accordingly, the Appellant was not a single parent and was not eligible for child care subsidy as a single parent.

The evidence the Verification and Audit Unit and Ministry relied on to come to this conclusion is as follows:

- Data from ICBC shows that the Appellant and Individual A both lived at the same addresses:
  - Address 1 from at least March 2010 to October 2013;
  - Address 2 from at least August 2012 to April 2013;
  - Address 3 from at least April 2013 to December 2014; and
  - Address 4 from at least December 2014 to May 2015.
- Data from Child Care Subsidy applications shows the Appellant reported the following addresses:
  - Address 5 in February and August 2019 and January 2020;
  - Address 6 in January and March 2021; and
  - Address 7 in November 2022 and January and November 2023.

- Data from ICBC and the Ministry of Health shows that the Appellant and Individual A both lived at Address 5 from at least September 2015 to November 2020.
- Data from the Ministry of Health shows the Appellant and Individual A both lived at Address 6 between November 2020 and January 2023.
- Data from ICBC and the Ministry of Health shows the Appellant and Individual A both lived at Address 7 from at least March 2022 to the present.
- Registration for daycare for one of the children dated April 1, 2021, indicates that the Appellant is the child's mother and Individual A is the child's father, and they live with mom and dad at Address 6.
- Registration for another of the children dated April 30, 2019, indicates that they live with the Appellant at Address 5 and both the Appellant and Individual A are caregivers for the child.
- Registration for another of the children dated July 1, 2018, indicates that the Appellant is their mother and Individual A is their father, and they live with both at Address 5.
- Registration for another of the children dated February 7, 2018, indicates that the Appellant is their mother and Individual A is their father, and they live with both at Address 5.
- Registration for another of the children dated April 30, 2019, indicates that the child lives with the Appellant at Address 5 and that the Appellant and Individual A are their caregivers.
- A BC Personal Property Registration dated July 1, 2023, shows the Appellant was registered with a vehicle and living at Address 7.
- A BC Personal Property Registration dated August 6, 2024, shows the Appellant and Individual A both registered with a vehicle and residing at Address 7.
- School student information verification forms for two of the children dated July 9, 2024, list the Appellant and Individual A as the children's guardians and states the children reside with the Appellant and Individual A at Address 7.

- School student information verification forms for three of the children dated July 9, 2024, list the Appellant as the children's mother and Individual A as the children's father and state that the children reside with the Appellant and Individual A at Address 7.

The Appellant disagreed with the Ministry's finding that she was not a single parent and sought reconsideration of the Ministry's decision. In support of her Request for Reconsideration, the Appellant submitted the following materials along with her Request for Reconsideration:

- A note from the Appellant stating she was being falsely accused of being with someone what she is not with and that she has dated Individual B from 2018 to the present and has a child with him. She stated that she has not had a relationship with Individual A since 2012. The Appellant stated that she has not lived at 95% of the addresses listed and only had Individual A as the co-signor for a car because her credit was bad and nobody else would co-sign. She stated that Individual A has no fixed address and she has allowed him to stay in her trailer when he needed housing or support. She stated that Individual A "was with" another person who was the mother of his children, until she passed away in December 2024. The Appellant enclosed a copy of a court order relating to one of her children and stated that Individual A is not the father of all her children, only two of them. She stated that she gave all children the same last name for consistency.
- Email Address for Individual A.
- Phone number for Individual B.
- A copy of a court order between the Appellant and Individual B dated April 2022 giving the Appellant sole guardianship and primary caregiver of one of the children.

The Reconsideration Decision upheld the decision of the Verification and Audit Unit that the Appellant had a spouse (Individual A), was not a single parent, and was ineligible for child care subsidy as a single parent resulting in an overpayment of \$235,025.07 and that the Appellant must repay the overpayment in accordance with Section 7(1) of the *Child Care Subsidy Act*.

