

Part C – Decision Under Appeal

The decision under appeal is the Ministry of Education and Child Care (ministry) Reconsideration Decision dated November 25, 2025, which determined the appellant was not eligible for the Affordable Child Care Benefit beginning September 1, 2025.

Specifically, section 7(2) of the Early Learning and Child Care Regulation states that a child care benefit may only be paid for child care provided by either a person who does not reside in the child's home, or a person who resides in the child's home other than a person who is a relative of the child or a dependent of the parent. The ministry determined that in this case, the appellant's appointed carer is related to the child and therefore does not satisfy the requirement.

Part D – Relevant Legislation

Early Learning and Child Care Act (Act), section 4
Early Learning and Child Care Regulation (Regulation) section 7

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

Part E – Summary of Facts

The hearing was held as a teleconference on December 19, 2025. The appellant and a ministry representative were present.

Relevant Evidence Before the Ministry at Reconsideration

Ministry Records show:

- On October 26, 2025, the ministry received the appellant's Affordable Child Care Benefit Application.
- On October 29, 2025, the appellant submitted the Affordable Child Care Benefit Child Care Arrangement form.
- On November 4, 2025, the ministry advised the appellant she was not eligible for the Affordable Child Care Benefit.
- On November 12, 2025, the ministry received the appellant's Request for Reconsideration.

Reason for Request for Reconsideration (November 10, 2025)

The appellant said she understands that the decision was based on policy, which states that care provided by a relative living in the same home is generally not eligible. However, she is requesting an exception on compassionate and hardship grounds, given her child's special needs and the lack of available, suitable child care options. The appellant is a full-time working single mother, and the current circumstances present significant challenges. The appellant also explains that her child has Down Syndrome and experiences significant developmental delays. She has contacted numerous licensed child care providers but they are unable to accommodate her son due to staffing shortages and the need for one-on-one support.

The appellant adds that as she starts work at 8:00 a.m. and her family resides in a different city than her work, it's impossible to drop her son off at school at 8:15 a.m. and still arrive at work on time. As well, the appellant finishes work at 5:00 p.m. and cannot return home in time to pick him up from school at 2:00 p.m. To ensure her son's safety and consistent care, she has arranged for her older daughter to drop him off at school before attending her classes, and pick him up after school. The appellant compensates her daughter for the services she provides, which allows her son to receive safe, reliable and attentive care each day. This arrangement is not one of convenience; It is one of necessity. The appellant's son requires specialized care, which is currently unavailable through licensed facilities. Denying the benefit under these circumstances creates severe hardship and leaves the family without any viable alternative for his essential care.

Letter from the Ministry to the Appellant (November 4, 2025)

The ministry determined the appellant is not eligible for the Affordable Child Care Benefit beginning September 1, 2025 and explains the reasons for the denial.

Affordable Child Care Benefit Child Care Benefit Application (October 26, 2025)

- signed by the appellant

Information in the application states the reason for needing child care is because the appellant works Monday to Friday, 5 days/week, 8:00 to 5:00.

Affordable Child Care Benefit Child Care Arrangement form (October 18, 2025)

- signed by the appellant

Information provided in the form states child care is provided in the child's home by the child's sister who lives in the same house.

Affordable Child Care Benefit, Support Needs (no date)

- signed by a speech language pathologist

The pathologist confirms that the appellant's child requires additional support services to optimize his development, functional abilities and quality of life.

Letter from the Ministry of Children and Family Development (August 22, 2024)

- signed by a social worker

The social worker states that the Ministry of Children and Family Development has been providing services to the appellant and her children since March 26, 2012. The appellant's son is diagnosed with severe Down Syndrome. He lives with significant support and behavioural needs. The family relies on support from this ministry to assist with his needs; However, the support is limited. He would benefit from access to multidisciplinary therapeutic interventions and adapted social/recreational opportunities to support his developmental needs. Exploring every possible option available in terms of accessing programs/support services has been recommended. The social worker is in favour of any charitable funding that could be made available and has no doubt as to this family's need for this essential funding.

Psychoeducational Report from a School (Date of Testing May 24, 2022)

The report contains a diagnostic profile, which states the appellant meets criteria for a diagnosis of severe intellectual disability. His psychoeducational profile meets a moderate to profound intellectual disability. He has Down Syndrome and is supported as a student with a chronic health impairment.

Information Received After Reconsideration

Notice of Appeal (November 28, 2025)

Reason for Appeal

The appellant states she feels the decision is unfair for parents of children with special needs who cannot be left with strangers. The appellant adds that her son will not cope well in a daycare setting, and it could have a negative impact on him. He is not very vocal and would struggle to manage in that environment.

