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

The decision under appeal is the Reconsideration Decision, dated January 13, 2025, of the Ministry of Education and Child Care (the “Ministry”). The Ministry found that the Appellant was not eligible for the Affordable Child Care Benefit (the “ACCB”) from November 1, 2022 to February 29, 2024 (the “Ineligibility Period”) as a result of the Appellant having not met the requirements for a subsidy, as set out in section 3 of the Child Care Subsidy Regulation B.C. Reg. 74/97, which, although now repealed, was in force during the entirety of the period referenced above. The Ministry also determined that, as a result of having received a child care subsidy when she was not eligible for it, the Appellant is liable to repay the amount of the benefit received by her during the Ineligibility Period in accordance with Section 7(1) of the *Child Care Subsidy Act*.

### **Part D – Relevant Legislation**

*Child Care Subsidy Act*, R.S.B.C. 1996, c. 26 (the “Act”)- sections 5 and 7  
Child Care Subsidy Regulation B.C. Reg. 74/97 (the “Regulation”)- sections 3 and 14

A full text of the applicable provisions of the legislation is appended to the back of Part F of this decision.

**Part E – Summary of Facts**

The hearing proceeded as a written hearing on July 17, 2025.

*Information before the Ministry at the time of the Reconsideration Decision*

The information before the Ministry at the time of the Reconsideration Decision included the following:

- a Speech and Language Screening Record, dated June 13, 2024, in respect of the Appellant's child which described limitations indicating that the Appellant's child was in need of support;
- a typed letter from the Appellant, dated November 15, 2024, in which the Appellant described challenges which delayed her reporting a change in her circumstances; including that:
  - she was dropping her daughter off at childcare while she focused on finding a stable place to live.
  - she experienced challenges with housing, receiving a three month notice from her landlord to vacate her home;
  - she had no place to go by the end of August 2022 and temporarily lived with her child's father in his garage while looking for a new place to live;
  - she and her child were required to live with the Appellant's mother for 10 days in or about the fall of 2022 but continue to struggle financially for a number of reasons;
  - in January 2023, her landlord informed her of a \$300.00 per month rent increase and she was forced to use all of her income assistance to pay for rent;
  - she subsequently signed what she thought was a rental agreement but turned out to be an agreement to vacate her home and, after a dispute with the landlord she moved out voluntarily in June 2023; and
  - she subsequently lived in temporary accommodations and stored her personal belongings at a storage facility;
- the Verification and Audit Request Reconsideration, dated October 18, 2024, which included:
  - the Appellant's Record of Employment from her last employer, showing that she had last worked for the employer on September 24, 2022;
  - the Ministry's Child Care Subsidy Overpayment Calculation, dated October 1, 2024, indicating that the Appellant had received a child care subsidy in the amount of \$5,792.00 during the Ineligibility Period;

- the Appellant's Affordable Child Care Benefit Application, dated October 17, 2022, declaring that her place of employment was the employer that she had left on September 24, 2022;
- the Appellant's Affordable Child Care Benefit Application, dated June 29, 2023, declaring that her place of employment was the employer that she had left on September 24, 2022; and
- the Appellant's Affordable Child Care Benefit Application, dated May 22, 2024, citing "referral" as the reason for needing child care.

### *Notice of Appeal*

The Appellant's Notice of Appeal was filed on February 12, 2025. The Appellant did not indicate any specific reason for the appeal on the Notice of Appeal itself but included a typed letter of the same date, setting out that she is facing significant financial hardship and feeling overwhelmed while also being unsure about which debts to try to deal with first. The letter described the following:

- the Appellant cannot afford to pay the Ministry's demand for repayment in the amount of \$5792.00;
- the Appellant's only income comes from assistance which covers rent of \$2,000.00;
- the Appellant has been approved to receive \$1,500.54 from income assistance with \$1,181.14 going directly to her landlord and a \$743.00 rent subsidy, bringing the total assistance for rent to \$1,924.14; and
- due to overdue balances, the Appellant faces suspensions of both her mobility and home services.

### *Information Received Prior to the Appeal*

The Ministry made a submission indicating that it would be relying on the Reconsideration Decision.

The Appellant submitted a further letter, dated July 1, 2025, in which she wrote that:

- since she stopped work in September 2022, she has struggled with mental health issues and a pregnancy which rendered her unable to communicate with government services or make necessary changes to her circumstances;
- her current circumstances are dire as she is currently not working and is in receipt of disability assistance while also receiving a rent subsidy;
- she continues to have difficulty paying her mobility and internet bills;

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- her situation is complicated by the fact that the father of her children is not providing financial support;
- she is currently feeling overwhelmed by the challenges happening in her life and would like to propose a payment arrangement to address the repayment of the child care subsidy she received during the Ineligibility Period; and
- she believes that she could start a payment plan of \$25.00 per month and that would be manageable.

*Admissibility*

Although the Appellant's July 1, 2025 letter addresses many of the same issues raised in previous letters that were before the Ministry at the time of the Reconsideration Decision, the panel finds that the evidence is nevertheless relevant to the Appellant's circumstances and eligibility for the childcare subsidy. As such, the panel admits that letter as reasonably necessary for a full and fair hearing on all of the matters related to the Reconsideration Decision, pursuant to section 22 (4) of the *Employment and Assistance Act*, S.B.C. 2002, c. 40.

## Part F – Reasons for Panel Decision

### *Issue on Appeal*

The issue in this appeal is whether the Ministry reasonably determined that the Appellant was ineligible for the child care subsidy during the Ineligibility Period and is liable to repay the Ministry \$5,792.00 as a result of receiving a child care subsidy during the Ineligibility Period.