## New Evidence on Appeal

### Documentary Evidence

The Appellant appealed the Reconsideration Decision to the Tribunal and prior to the hearing of this appeal, the Appellant submitted the following additional documentary evidence in support of her appeal:

- A notarized statement from Individual A that states:
  - He does not have a relationship with the Appellant and they do not live together;
  - He and the Appellant share two children together and he is not responsible for any of the Appellant's other children or other children in the Appellant's care;
  - He did not agree to have his name added to other children's birth certificates;
  - The Appellant and her partner have occasionally allowed him to stay in one of their trailers.
  - He co-signed a vehicle loan for the Appellant because she was unable to qualify for the loan on her own due to her credit history.
  - He has not added his name to any documents relating to any of the children the Appellant has residing with her, including daycare forms, school records, medical documents, or any other official paperwork.
- A signed statement from Individual A's nephew stating that since arriving in Canada to work he has maintained regular contact with his younger cousins, who reside with the Appellant. During these visits he has never seen Individual A at their residence and it is his understanding that Individual A and the Appellant do not share a household or maintain a relationship.
- A signed statement from the Appellant's mother stating that she regularly visits the Appellant and can confirm that the Appellant is a single mother and that Individual A is not a member of the Appellant's household.
- A signed statement from Individual B stating:
  - He first met the Appellant in 2018 through work and at that time she was a part time working single parent.
  - The working relationship developed into a personal relationship and they began to spend time together and have taken several trips together and he has visited her home many times and has spent time with her and her children.

- He shares a son with the Appellant and while he participates in family time whenever possible he does not live with the Appellant.
- A copy of a court order granting the Appellant and another individual guardianship of three children and stating that the children shall have their primary residence with the Appellant.
- Airplane boarding passes for the Appellant and Individual B showing them travelling on the same flights and sitting together.
- Screenshots showing various travel itineraries for the Appellant and Individual B travelling together.
- Numerous photos showing the Appellant and Individual B involved in day to day activities (sometimes with children) and travelling together.
- ICBC registration papers from 2022 showing a travel trailer registered in the names of the Appellant and Individual B, at the address of Individual B's place of work.
- Various documents concerning a child in the care of the Appellant, including an invoice from the Appellant to the Ministry of Children and Family Development for payment of airfare, a hand written note, and an email trying to arrange a meeting.
- A letter from a non-profit organization seeking funding for respite care for children in the Appellant's care. This letter refers to the Appellant as a single parent.
- A screenshot of recently deleted messages, showing 7,554 messages from Individual B and a screenshot showing several email subject lines from Individual B in August 2021.

### Oral Evidence

The Appellant and a Ministry representative both attended the hearing of this appeal via teleconference.

The Ministry representative explained the Ministry's Reconsideration Decision but did not provide any new evidence other than to explain that when someone applies for child care subsidy as a single parent only their income is used to see if they are eligible for child care subsidy. The Ministry representative explained that when there are two parents both

incomes are looked at and that someone that might qualify for subsidy as a single parent may not qualify when they apply as part of a two parent family.

The Appellant stated that Individual A was not her spouse and that they did not live together and that she is being accused of being in a relationship with someone that she doesn't have a relationship with. The Appellant provided additional information in answer to questions from the Ministry representative and panel. She stated:

- Individual A stayed in a trailer owned by the Appellant and Individual B for a few months in total when he did not have anywhere else to stay.
- Individual B could not co-sign her car loan as his credit was worse than hers. Only Individual A was able to help her as he had very good credit.
- Initially, the Appellant stated that only one of the addresses listed as her residence by the Verification and Audit Unit was correct; however, the Appellant eventually stated that she lived at a friend's house from time to time and that the friend resided at one of the addresses listed.
- The Appellant does not know why ICBC and MSP would have the wrong addresses for her.
- Sometimes the Appellant would use a friend's address instead of her own. She did this when registering her son for school so she could be seen to be living in the neighbourhood of a particular school.
- Three of the eight children are not her children, but were in her care after their mother passed away. These children are no longer living with her as she cannot afford to care for them without receiving child care subsidy so she can work.
- Individual A is not allowed to be with the children unsupervised due to Ministry of Children and Family Development concerns about his drug use. This has been the case for about the last four years.
- She has no idea why Individual A's address would show as the same as hers throughout the last twelve years. She speculates that maybe he has used her address as he hasn't had any other address at any time as he sometimes lives in a shelter, sometimes on the street, and sometimes with family.

- She wrote Individual A down as the father of two of the children on the birth certificates when he was not the father because she was “young and dumb and made a stupid decision.”
- She wrote whatever she felt like on daycare registration forms and just wrote what came to mind. She felt that she couldn’t put “nobody” down and didn’t want to say that the children didn’t have a dad. So, she used Individual A’s name on the form.
- She didn’t use her boyfriend Individual B’s name because she just wanted to keep everything consistent amongst the children and Individual B is only the father of one of the children.
- She doesn’t have anyone else to list on school forms so she listed Individual A.
- Individual A had a spouse who was the mother of five of his children.
- Individual A is out of the country regularly as he goes home every year for a lengthy period of time to see his family.

