

Appeal Number 2025-0393

Part C – Decision Under Appeal

The decision under appeal is the Reconsideration Decision of the Ministry of Education and Child Care (“Ministry”) dated August 15, 2025, in which the Ministry determined that the Appellant was not eligible to receive the Affordable Child Care Benefit (“Benefit”) between January 1, 2025 and May 27, 2025.

As the Appellant submitted an application dated June 27, 2025, the Ministry found the Appellant eligible for the Benefit under section 20(1) of the Early Learning and Child Care Regulation, starting June 1, 2025. However, the Ministry determined that it had made an administrative error and backdated the Benefit to May 28, 2025, which was 30 days before the Appellant submitted the application, under section 20(2) of the Early Learning and Child Care Regulation.

Part D – Relevant Legislation

Early Learning and Child Care Act (“Act”), sections 4, 7 and 9

Early Learning and Child Care Regulation (“Regulation”), sections 1, definition of “applicant”, 9, 14 and 20

Employment and Assistance Act, section 22(4)

The full text of this legislation is in the Schedule of Legislation at the end of the Reasons for Panel Decision.

Part E – Summary of Facts

The hearing was held by teleconference on December 15, 2025. Both the Appellant and the Ministry attended the hearing.

Evidence Before the Ministry at Reconsideration

The Appellant received the Benefit for her child, from March 1, 2024 to December 31, 2024, under a Benefit plan ending on December 31, 2024.

On February 29, 2024, the Ministry had told the Appellant over the phone that the Appellant would not be eligible to receive the Benefit after the child turned 18, and she should apply for disability assistance for the child at that point. The child turned 18 in August 2024.

The Ministry sent the following communications to the Appellant through the Ministry's My Family Services ("MyFS") portal:

- November 18, 2024: The Ministry told the Appellant that the Benefit plan would end in approximately 30 days, and she could ask to continue the Benefit online. If the Appellant did not need the Benefit, or had already renewed it, she did not have to do anything.
- March 1, 2025: The Ministry told the Appellant that her Benefit file was inactive, she did not have a Benefit plan in place, and she had not contacted the Ministry for 60 days. If the Appellant did not contact the Child Care Service Centre ("CCSC") in the next 60 days, her file would be closed, and she would need to re-apply. The Ministry asked the appellant to contact the CCSC immediately to avoid her file being closed. The Ministry said that, if the Appellant's file was closed, she would have to re-apply, her eligibility would be based on the date of the new application, and she would not be eligible for retroactive payments.
- March 31, 2025: The Ministry told the Appellant that her file had been inactive for 90 days, and if she did not contact the CCSC within 30 days, her file would be closed. The Ministry repeated the information from the March 1, 2025 message, about re-applying, date of eligibility and no retroactive payments.
- April 28, 2025: The Ministry told the Appellant that her file had been inactive for 120 days, and she would have to contact the CCSC that day to keep her file open.
- May 1, 2025: The Ministry told the Appellant that, as she had not contacted the CCSC, her file had closed.

On June 25, 2025, the Appellant called the CCSC to ask if she could have a Benefit plan for her child, who was almost 19 years old. The Appellant said that she didn't know if she was

allowed to have the Benefit because her child was 18. The CCSC told the Appellant that she could receive the Benefit until the child's 19th birthday and advised the Appellant to submit an application and supporting documents, because her file was closed.

On June 27, 2025, the Appellant submitted the application, dated the same day. On July 8, the CCSC sent the Appellant a letter saying that she was eligible for the Benefit for the child from June 1, 2025 to the date the child turned 19. On July 9, 2025, the Appellant asked the Ministry to backdate the Benefit to January 1, 2025, because the Appellant had been hospitalized, and did not receive the renewal notices, and she had thought she was only eligible until her child turned 18.

The Ministry determined that the Appellant was ineligible for the Benefit between January 1, 2025 and May 31, 2025, because the Benefit could only be paid from the first day of the month in which the parent completes the application. As the Appellant submitted the application on June 27, 2025, the Ministry determined that the Appellant was eligible for the Benefit starting June 1, 2025.

Additional Evidence at Reconsideration:

In the Request for Reconsideration, the Appellant explained:

- She had a spinal cord injury and cancer and needed child care because she was in and out of hospital.
- When the Ministry sent messages, the Appellant was in hospital for ten days and thought she did not have the Benefit.
- The Appellant needs to pay her mother, who is caring for her child and is doing a hard job for the Appellant.

