

Part C – Decision Under Appeal

The decision under appeal is the Ministry of Education and Child Care (the “Ministry”) Reconsideration Decision of July 22, 2025. In the Reconsideration Decision the Ministry determined that the Appellant was not eligible for the Affordable Child Care Benefit for the period between September 1, 2024, and March 31, 2025.

The Ministry determined that the Appellant was eligible for the Affordable Child Care Benefit beginning May 1, 2025, but because the Ministry had not received a completed application until May 1, 2025, the benefit could not be backdated prior to April 1, 2025, in accordance with section 20 of the Early Learning and Child Care Regulation.

Part D – Relevant Legislation

Early Learning and Child Care Act, section 4

Early Learning and Child Care Regulation (the “Regulation”), sections 1, 9, 17, and 20.

Relevant sections of the legislation can be found in the Schedule of Legislation at the end of this document.

Part E – Summary of Facts

An in-person hearing was held August 21, 2025, with the Ministry joining the hearing via a teleconferencing link. The Appellant was accompanied by her spouse.

Evidence before the Ministry at the time of reconsideration

- A completed Child Care Arrangement form signed by the Appellant on August 19, 2024.
- A screenshot of an Affordable Child Care Benefits Document Checklist from the Ministry, dated April 24, 2025, and including the comment:

"A decision on your eligibility cannot be made until all required documents on this checklist are submitted. Failure to submit the documentation on time may result in delays or the closure of your application. The requested documents and the information provided in the application are used to determine your eligibility for the Affordable Child Care Benefit."
- An Affordable Child Care Benefit Application form, indicating the Appellant provided the declaration and consent required in section 5 on August 24, 2025, and the Appellant's spouse provided the declaration and consent on May 1, 2025.
- Request for Reconsideration, dated June 24, 2025. In the Reasons for Request section, the Appellant provides her arguments (which will be addressed in Part F of this decision) and photocopies of the following:
 - A screenshot of an Affordable Child Care Benefits Document Checklist from the Ministry, dated September 6, 2024, and including the comment:

"A decision on your eligibility cannot be made until all required documents on this checklist are submitted. Failure to submit the documentation on time may result in delays or the closure of your application. The requested documents and the information provided in the application are used to determine your eligibility for the Affordable Child Care Benefit."
 - A screenshot of a message from the Ministry to the Appellant with the subject Document Checklist and dated September 6, 2024, saying,

"Please see the attached Document Checklist for your Affordable Child Care Benefit request. If you have a spouse or partner, your request will not be processed until they have completed their portion."
 - A screenshot of a two-page message dated September 6, 2024. The first page says, "Do not reply" and has a question mark in the middle of the page. The second page says,

"You have been identified as a spouse/partner for an application in My Family Services. To continue with this application, you need to register for the My Family Services portal and select the "Spouse/partner: complete an

application" option on the home screen. Use the application code below to complete your information on the application."

Evidence submitted after the Reconsideration Decision

- Notice of Appeal dated May 27, 2025
 - No additional evidence was included.
- Appellant Submission, received by the Tribunal on August 16, 2025 and containing a photocopy of a letter from the Appellant's doctor (the "Doctor) stating, "This patient has challenges completing paper work (*sic*) due to a medical condition."

Evidence submitted at the Hearing

- The Appellant submitted:
 - A Document Checklist, stated to be the document received from the Ministry when the Affordable Child Care Benefit application was submitted on September 6, 2024
 - A Consent to Collect CRA Records form (1 page) dated August 19, 2024 and signed by the Appellant and her spouse.
 - A two-page Child Care Arrangement form dated August 19, 2024 (this is a duplicate of the Child Care Arrangement form listed earlier).

Testimony at the hearing

- The Appellant
 - The Appellant expressed surprise that the benefit hadn't been backdated to September 2024 because:
 - Nothing has changed in her qualifying conditions and the Ministry approved her benefits based on the same information,
 - The Document Checklist (in Appellant Submission #2) did not indicate any information was missing, and
 - She believes the Application submitted on September 6 was completed.
 - The Appellant said:
 - The owner of the childcare facility helped her complete the forms.
 - The email used for the application was that of the childcare facility owner. The Appellant asked the owner to inform her of any problems.
 - The childcare facility did not call her for eight months. When asked why, the childcare facility owner told the Appellant that it often took four-to-

five months for the Ministry to start payments, so it had not been flagged.