### **Admissibility of New Evidence**

Neither party objected to the admission of the other party’s new evidence provided on appeal. The panel determined that the new evidence provided is reasonably required for a full and fair disclosure of all matters related to the decision under appeal and is therefore admissible as evidence pursuant to section 22(4) of the *Employment and Assistance Act*.

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

The issue that must be determined is whether the Ministry's decision that the Appellant has a spouse and is not a single parent and is therefore ineligible to receive child care subsidy as a single parent resulting in an overpayment of \$235,025.07 and that the Appellant must repay the overpayment is a reasonable application of the applicable legislation in the circumstances of the Appellant.

### **The Legislation**

The legislation governing eligibility for and provision of child care subsidy during the period in question in this appeal was the *Child Care Subsidy Act* and *Child Care Subsidy Regulation*.

#### Child Care Subsidy Regulation

Section 3 of the Child Care Subsidy Regulation sets out when child care subsidy may be provided and lists certain reasons for care that must be met for one to be eligible for child care subsidy. The list of reasons enumerated in this section of legislation differentiates between single parent families and two parent families. For single parent families care must be needed because the parent i) is employed or self-employed, ii) attends an educational institution, iii) is seeking employment or participating in an employment related program, or iv) has a medical condition that interferes with the parent's ability to care for his or her child. In two parent families, both parents must be involved in the same activities listed for single parent families leaving no parent available to care for the children.

Section 4 of the Child Care Subsidy Regulation states how one must apply for child care subsidy and requires that the parent applying must a) complete an application, b) supply the minister with the social insurance number of the parent and the parent's spouse, if any, and c) supply the minister with proof of the identity of each member in the family and proof of eligibility.

Section 7(1) of the Child Care Subsidy Regulation sets out the income test for eligibility for child care subsidy. The income test is based upon a family's adjusted annual income.

Prior to September 1, 2018 "dependent" and "spouse" were defined as follows in section 1 of the Child Care Subsidy Regulation:

"dependant" in relation to a parent, means anyone who resides with the parent and who

- a) Is the spouse of the parent,
- b) Is a dependent child of the parent,
- c) Shares with the parent income or assets or any necessities of life obtained with the income or assets, or
- d) Indicates a parental role for the parent's child.

"spouse" in relation to a parent means anyone who

- a) is married to the parent, or
- b) is living with the parent in a marriage-like relationship.

From September 1, 2018 to August 31, 2024 ""dependant", "spouse" and "family" were defined as follows in section 1 of the Child Care Subsidy Regulation:

"dependant", in relation to a parent, means anyone who resides with the parent and who

- (a) is the spouse of the parent, or
- (b) is a dependent child of the parent.

"family" means a parent and the parent's dependants

"spouse", in relation to a parent, means a person, including a person of the same gender, who resides with the parent and

- a) who is married to the parent,
- b) who, together with the parent, acknowledges to the minister that he or she is residing with the parent in a marriage-like relationship, or
- c) who
  - i) has been residing with the parent for at least
    - A) the previous 3 consecutive months, or
    - B) 9 of the previous 12 months, and
  - ii) has a relationship with the parent that the minister is satisfied demonstrates
    - A) financial dependence or interdependence, and
    - B) social and familial interdependence, consistent with a marriage-like relationship.

### Child Care Subsidy Act

Section 7(1) of the *Child Care Subsidy Act* states that if a child care subsidy is paid to or for a person who is not entitled to it, that person is liable to repay the amount to which the person was not entitled to the government.

The panel notes that while this was the legislation governing the obligation to repay an overpayment during the period at issue in this appeal, the Ministry is presently asking for such repayment and the *Child Care Subsidy Act* was repealed and replaced by the *Early Learning and Child Care Act* in 2024. The provision governing the obligation to repay an overpayment remains similarly worded and is set out in section 10 of the *Early Learning and Child Care Act*. The *Early Learning and Child Care Act* also contains transitional provisions that tie the two legislative schemes together. While the Ministry ought to rely on the newer provision to require repayment of any overpayment, the panel finds that this error is not material as the same statutory authority exists within the newer legislation.

