

Appeal Number 2024-0464

Part C – Decision Under Appeal

The decision under appeal is the Reconsideration Decision of the Ministry of Social Development and Poverty Reduction ("Ministry") dated November 25, 2024, in which the Ministry determined that the Appellant was not eligible to receive a monthly family bonus top up supplement of \$237.33 for September and October 2024.

Part D – Relevant Legislation

Employment and Assistance for Persons With Disabilities Act ("Act"), section 1(1) definition of "supplement", and section 5

Employment and Assistance for Persons With Disabilities Regulation ("Regulation"):

- section 1(1) definitions of "basic child tax benefit", "BC basic family bonus", "BC child adjustment amount", "BC family benefit", "Canada child benefit", "family bonus" and "national child benefit supplement";
- section 59; and
- Schedule A, sections 1(1) and 2(1) to (4)

Employment and Assistance Act, s. 22(4)

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

Part E – Summary of Facts

The hearing was held in person on January 13, 2024, with the Ministry attending by telephone.

Evidence Before the Ministry at Reconsideration

The Appellant is a recipient of assistance with Persons With Disabilities designation. Her family unit consists of herself, her spouse and a dependent child. She receives \$1,478.50 support allowance, \$790.00 shelter allowance and \$52.00 transportation supplement monthly.

According to a notice from the Canada Revenue Agency ("CRA"), the Appellant is eligible to receive the Canada Child Benefit and the BC Family Benefit from July 2024 to June 2025. From July to December 2024, the Canada Child Benefit is \$801.31 and the BC Family Benefit is 109.23. In January 2025, the Canada Child Benefit changes to \$524.48 and the BC Family Benefit continues to be \$109.23.

Although the BC Family Benefit is funded by the Province of British Columbia, the payment comes from the Government of Canada. Due to an error in her address when her 2023 income tax was filed, the Appellant did not receive cheques for the Canada Child Benefit and the BC Family Benefit for July and August 2024. She corrected her address with the CRA, and in September 2024, the Appellant received a cheque for the Canada Child Benefit and BC Family Benefit for July and August 2024, in the amount of \$1,821.08.

The Ministry provides a family bonus top up supplement according to a calculation based on the BC child adjustment amount, which is issued automatically by the Ministry's system, following a "data match" with the CRA. Between July and November 2024, the Ministry provided the Appellant with family bonus top up supplements as follows:

- July 2024: \$210.21
- August 2024: \$237.33
- September 2024: \$0.00
- October 2024: \$0.00
- November 2024: \$237.33
- December 2024: \$237.33.

The Ministry stated that the Appellant received the BC Family Benefit for those months as follows:

- July 2024: \$16.46
- August 2024: \$0.00
- September 2024: \$0.00
- October 2024: \$524.48
- November 2024: \$0.00

- December 2024: \$0.00.

The Appellant said that she should have received monthly bank deposits from the Ministry in the amount of \$1,357.21 but she only received \$1,147.00 for two months. She says that the difference is \$210.21, which was the amount of the family bonus top up supplement (which increased from \$210.21 to \$237.33 in July 2024).

Additional Evidence:

Appellant:

At the hearing, the Appellant said it was her understanding that if she was not receiving the BC Family Benefit, she would not get the automatic family bonus top up supplement from the Ministry, so when the Government of Canada benefit cheques for July and August 2024 were misdirected, the Ministry did not pay her the family bonus top up supplement.

The Appellant provided a print out of a Ministry statement of estimated payment and deduction amounts as of January 15, 2025. The statement shows the following amounts for disability assistance and child tax benefits:

- Disability assistance:
 - Support: \$1,478.50
 - Shelter: \$790.00
 - Family bonus automatic top up: \$237.33
 - Transportation supplement: \$52.00
- Canada Child Tax Benefit/Basic child tax benefit: \$910.54.