- Once told, she contacted the Ministry right away and completed the forms again.
- A Ministry worker told the Appellant that an email had been sent to her spouse, and that these emails were often missed. The Appellant and her spouse looked for it and found it in his spam folder. The email looked like a spam email because:
 - There was no heading indicating it was from the Ministry – the first page only had a question mark (?) in the center.
 - The second page asked the recipient to click on a link and provide personal data, something people are told not to do to prevent identify theft.
- In response to questions, the Appellant explained:
 - The Appellant's child has been in day care since September and continues to be in day care.
 - This was the first time the Appellant was applying for the Affordable Child Care Benefit. Therefore, the Appellant solicited the assistance of the childcare facility owner to complete the forms because of their experience in completing the application. (Unfortunately, the childcare owner's business had not completed an application before where both parents were involved; their business dealt primarily with single parent families.) Together, they completed the application online and then printed the supporting documents, including the CRA Consent form that her spouse had to sign, and completed them using the printed forms. The childcare owner then assisted the Appellant in taking pictures of the forms and submitting them through the Appellant's MyFamily account.
 - The Appellant did not receive any communication from the Ministry, either directly or via the childcare facility owner between September 6, 2024, and approximately eight months later when the childcare facility owner called her to tell her no payments had been made. To the appellant's knowledge, the childcare facility owner, whose email address was used, did not receive any communication from the Ministry during that time either.

- The Ministry
 - The Ministry suggested that the question mark on the email received by the Appellant's spouse was likely a diagram indicating the Ministry and had shown only as a question mark because of the limitations of the Appellant's spouses' mobile phone.
 - The Ministry reviewed the actions related to the Application submitted September 6, 2024. When the application was received via MyFamily, because the CRA Consent and Declaration sections (section 5) were only completed by the Appellant and had not been completed by the spouse, the system would automatically:
 - Generate the document checklist email to the Appellant with the statement, "If you have a spouse or partner, your request will not be processed until they have completed their portion."
 - Generate the email to the Appellant's spouse asking him to sign on to MyFamily to complete the application.
 - If the application is not completed within sixty days, cancel the application and close the file.
 - The Ministry indicated that when the file was cancelled and closed, a record is maintained that there had been an application and that file connected to this application had been closed, but the actual contents of the documents is not retained. Therefore, a copy of the application dated August 19, 2024, and submitted on September 6, 2024, is not available.
 - In response to questions, the Ministry responded:
 - The sixty-day timeframe is in policy, not in the legislation.
 - At the time of Reconsideration, the Ministry was not aware of the Appellant's difficulty with completing forms. Had the Ministry been aware that the Appellant had difficulty completing forms, the Ministry would have suggested that the Appellant contact an advocate to assist with the process.
 - Applicants have several options. They can complete the application and supporting documents online. Once completed, printed forms can be faxed, mailed, dropped off at an office, or submitted via MyFamily (the preferred method).

- The cancellation / closing process automatically occurs after sixty days. Once the Ministry has received sections 1-4 of the application, if section 5 is not completed, they send one email notification to the Applicant and / or the spouse where applicable to request completion of the form (consent and declaration). No other communications or reminders are addressed to the applicant or spouse. The Ministry does not inform an applicant of the closure of their file, neither does it provide any reasons to the applicant for this closure. When asked how the Ministry reconciles this with section 17 of the Regulation, the Ministry responded that they didn't think it could, unless you took the position that, if the application wasn't completed, there was nothing to process to either accept or deny.

Admissibility of New Evidence

Neither party objected to the oral testimony the other party provided at the hearing. The Ministry did not object to the new evidence provided by the Appellant.

The Panel finds that the oral testimony of both the Appellant and the Ministry at the hearing and the two documentary submissions provided by the Appellant (August 16, 2025 and at the hearing) clarify issues related to this appeal. The Panel admits this evidence pursuant to section 22(4) of the *Employment and Assistance Act*.

Part F – Reasons for Panel Decision

The issue in this appeal is whether the Ministry's Reconsideration Decision denying the Appellant the Affordable Child Care Benefit during the period from September 1, 2024, through March 31, 2025, was reasonably supported by the evidence or was a reasonable application of the legislation in the circumstances of the Appellant.

Section 9(3) of the Regulation says:

(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).