### **Position of the Parties**

#### The Appellant

The Appellant states that she is being falsely accused of living with Individual A and that she does not have a spouse. She says that she is a single parent and that the Ministry's decision that she is not eligible for child care subsidy as a single parent is unreasonable as it is not based on her true circumstances. She states that the documents she submitted as evidence support this position and show that she is in a relationship with Individual B not Individual A; however Individual B and she do not live together so she is still a single parent.

#### The Ministry

The Ministry states that the data the Ministry's Verification and Audit Unit reviewed shows that the Appellant and Individual A resided at the same locations over a twelve year period and there is financial and familial interdependence shown between the two so as to meet the definitions of "spouse" in the legislation. The Ministry states Individual A co-signed a loan for the Appellant and was listed as a caregiver of the Appellant's children at daycare and as a father / caregiver that lived with the children on daycare and school registration forms and that accordingly Individual A, the Appellant, and the children are a family. The Ministry states that this means that the Appellant is not a single parent and is ineligible for

the \$235,025.07 of child care subsidy received and that the Appellant must repay this amount to the Ministry.

### **Panel Decision**

It is clear from a review of the applicable legislation that, to be eligible for child care subsidy, section 4(1) of the Child Care Subsidy Regulation requires an applicant to provide proof of eligibility. Such proof must demonstrate that the parent(s) of the children for whom child care are needed are unable to care for the children for the reasons set out in section 3 of the Regulation and that they meet the income test set out in section 7 of the Regulation. The panel finds that if the Appellant did have a spouse as stated by the Ministry that she would be ineligible as a single parent and her application would need to be assessed as a two parent family because her initial applications for child care subsidy did not provide the necessary proof of eligibility required for two parent families.

Accordingly, the panel must determine whether the Appellant was a single parent as submitted by the Appellant or whether she had a spouse and was therefore ineligible to apply as a single parent as stated by the Ministry.

The panel reviewed the evidence provided by the Ministry's Verification and Audit Unit as well as the additional evidence submitted by the Appellant, including oral testimony at the hearing of this appeal and the additional documentary evidence submitted by the Appellant in support of the appeal.

Upon review of the evidence, the panel finds that the Appellant is in a relationship with Individual B as stated by the Appellant. The evidence shows the Appellant and Individual B have travelled together on multiple occasions and spend time together engaged in day-to-day activities. They also co-own a travel trailer. However, the finding that the Appellant and Individual B are in a relationship does not automatically make the Ministry's Reconsideration Decision unreasonable.

When confronted with the documentary evidence, the panel cannot ignore that the evidence relied on by the Ministry's Verification and Audit Unit clearly shows Individual A and the Appellant resided together over a twelve-year period during which the Appellant listed Individual A as the parent or caregiver of the children in her care multiple times. The Appellant also stated that the children resided with her and Individual A on the same forms. The Appellant provided several explanations for why this was the case including that Individual A must have listed her addresses as he did not have his own and that she is free to put down whomever she wants on forms and that she used Individual A's name to

provide consistency for all her children. The panel finds that these various explanations are not credible. While it is possible, if not probable, that the Appellant did choose to use Individual A's name for consistency, it does not make sense that the Appellant would state that this individual was residing with the children on both daycare and school forms if he was not. It also does not make sense that she would list Individual A as the emergency contact for the children, who was authorized to pick up the children from school given the Appellant's evidence that for about the last four years Individual A has not been allowed in the presence of the children due to "an incident". It also does not make sense that Individual A, who the Appellant states had an unstable history of residency being in and out of shelters and spending time unhoused, would happen to list the same addresses that the Appellant listed with both ICBC and the Ministry of Health with overlapping timeframes over a period of twelve years. The likelihood that Individual A copied the Appellant's address over twelve years' time is made more absurd by the Appellant's testimony that she picked addresses at random and did not live at most of the places listed. The panel finds it highly unlikely that Individual A happened to randomly list the exact same addresses over the exact same time periods as the Appellant.

While the Appellant has submitted statements from several individuals stating that Individual A is not her spouse, the panel gives these statements little weight. Only Individual A's statement is a sworn statement. The other statements are only signed with no independent witness noted. Further, the panel finds that the statements are all from individuals with whom the Appellant has familial relationships. None of the statements are from independent arms length witnesses. The panel also notes that, while Individual A states, in June 2025, that he and the Appellant do not live together, Individual A does not say anything about where he and the Appellant lived from April 2012 to July 2024, which are the dates that are relevant to the Reconsideration Decision and this appeal.