Additional Evidence on Appeal:

Appellant:

At the hearing, the Appellant said:

- She was in hospital when the Ministry sent the first message, and the second.
- She wondered why the Ministry kept messaging her, because the CCSC agent had told her that she was not eligible for the Benefit once her child turned 18.
- She has now applied for disability assistance for the child, who has turned 19.

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

- She received the Benefit for four months, September to December 2024, after her child turned 18.
- She was in hospital in another province from November 3, 2024 to December 2, 2024, and then again for nine days in May 2025.
- She did not see messages from the Ministry on MyFS until the message in May 2025.

Ministry:

At the hearing, in answer to a question from the Appellant, the Ministry representative said that, to the best of their knowledge, while a background recording on a telephone call states that calls may be recorded for quality assurance, the Ministry does not record conversations except for training purposes, with new staff. The Ministry representative does not think there are recordings of the Appellant's calls with the Ministry. They clarified that the Ministry accepted the Appellant's evidence that she was told by the CCSC that she was not eligible for the Benefit after her child turned 18.

In answer to a question from the Panel about a telephone conversation between the Appellant and the Ministry, the Ministry said that they were unsure where the date of February 29, 2024 came from, as the date the CCSC told the Appellant she was not eligible for the Benefit after her child turned 18. The Ministry said that, at reconsideration, the Ministry accepted the Appellant's assertion about what she was told by the CCSC about eligibility after the child turned 18.

Admissibility of Additional Evidence

Neither party objected to the additional oral evidence of the other party. The Panel finds that the additional oral evidence of the Appellant and the Ministry is reasonably necessary to determine the issues in the appeal. Therefore, the Panel finds that the additional oral evidence of the parties is admissible under section 22(4) of the *Employment and Assistance Act*.

Part F – Reasons for Panel Decision

The issue on appeal is whether the Ministry's Reconsideration Decision, in which it determined that the Appellant was not eligible for the Benefit from January 1, 2025 to May 27, 2025, was reasonable.

Appellant's Position

The Appellant submits that the Benefit should be backdated to January 1, 2025, because she was in hospital for treatment of very serious medical conditions, and did not see the Ministry's messages until May 2025. Further, the Appellant submits that she was misled by the CCSC, who told her that she was not eligible for the Benefit after her child turned 18, so she did not understand that she could continue to receive the Benefit.

Ministry's Position

The Ministry submits that, as the Appellant's file was closed due to inactivity on May 1, 2025, the Appellant had to submit a new application to receive the Benefit. Then, under section 20(1) of the Regulation, the Benefit is payable from the first day of the month when the parent completes the application. The Appellant completed the application on June 27, 2025, and therefore, under section 20(1) of the Regulation, the Ministry can pay the Benefit from June 1, 2025.

The Ministry maintains that, under section 20(2) of the Regulation, it can only backdate the Benefit if there has been an administrative error, and then only for the 30 days before a parent completes an application under section 9 of the Regulation. The Ministry accepts the Appellant's evidence that she was told by the CCSC that the Benefit would end when the child turned 18, which is an administrative error. The Ministry says that the Appellant could be eligible to receive the Benefit until the child is 19 unless the child is in receipt of disability assistance. Therefore, the Ministry submits that the Appellant is eligible for the Benefit starting May 28, 2025, which is 30 days before the Appellant completed the application on June 27, 2025. However, the Ministry maintains that the Appellant is not eligible to receive the Benefit between January 1, 2025 and May 27, 2025.

Panel Decision

The Panel finds that the Ministry's Reconsideration Decision, in which it determined that the Appellant was not eligible to receive the Benefit between January 1, 2025 and May 27, 2025, is reasonable.

Benefit Discontinuance and File Closure

The Appellant received the Benefit for her child from March 1, 2024 to December 31, 2024, when the Appellant's Benefit plan ended. The Ministry asked the Appellant to provide updated information if she still needed the Benefit after December 31, 2024. The Appellant did not do so, either before the existing plan ended, or in response to three follow up messages sent in March and April 2025.