The Ministry has approved the application submitted on April 26, 2025, and completed with the spouse's signature on May 1, indicating that the criteria in sub-sections (a) through (e) of section 9(3) of the Regulation have been met. This is not disputed and will not be discussed further. It is also not disputed that the April 26, 2025, application was approved with the same information as was submitted on September 6, 2024; only the spouse's completion of his portion of section 5 of the Affordable Child Care Benefit Application form was added.

The question raised is whether the Appellant satisfied the criteria in sub-section (f) of section 9(3) of the Regulation with the application that was submitted September 6, 2024. This sub-section references subsection (1) of section 9(3) of the Regulation, which says:

- 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.

Ministry Position

An application was not completed in September 2024, as required, due to failing to submit spousal consent to finish the application process and eligibility review. After a period of 60 days, with no response from the spouse and no follow-up by the Appellant or her spouse, the application was cancelled as abandoned. As a completed application was not received in September 2024, the Appellant was not eligible for the childcare benefit to start September 1, 2024. As a result, the Ministry determined that the Appellant was not eligible for a childcare benefit to be paid for the period from September 1, 2024, to March 31, 2025.

Appellant's Position

The Appellant believes the Application submitted on September 6 was completed. The Appellant had the childcare facility owner assist her because of their extensive experience in completing the form; there was nothing in the document checklist that indicated more was needed. While the CRA consent section of the application was not completed for the Appellant's spouse, the CRA Consent form was printed and submitted.

Panel's Findings

The panel is faced with several questions.

What comprises an application and when is it completed

Section 9(3)(f) of the Regulation says the applicant must complete and submit an application form in accordance with subsection (1). The Appellant presents the Document Checklist as evidence that the Application has been completed. The Ministry says it was not completed because the Appellant's spouse didn't go online and complete the process.

The concept of completion is confused by the wording used by the Ministry. In the Background section of the Reconsideration Decision, the Ministry says, "On April 24, 2025 you completed an Affordable Child Care Benefit Application CF2900, with spousal consent provided May 1, 2025." In the Decision section of the Reconsideration Decision, the Ministry says, "Upon review, the ministry finds that an ACCB application was not completed until April 24, 2025 (spousal consent received May 1, 2025)...." These comments would indicate that the application would be complete even without the spousal consent section being completed.

However, in the Background section of the Reconsideration Decision, the Ministry says, "Therefore, as the completed application was not received until May 1,

2025,", indicating the application was not complete until the spousal consent section was completed.

Under section 4 of the Act, the Ministry may pay the Benefit to an eligible parent "on application by a parent and subject to the regulations." Under section 9 of the Regulation, a parent applies for the Benefit "by completing and submitting to the minister an application in the form required by the minister." The application forms required by the Ministry under both the Child Care Subsidy Act and the Act are the CF2900 Affordable Child Care Benefit Application and the CF2798 Child Care Arrangement form. It is not disputed that the Appellant submitted a completed Child Care Arrangement form on September 6, 2024.

CF2900 Affordable Child Care Benefit Application consists of five sections: Family Members, Reason for Needing Child Care, Income, Comment, and Declaration and Consent. The section for Declaration and Consent has two parts, one for the applicant and one for the spouse.

The Panel finds that a completed application would consist of providing a completed CF2798 Child Care Arrangement form, and a CF2900 Affordable Child Care Benefit Application form with the information for all five sections provided in the form required by the Minister, including the CRA consent and Declaration for the Applicant and their spouse, if applicable.

Did the Appellant provide all the required information

The only section that is under dispute is Section 5 of the Affordable Child Care Benefit Application form (Declaration and Consent). The Appellant says this was completed through the CRA Consent form that was printed out, photographed and submitted via MyFamily. The Ministry maintains it was not completed because the spouse didn't respond to the request for him to go on to MyFamily and complete his section.

The Panel notes that the section contains two pieces of information, the CRA consent and the Declaration. The CRA Consent form completed by the Appellant's spouse contains only the CRA Consent. The Declaration would have been completed had the Appellant's spouse signed on using his BCeID and completed the process. Therefore, the Panel finds that the Ministry was reasonable in determining that the application submitted on September 6, 2024, was not completed according to Section 9(3)(f) of the Regulation.

Date of Initial Payment

Does Section 17 of the Regulation apply (Written Notice)

Section 17 of the Regulation says that the Minister must give written notice to an applicant about whether the application under section 9 [*applications and eligibility for child care benefits*] is approved. The Ministry does not dispute that there was no communication with the Appellant between September 6, 2024, and when the Appellant contacted the Ministry after learning the childcare facility was not receiving payments. The Ministry suggests that, under section 17 of the Regulation, the Ministry is not required to give an applicant written notice of its decision about whether the application is approved, until all the sections of the application are completed.