Accordingly, the panel finds that despite the new evidence submitted by the Appellant that shows that she is in a relationship with Individual B, the remainder of the evidence overwhelmingly supports the Ministry's finding that the Appellant and Individual A not only resided together but shared financial and familial interdependence consistent with a marriage-like relationship, so as to be considered "spouses" under Section 1 of the Child Care Subsidy Regulation. The panel notes that documentary evidence shows Individual A co-signed a car loan with the Appellant. Coupled with residing at the same residences over a twelve-year period, the panel finds this consistent with financial interdependence. Further, the panel finds that the Appellant's listing of Individual A as an emergency contact and caregiver for the children shows familial interdependence. The panel finds that the objective evidence of both financial and familial interdependence is consistent with a

marriage-like relationship that is not excluded by the Appellant's relationship with Individual B.

Section 3 of the Child Care Subsidy Regulation states that in a two parent family both parents must be engaged in certain activities to be eligible for the child care subsidy. Further, section 7 states that eligibility is income tested based on a family's adjusted annual income, not the sole income from only one parent.

As the panel has found that the Ministry reasonably determined that the Appellant and Individual A were spouses throughout the twelve-year period in question, the panel finds the Ministry reasonable to conclude that the Appellant is ineligible to receive child care subsidy as a single parent. It may well be that the Appellant would have been eligible had she applied as a two parent family; however, this was not done, and the Ministry and panel lack the necessary financial information to determine that eligibility. The panel notes that the initial Verification and Audit Unit provided the Appellant with an opportunity to provide that information, but the Appellant did not do so, stating instead that she was being falsely accused of having a spouse.

Accordingly, the panel finds the Ministry has reasonably applied the legislation to the Appellant's circumstances when it determined the Appellant had a spouse and was therefore ineligible to receive child care subsidy between April 2012 and July 2024 and consequently received an overpayment of child care subsidy in the amount of \$235,025.07 that must be repaid to the Ministry.

## **Conclusion**

As stated above, the panel has found that the Ministry's Reconsideration Decision was a reasonable decision based on the applicable legislation and the evidence submitted. Accordingly, the panel confirms the Reconsideration Decision. The Appellant's appeal is unsuccessful.

## Schedule of Legislation

**Child Care Subsidy Act****Overpayments, repayments and assignments**

7(1) If a child care subsidy is paid to or for a person who is not entitled to it, that person is liable to repay to the government the amount to which the person was not entitled.

(2) Subject to the regulations, the minister may enter into an agreement, or may accept any right assigned, for the repayment of a child care subsidy.

(3) A repayment agreement may be entered into before or after a child care subsidy is paid.

(4) An amount that a person is liable to repay under subsection (1) or under an agreement entered into under subsection (2) is a debt due to the government and may

- (a) be recovered by it in a court of competent jurisdiction, or
- (b) be deducted by it from any subsequent child care subsidy or from an amount payable to that person by the government under a prescribed enactment.

(5) The minister's decision about the amount a person is liable to repay under subsection (1) or under an agreement entered into under subsection (2) is not open to appeal under section 6 (3).

**Child Care Subsidy Regulation****Definitions - as of September 1, 2018 to August 31, 2024**

1 (1) In this regulation:

**"dependant"**, in relation to a parent, means anyone who resides with the parent and who

- (a) is the spouse of the parent, or
- (b) is a dependent child of the parent;
- (c) and (d) Repealed. [B.C. Reg. 148/2018, App. 1, s. 1 (e).]