Under section 7(1) of the *Act*, the Ministry can direct a person to provide information so that the Ministry can determine if the person is eligible to receive the Benefit. If the person does not provide the information as directed by the Ministry, section 9 of the *Act* states that the Ministry cannot pay the Benefit to a new applicant and may discontinue the Benefit for someone who is already receiving it. As the Appellant did not provide the information needed to renew the Benefit before her file was closed on May 1, 2025, the Panel finds that the Ministry was reasonable in closing the Appellant's file and requiring the Appellant to complete a new application. The Appellant completed a new application on June 27, 2025, which made her eligible to receive the Benefit starting June 1, 2025.

Backdating

The Appellant asks the Ministry to backdate the Benefit to January 1, 2025, because she says her health conditions and medical treatment prevented her from seeing the Ministry's messages and providing the information the Ministry requested. She also says that, because she was told in February 2024 that she was not eligible once the child turned 18, she did not understand why the Ministry was asking for more information.

However, in addition to the message sent on November 18, 2024 while the Appellant was in hospital, the Ministry sent the Appellant three messages in March and April 2025, asking the Appellant to contact the CCSC if she still needed the Benefit. After receiving no response, the Ministry finally closed her file after 120 days of inactivity. The Panel notes that the Appellant continued to receive the Benefit until the end of December 2024, four months after the child turned 18 in August 2024, indicating that the Benefit was still payable. The Appellant also confirmed at the hearing that she was aware of the Benefit she received after her son turned 18. Therefore, the Panel finds that the Appellant had notice that she continued to be eligible to receive the Benefit, which should have at least prompted her to make enquiries before her file was closed on May 1, 2025.

The Panel acknowledges that the Appellant is dealing with very serious health conditions, and that this may have hampered her ability to deal with the renewal of the Benefit plan

while she was in hospital. However, under the Act and Regulation, the Ministry is only allowed to backdate the Benefit if there has been an administrative error, and then only for 30 days before the parent submits the application, under section 20(2) of the Regulation.

As the Ministry acknowledges, in February 2024, the Ministry wrongly told the Appellant that she would not be eligible to receive the Benefit after the child turned 18. The Ministry accepts that it made an administrative error in giving the Appellant incorrect information. Therefore, the Panel finds that, under section 20(2) of the Regulation, the Ministry may pay the Benefit starting 30 days before the Appellant completed her application, on June 27, 2025. The Ministry does not have discretion, under the legislation, to backdate the Benefit for more than 30 days, or to backdate the Benefit for any reason other than an administrative error.

Conclusion

The Panel finds that the Ministry's Reconsideration Decision, in which it determined that the Appellant was eligible to receive the Benefit starting May 28, 2025, but not eligible to receive the Benefit between January 1, 2025 and May 27, 2025, is reasonable. The Panel confirms the Reconsideration Decision. The Appellant is not successful in the appeal.

Schedule of Legislation

Early Learning and Child Care Act

Child care benefits

s. 4 On application by a parent and subject to the regulations, the minister may pay a benefit to or for the parent if the parent is eligible for the benefit, for the purpose of reducing or eliminating the cost of child care to the parent.

Information and verification

s. 7 (1) For the purpose of determining or auditing eligibility for a child care benefit, the minister may do one or more of the following:

(a) direct an applicant for or recipient of a child care benefit to supply information to the minister 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 to the minister verification of any information supplied by that person or another person;

(d) without limiting a power of the minister under paragraphs (b) and (c), collect unsolicited information from a person about another person if the information relates to an application for or payment of a child care benefit.

(2) For the purpose of auditing a child care benefit, the minister may direct a child care provider who provides child care in respect of which the child care benefit is paid to supply information about the child care to the minister within the time and in the manner specified by the minister.

(3) For the purpose of entering into, or auditing compliance with, a grant agreement, the minister may do one or more of the following:

(a) direct an applicant for or recipient of a child care grant to supply information to the minister 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 to the minister verification of any information supplied by that person or another person;
- (d) without limiting a power of the minister under paragraphs (b) and (c), collect unsolicited information from a person about another person if the information relates to an application for or payment of a child care grant.

Consequences of failing to provide information

s. 9 (1) If, under section 7 (1) (a) or (c), the minister directs an applicant for a child care benefit to supply information or a verification, the minister may not, subject to the regulations, pay the child care benefit before the applicant complies with that direction.