Ministry:

At the hearing, the Ministry repeated the statement in the Reconsideration Decision that the Appellant did not receive the family bonus top up supplement of \$237.33 in September and October 2024 because she received \$524.48 as a BC Family Benefit in October 2024. The Ministry then reviewed the Appellant's file and confirmed that there is no record of a BC Family Benefit paid to the Appellant in the amount of \$524.48 for September and October 2024. However, the Ministry also stated that the Appellant received \$524.48 in addition to the \$910.54 total of the monthly Canada Child Benefit and BC Family Benefit set out in the CRA statement in the Appeal Record.

The Ministry reviewed its records and confirmed that the Ministry did not pay a family bonus top up supplement to the Appellant for September or October 2024.

Admissibility of Additional Evidence

Neither party objected to the additional evidence provided by the other party at the hearing. The Panel finds that the additional oral evidence of the Appellant and the Ministry, and the additional written evidence provided by the Appellant, is reasonably necessary to determine the issues in the appeal. Therefore, the Panel finds that the additional evidence 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 was reasonable in determining that the Appellant was not eligible to receive the family bonus top up supplement for September and October 2024.

Appellant's Position

The Appellant says that the Ministry has failed to provide the supplement because the "data match" with CRA made it appear that she was not receiving the Canada Child Benefit and BC Family Benefit for two months in July and August 2024, when her cheque was mis-directed. It is her understanding that, if she receives the Canada Child Benefit and BC Family Benefit, she is eligible for an automatic family bonus top up supplement.

The Appellant says that, in September 2024, the Government of Canada paid the July and August Canada Child Benefit and BC Family Benefit, and therefore she was eligible to receive the family bonus top up supplement for those months. The Appellant maintains that the Ministry provided the family bonus top up supplement for September and October 2024, but not for July and August 2024. She says that, although the BC child adjustment amount was \$237.33 in July and August 2024, she is only asking for \$210.21 for each month, because that was the amount she originally claimed was underpaid.

Ministry's Position

At the hearing, the Ministry relied upon its Reconsideration Decision, which states:

- The Ministry provided the Appellant with a family bonus top up supplement of \$210.21 for July 2024 because the Appellant received a BC Family Benefit of \$16.46.
- The Ministry provided the Appellant with a family bonus top up supplement of \$237.33 for August 2024 because the Appellant did not receive any BC Family Benefit for that month.
- The Ministry did not provide the Appellant with a family bonus top up supplement for September 2024 and the Appellant did not receive any BC Family Benefit for that month.
- The Ministry did not provide the Appellant with a family bonus top up supplement for October 2024 because the Appellant received a BC Family Benefit of \$524.48 for September and October 2024.
- The Ministry provided the Appellant with a family bonus top up supplement of \$237.33 for November 2024 because the Appellant did not receive any BC Family Benefit for November 2024.

Panel Decision

The Panel finds that the Ministry's Reconsideration Decision is not reasonable, because it fails to reasonably consider the evidence and the legislation, and it fails to provide coherent reasons for its decision.

Under Schedule A, section 2(2) of the Regulation, the support allowance for a family unit that includes one or more dependent children is increased by an amount calculated under that section. In the Reconsideration Decision, the Ministry uses the term "family bonus top up supplement" to identify the increased support allowance for a family unit with dependent children, which is based on the BC child adjustment amount.

Before July 2024, the BC child adjustment amount was \$210.21. In July 2024, the BC child adjustment amount increased to \$237.33.

The Ministry has provided the Appellant with family bonus top up supplements of \$210.21 for July 2024, and \$237.33 for August, November and December 2024. The Ministry did not provide the Appellant with a family bonus top up supplement for September or October 2024. While the Appellant maintained at the hearing that she was not provided with the family bonus top up supplement for July and August 2024, the Panel finds that the Ministry did pay the Appellant a family bonus top up supplement of \$210.21 for July 2024 and \$237.33 for August 2024. The Panel finds that the Ministry did not pay the Appellant any family bonus top up supplement for the BC child adjustment amount for September and October 2024, and those are the months that are in issue in this appeal.