### *Positions of the Parties*

#### The Appellant

The Appellant's position is that:

- 1) there were a number of reasons and issues in her life that either precluded her from reporting her change in child care circumstances to the Ministry, as required or made her eligible for the child care subsidy; and
- 2) she is not financially able to make the repayment of the child care subsidy that she received during the Ineligibility Period.

#### The Ministry

The position of the Ministry is that the Appellant received a child care subsidy for which she was not eligible, did not disclose her change in circumstances on her child care subsidy applications, and, in the result, is liable to repay the amount of the child care subsidy received by her during the Ineligibility Period, pursuant to the section 7(1) of the Act.

### *Panel Decision*

Section 3 of the Regulation authorizes the Ministry to pay a child care subsidy to persons whose circumstances meet the criteria described in subsections (2)(a) and 2(b) of section 3.

For persons in a single parent family like the Appellant's, the parent seeking the subsidy must satisfy one of the following criteria:

- (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 the parent's child;

In this case, the evidence is that the Appellant was employed up to September 24, 2022. Since that date, the Appellant has not been employed or self-employed. In the result, the Appellant does not meet the criteria set out in section 3(2)(a)(i) of the Regulation during the Ineligibility Period.

There was also no evidence before the Ministry, at the time of the Reconsideration Decision or before this panel, that the Appellant attends an educational institution or was seeking employment or participating in an employment related program during the Ineligibility Period. As such, the Appellant also does not meet the criteria set out in section 3(2)(a)(ii) or (iii) of the Regulation during the Ineligibility Period.

Finally, with respect to the Appellant's eligibility for the childcare subsidy, the Appellant did not provide medical evidence to the Ministry or in this appeal that indicated that she has a medical condition that interferes with her ability to care for her child. Her reference to mental health issues in some of the evidence she provided, (including, most notably, the July 1, 2025 letter submitted after the Reconsideration Decision) did not include any medical documentation that indicated that the Appellant's mental health issues were ones that rendered her unable to care for her child. As such, the Appellant does not meet the criteria set out in section 3(2)(a)(iv) of the Regulation during the Ineligibility Period.

In view of the above, the panel finds that the Ministry was reasonable in its determination that the Appellant was not eligible for the child care subsidy during the Ineligibility Period.

Despite knowing that she was no longer employed, The Appellant failed to notify the Ministry of her changed circumstances, as required by section 14 of the Regulation. As such, the overpayment calculated by the Ministry is not the result of an administrative error.

Section 7 of the *Act* sets out that where a person is paid a child care subsidy for which that person was not eligible, the person is liable to repay to the government the amount received by that person that they were not entitled to receive.

There is no discretion in this section of the *Act*, with respect to whether or not repayment is required. As a result, The panel finds that the Ministry was reasonable in its

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determination that the Appellant is liable to repay to the Ministry the amount of the child care subsidy, \$5,792.00, that the Appellant received during the Ineligibility Period.

The *Act*, however, does confer some discretion to the Ministry with respect to the terms of repayment. Subsections (2) through (5) of section 7 of the *Act* authorize the Ministry to enter into a repayment agreement with a person who has a debt owing to the Ministry. The panel notes that the Appellant, in the July 1, 2025 letter, indicated that she could make payments of up to \$25.00 per month towards the amount owing.

However, the panel declines to address this submission by the Appellant as the discretion set out in section 7 of the *Act* to enter into a repayment agreement is one that is conferred on the Ministry and not on this Tribunal.

### *Conclusion*

In view of the above, the panel confirms the Reconsideration Decision. The Appellant is not successful in the appeal.

## *Applicable Legislation*

### Child Care Subsidy Act

#### **Section 5 - Information and verification**

(1) For the purpose of determining or auditing eligibility for child care subsidies, the minister may do one or more of the following:

- (a) direct a person who has applied for a child care subsidy, or to or for whom a child care subsidy is paid, to supply the minister with information within the time and in the manner specified by the minister;
- (b) seek verification of any information supplied by a person referred to in paragraph (a);
- (c) direct a person referred to in paragraph (a) to supply verification of any information supplied by that person or another person;
- (d) collect from a person information about another person if
  - (i) the information relates to the application for or payment of a child care subsidy, and
  - (ii) the minister has not solicited the information from the person who provides it.

(2) A person to or for whom a child care subsidy is paid must notify the minister, within the time and in the manner specified by regulation, of any change in circumstances affecting their eligibility under this Act.

(3) If a person fails to comply with a direction under subsection (1) (a) or (c) or with subsection (2), the minister may

- (a) declare the person ineligible for a child care subsidy until the person complies, or
- (b) reduce the person's child care subsidy.

(4) For the purpose of auditing child care subsidies, the minister may direct child care providers to supply the minister with information about any child care they provide that is subsidized under this Act.

#### **Section 7 - Overpayments, repayments and assignments**

(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

### **Section 3 - Circumstances in which subsidy may be provided**

(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 the parent's 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 that parent's 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 enrolled in school.

#### **Section 14 - Notifying the minister of change in circumstances**

The notification required by section 5 (2) of the Act must be given in writing or by telephone,

- (a) as soon as possible after any change in circumstances affecting the eligibility of the parent, and
- (b) to an employee in the Child Care Subsidy Service Centre.

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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

Adam Shee

Signature of Chair

Date (Year/Month/Day)

2025/July/20

Print Name

Kent Ashby

Signature of Member

Date (Year/Month/Day)

2025/July/21

Print Name

Margaret Koren

Signature of Member

Date (Year/Month/Day)

2025/July/23