The Panel notes that section 1 of the Regulation defines applicant as “a parent who applies under section 9 [*applications and eligibility for child care benefits*] for a child care benefit;”. Based on this definition, the Panel finds that, once a parent has submitted the application forms under section 9 of the Regulation, they are an “applicant” as defined under section 1 of the Regulation. Therefore, the Ministry is required under section 17 of the Regulation to give the parent written notice of the outcome of their application, even if the reason for refusal is that the applicant has not provided all the information required to process the application. The Panel finds the Ministry was unreasonable in not applying section 17 of the Regulation before cancelling the September 6, 2024, application.

Procedural Fairness:

A well-established common law principle, (applicable to this Tribunal) is that there is a “duty of procedural fairness lying on every public authority making an administrative decision which is not of a legislative nature, and which affects the rights, privileges or interests of an individual”: *Cardinal v. Director of Kent Institution*, [1985] 2 S.C.R. 643 (“Cardinal”) at para. 14. Therefore, the threshold question is whether the decisions leading through to the appeal affect the rights, privileges, or interests of the appellant.

This principle was summarized by Jones & DeVillars in the Principles of Administrative Law (2nd ed.) at p. 250 as follows:

In the absence of a specific statutory prescription, the general rule is that an administrator must give adequate notice to permit affected persons to know how they might be affected and to prepare themselves adequately to make representations. Adequate notice has been held to require that the notice present an accurate description of the true nature and scope of the review and it must be timely ... the effect of inadequate or no notice is to render the delegate’s action void, it is more than an administrative irregularity.

The Panel notes that these protections were particularly important because of the importance of the decision to the Appellant. As a result of medical conditions, she is highly dependent on childcare during the hours that her spouse is working. Therefore, the decision on whether the Affordable Child Care Benefit application is approved is of great importance to her.

During the period from September 6, 2024, until April 24, 2025, the application was cancelled and closed without the Appellant having an opportunity to participate and follow up on why the response by her spouse had not occurred or having an opportunity to present her views or make arguments concerning the completion of the application.

The Panel finds that, while the Ministry sent an email indicating the issue on September 6, 2024, a level of reasonableness and procedural fairness was not applied when no timely follow up was offered to the Appellant. If a timely follow-up communication had been made saying that no response had been received, the Appellant could have facilitated the completion of the application. In addition to the lack of follow up, the Appellant was never notified of the outcome of their application, as per section 17 of the Regulation.

Accordingly, the Panel finds that Ministry did not provide advance notice of the decision, share information about the decision to be made, provide an opportunity to be heard, offer clear and meaningful reasons for the decision, or give information about any available appeal or review procedure and, therefore, the decision of the Ministry to deem the Appellant ineligible for the Affordable Child Care Benefit for the period of between September 1, 2024, and March 21, 2025, was an unreasonable application of the legislation in this case.

Summary

The Panel finds that the Ministry was reasonable in determining that the application for the Affordable Child Care Benefit that was submitted on September 6, 2024, was not complete. However, considering all the evidence, and especially the Appellant's and the Ministry's testimony at the hearing, the Panel finds that in cancelling and closing the application without any subsequent communication with the Appellant, the Ministry was not reasonable in not applying section 17 of the Regulation and deprived the Appellant of the protections she was due under the concept of procedural fairness. Therefore, the Panel finds that the Ministry's decision to deny the appellant the Affordable Child Care Benefit for the period between September 1, 2024, and March 31, 2025, was an unreasonable application of the legislation in this case and was not reasonably supported by the evidence.

Conclusion

The Panel rescinds the Reconsideration Decision and the Appellant's appeal is 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

Definitions

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

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).

Notice to applicant required

17 (1)The minister must give to an applicant written notice of the minister's decision about whether or not the application under section 9 *[applications and eligibility for child care benefits]* is approved.

(2)If the minister's decision results in a refusal to pay a child care benefit to or for the applicant, the minister's notice to the applicant must include the minister's reasons for the refusal.

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

Wes Nelson

Signature of Chair

Date (Year/Month/Day)

2025/08/29

Print Name

Bob Fenske

Signature of Member

Date (Year/Month/Day)

2025/08/24

Print Name

Inge Morrissey

Signature of Member

Date (Year/Month/Day)

2025/08/28