At Hearing

At the hearing, the appellant emphasized that because of her son's condition, he needs special care, which her daughter provides. He bonds with her daughter and her daughter can understand him better than even the appellant can. Besides taking him to school, the appellant's daughter also takes him to three therapies per week. The appellant questions how she is supposed to trust someone else with this situation.

The ministry repeated the information in the ministry record and added that although it recognizes that the arrangement with the appellant's daughter is in the best interest for the family, the legislation is very clear.

Admissibility of New Evidence

The panel is authorized under Section 22(4) of the *Employment and Assistance Act*, to consider evidence in addition to the information the ministry had at the time of the Reconsideration Decision if it is reasonably required for a full and fair disclosure of all matters related to the decision under appeal.

The panel determined no additional evidence was submitted at the hearing. Statements from the appellant were considered clarification and the ministry did not provide any additional evidence.

Part F – Reasons for Panel Decision

The issue on appeal is whether the ministry's Reconsideration Decision was reasonably supported by the evidence or was a reasonable application of the legislation in the circumstances of the appellant.

Specifically, did the ministry reasonably determine that the appellant was not eligible for the Affordable Child Care Benefit because the child care provider resides in the child's home and is a relative of the child?

Appellant Position

The appellant submits that she understands that care provided by a relative living in the same home is generally not eligible. However, she is requesting an exception on compassionate grounds, given her child's special needs and the lack of available, suitable child care options. She feels the decision is unfair for parents of children with special needs who cannot be left with strangers.

Ministry Position

The ministry submits that in order to be eligible for the Affordable Child Care Benefit, child care must be provided in an eligible child care facility or in the child's home if the care is provided by someone other than a person who is a relative of the child (or a dependent of the parent) and resides in the child's home.

The ministry states that as the child care provider, selected by the appellant, is a relative of the child (or a dependent of the parent) and resides in the child's home, the ministry is not satisfied that the appellant meets the eligibility criteria for child care as outlined in section 7(2) of the Regulation.

Panel Analysis

Section 4, Act – child care benefits

Section 4 of the Act states that subject to the Regulation, the minister may pay a benefit to a parent if the parent is eligible for the benefit.

Section 7, Regulation - qualifying child care

Section 7(2) of the Regulation states child care benefit may be paid for child care provided in a child's home if the care is provided by a person who does not reside in the child's home or a person who resides in the child's home other than a person who is a relative of the child or a dependent of the parent. The panel notes the Affordable Child Care Benefit

Child Care Arrangement form states child care is provided in the child's home by the child's sister who lives in the same house. At the hearing, the appellant stated that her daughter provides the special care her son needs and besides taking him to school, her daughter also takes him to three therapies per week.

The panel finds the ministry reasonably concluded that the appellant was not eligible for the Affordable Child Care Benefit beginning September 1, 2025, as per section 7(2) of the Regulation. The appellant does not dispute that her daughter lives in the family home and is providing child care to her son, but is asking for an exception based on compassionate grounds. The panel notes section 7(2) of the Regulation outlines the circumstances where a child care benefit may be paid for child care provided in a child's home. That is, section 7(2) of the Regulation provides for child care in the home only by a person who does not reside in the home or a person who resides in the home other than a relative of the child.

The panel acknowledges that the appellant is asking for an exception based on compassionate and hardship grounds, given her child's special needs and the lack of available, suitable child care options. However, the panel notes section 7(2) of the Regulation does not provide for any exceptions. The panel is bound by the legislation as is the ministry.

Conclusion

In conclusion, the panel finds the ministry decision that determined the appellant was not eligible for the Affordable Child Care Benefit beginning September 1, 2025 was reasonably supported by the evidence.

The panel confirms the ministry's Reconsideration Decision. The appellant's appeal is unsuccessful.

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

Qualifying child care

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(1)The minister may pay a child care benefit for a child, in accordance with this regulation, if a class of child care...is provided to the child in the following classes of child care facilities:

- (a)eligible licensed child care facilities;
- (b)licence-not-required child care facilities;
- (c)registered licence-not-required child care facilities;
- (d)subject to subsection (2), the child's home.

(2)A child care benefit may be paid for child care provided in a child's home if the child care is provided by one of the following:

- (a)a person who does not reside in the child's home;
- (b)a person who resides in the child's home other than a person who is a relative of the child or a dependant of the parent...

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Part G – Order

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

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

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

Legislative Authority for the Decision:

Employment and Assistance Act

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

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

Part H – Signatures

Print Name

Connie Simonsen

Signature of Chair

Date (Year/Month/Day)

2025/12/20

Print Name

Julie Iuvancigh

Signature of Member

Date (Year/Month/Day)

2025/12/21

Print Name

Kulwant Bal

Signature of Member

Date (Year/Month/Day)

2025/12/21