**"family"** means a parent and the parent's dependants;

**"spouse"**, in relation to a parent, means a person, including a person of the same gender, who resides with the parent and

- (a) who is married to the parent,
- (b) who, together with the parent, acknowledges to the minister that he or she is residing with the parent in a marriage-like relationship, or
- (c) who
  - (i) has been residing with the parent for at least
    - (A) the previous 3 consecutive months, or
    - (B) 9 of the previous 12 months, and
  - (ii) has a relationship with the parent that the minister is satisfied demonstrates
    - (A) financial dependence or interdependence, and
    - (B) social and familial interdependence, consistent with a marriage-like relationship;

### **Definitions – prior to September 1, 2018**

**1 (1)** In this regulation:

**"dependant"**, in relation to a parent, means anyone who resides with the parent and who

- (a) is the spouse of the parent,
- (b) is a dependent child of the parent,
- (c) shares with the parent income or assets or any necessities of life obtained with the income or assets, or
- (d) indicates a parental role for the parent's child;

**"spouse"**, in relation to a parent, means anyone who

- (a) is married to the parent, or
- (b) is living with the parent in a marriage-like relationship;

### **Circumstances in which subsidy may be provided**

**3 (1)** The minister may pay a child care subsidy only if

- (a) the minister is satisfied that the child care is needed for one of the reasons set out in subsection (2),
- (b) the child care is arranged or recommended under the *Child, Family and Community Service Act*, or
- (c) the child care is recommended under the *Community Living Authority Act* in respect of a child who has a parent approved for or receiving community living support under the *Community Living Authority Act* and the minister is satisfied that the child care is needed.

**(2)** For the purpose of subsection (1) (a), the child care must be needed for one of the following

reasons:

- (a) in a single parent family, because the parent
  - (i) is employed or self-employed,
  - (ii) attends an educational institution,
  - (iii) is seeking employment or participating in an employment-related program, or
  - (iv) has a medical condition that interferes with the parent's ability to care for his or her child;
- (b) in a two parent family, because
  - (i) each parent is employed or self-employed, attends an educational institution or participates in an employment-related program,
  - (ii) one parent is engaged in an activity listed in subparagraph (i) and the other is seeking employment,
  - (iii) one parent is engaged in an activity listed in subparagraph (i) and the other parent has a medical condition that interferes with that parent's ability to care for his or her child, or
  - (iv) Repealed. [B.C. Reg. 57/2002, s. 2 (b).]
  - (v) each parent has a medical condition that interferes with their ability to care for their child.

(3) Repealed. [B.C. Reg. 57/2002, s. 2 (b).]

(4) The restriction in subsection (1) (a) does not apply in respect of child care provided in a licensed preschool unless the child care is provided to a child of school age.

## How to apply for a subsidy

- 4 (1) To be eligible for a child care subsidy, a parent must
  - (a) complete an application in the form required by the minister,
  - (b) supply the minister with the social insurance number of the parent and the parent's spouse, if any, and
  - (c) supply the minister with proof of the identity of each member of the family and proof of eligibility for a child care subsidy.
- (2) Only one parent in the family may apply for a child care subsidy.
- (3) Repealed. [B.C. Reg. 187/2007, s. (b).]
- (4) Repealed. [B.C. Reg. 84/2016, s. 2.]

## 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.

## **Early Learning and Child Care Act**

### **Overpayments**

**10** (1) If the minister determines that an amount of a child care grant has been paid to a person who is not eligible for the amount under the grant agreement governing the child care grant or the regulations, the person is liable to repay that amount to the government.

(2) If the minister determines that an amount of a child care benefit has been paid to or for a person who is not eligible for the amount, the person is liable to repay that amount to the government.

(3)If the amount referred to in subsection (2) has been paid because of an error, omission or misrepresentation made by a child care provider, despite that subsection, the child care provider, and not the person, is liable to repay the amount to the government.

## **Employment and Assistance Act**

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

**22** (1)If a person commences an appeal in accordance with section 21 (1), the chair must appoint a panel consisting of up to 3 members of the tribunal to hear and determine the appeal.

(2)If a panel consists of more than one member, the chair must designate a chair of the panel from among the members of the panel, and if a panel consists of one member, that member is the chair of the panel.

(3)A panel must conduct a hearing into the decision being appealed within the prescribed period either

- (a)orally, or
- (b)with the consent of the parties, in writing.

(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.

(5)[Repealed 2019-36-95.]

(6)The panel chair is responsible for deciding any question of practice or procedure that arises during a hearing and is not provided for in the regulations or in the practices and procedures of the chair under section 20 (2) (a) *[powers and duties of the chair]*.

APPEAL NUMBER 2025-0181

**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

Emily C. Drown

Signature of Chair

Date (Year/Month/Day)

2025/07/18

Print Name

Susan Ferguson

Signature of Member

Date (Year/Month/Day)

2025/07/18

Print Name

Jane Nielsen

Signature of Member

Date (Year/Month/Day)

2025/07/18