(2) If a recipient of a child care benefit fails to comply with a direction under section 7 (1) (a) or (c), the minister may

- (a) reduce the amount of the child care benefit, or
- (b) discontinue the child care benefit.

(3) If a recipient of a child care grant fails to comply with a direction under section 7 (3) (a) or (c) or fails to provide information to the minister in accordance with the grant agreement governing the child care grant, the minister may, without limiting the terms or conditions of the grant agreement,

- (a) reduce the amount of the child care grant, or
- (b) discontinue the child care grant.

Early Learning and Child Care Regulation

Definitions

s. 1 In this regulation:

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

Applications and eligibility for child care benefits

s. 9 (1) Subject to subsection (2), a parent may apply for a child care benefit by completing and submitting to the minister an application in the form required by the minister.

(2) Only one parent in each family unit is eligible to apply for a child care benefit.

(3) An applicant is eligible for a child care benefit only if all of the following apply:

- (a) the applicant is a resident of British Columbia;
- (b) the child care for which the child care benefit is sought by the applicant is received for one or more qualifying reasons set out in section 10;
- (c) the applicant satisfies the citizenship or other requirements set out in section 11;
- (d) unless an exception under section 13 (2) applies in relation to the applicant's child, the applicant's family unit satisfies the income requirements set out in section 12;
- (e) the applicant and the applicant's spouse, if any, supply the minister with the information and records required under section 14;
- (f) the applicant has completed and submitted an application form in accordance with subsection (1).

Information and records requirements

s. 14 (1) For the purposes of section 9 (3) (e), an applicant must submit all of the following information and records to the minister:

- (a) the social insurance number of the applicant and the applicant's spouse, if any;
- (b) proof of the identity of each member of the applicant's family unit;
- (c) proof of the matters set out in section 9 (3) (a) to (d);
- (d) unless an exception under section 13 (2) applies in relation to the applicant's child, authorizations from the applicant, and the applicant's spouse, if any, for

- (i) the minister to disclose to the Canada Revenue Agency the full name, birth date and social insurance number of the applicant and the applicant's spouse,
- (ii) the Canada Revenue Agency to disclose to the minister the information described in subsection (3) of this section,
- (iii) the minister to disclose to the applicant personal information of the applicant's spouse used to calculate the adjusted annual income of the applicant's family unit,
- (iv) the minister to disclose to the applicant's spouse personal information of the applicant used to calculate the adjusted annual income of the applicant's family unit, and
- (v) the indirect collection by the minister of the information described in subparagraph (ii).

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

- (a) a third party to disclose to the minister personal information of the applicant and the applicant's spouse that the minister requires to determine or audit an applicant's eligibility for a child care benefit, and
- (b) the indirect collection by the minister of the information described in paragraph (a).

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

- (a) relevant to the person's income for the 2 calendar years preceding the current calendar year, whether or not the person completed an income tax return for those years, and
- (b) required by the minister to calculate the adjusted annual income of the applicant's family unit.

When child care benefit may be paid

s. 20 (1) The minister may pay a child care benefit to or on behalf of a parent from the first day of the month in which the parent completes an application under section 9 *[applications and eligibility for child care benefits]*.

(2) If an administrative error has been made, the minister may pay a child care benefit to or on behalf of a parent for child care provided in the 30 days before the parent completes an application under section 9.

Employment and Assistance Act

s. 22 (4) A panel may consider evidence that is not part of the record as the panel considers is reasonably required for a full and fair disclosure of all matters related to the decision under appeal.

APPEAL NUMBER 2025-0393

Part G – Order

The panel decision is: (Check one) **Unanimous** **By Majority**

The Panel **Confirms the Ministry Decision** **Rescinds the Ministry Decision**

If the ministry decision is rescinded, is the panel decision referred back to the Minister for a decision as to amount? Yes No

Legislative Authority for the Decision:

Employment and Assistance Act

Section 24(1)(a) or Section 24(1)(b)

Section 24(2)(a) or Section 24(2)(b)

Part H – Signatures

Print Name

Susan Ferguson

Signature of Chair

Date (Year/Month/Day)

2025/12/18

Print Name

Mimi Chang

Signature of Member

Date (Year/Month/Day)

2025/12/16

Print Name

Glenn Prior

Signature of Member

Date (Year/Month/Day)

2025/12/17