The Ministry's reasons for paying, or not paying, the family bonus top up supplement between July and December 2024 are both contradictory and unclear, and do not match the evidence.

The CRA statement shows that the Appellant has been eligible to receive the Canada Child Benefit and the BC Family Benefit every month from July 2024 to the present. The Appellant confirms that she has received those benefits, paid by the Government of Canada, in the monthly amounts of \$801.31 for the Canada Child Benefit and \$109.23 for the BC Family Benefit, although payment of the benefits for July and August 2024 was delayed until September 2024, due to an administrative error.

In its Reconsideration Decision, the Ministry states that the Appellant did not receive any BC Family Benefit for August, November or December 2024, but did receive a BC Family Benefit of \$524.48 for September and October 2024. These statements are simply incorrect, as is obvious from the documents provided in the Appeal Record. The only place the amount of \$524.48 appears is on the CRA statement, where it shows as the amount of the Canada Child Benefit the Appellant would be eligible to receive in January 2025. Half of \$524.48 (which the Ministry says

is two months' BC Family Benefit) is \$262.24, which does not correspond to any monthly benefit or supplement amount on the file or in the legislation. Nor could the Ministry identify any payment to the Appellant of \$524.48 in its records, either from the Ministry or the Government of Canada.

At the hearing, the Ministry stated that the Appellant received that \$524.48 in addition to the \$910.54 she received from the Government of Canada for the Canada Child Benefit and the BC Family Benefit. There is no evidence to support this statement, and the Panel finds that it is simply incorrect. According to the CRA document, the Appellant has received a BC Family Benefit of \$109.23 since July 2024, and the Appellant has received the family bonus top up supplement of \$237.33 from the Ministry for August, November and December 2024.

The Ministry's reasons for paying, or not paying, the family bonus top up supplement between July and December 2024 are contradictory and confusing. While the Panel has found that the July 2024 benefits are not in issue in this proceeding, the Panel notes the puzzling statement in the Reconsideration that the Ministry provided the Appellant with a family bonus top up supplement of \$210.21 "because [the Appellant] only received \$16.46 for BC family benefit." \$210.21 is the maximum amount of the BC child adjustment amount before July 2024. The Ministry does not explain how that calculation relates to a BC Family Benefit payment of \$16.46.

The Ministry then states that, because the Appellant received a BC Family Benefit of \$524.48 for September and October 2024, she is not entitled to receive the family bonus top up supplement of \$237.33. The Appellant did not receive \$524.48 as a BC Family Benefit for September and October 2024, therefore a decision by the Ministry that she is not eligible to receive the family bonus top supplement because she received a BC Family Benefit in that amount is not reasonable.

The Ministry goes on to state that it provided the family bonus top up supplement in August, November and December 2024 because the Appellant did not receive any BC Family Benefit for those months, when the CRA document shows that the Appellant was receiving a BC Family Benefit of \$109.23 each month, included in the total monthly benefit payment of \$910.54 from the Government of Canada. The printout provided by the Appellant confirms that the Ministry is paying the family bonus top up supplement in addition to the total benefit payment from the Government of Canada.

The Panel is unclear how the Ministry's payments to the Appellant correspond to Schedule A, section 2 of the Regulation, which provides that certain amounts are to be set off against the BC child adjustment amount. The Ministry also appears to conflate or confuse the family bonus top up supplement, the BC child adjustment amount, and the BC Family Benefit, stating that the Appellant "has been receiving an automatic family bonus top up for the months when CRA data

match has indicated [the Appellant] has not received any or a portion of the \$237.33 BC child adjustment amount, except for September." This statement makes no sense. The family bonus top up is based on the BC child adjustment amount – if a recipient receives the family bonus top up supplement, they are receiving the BC child adjustment amount. At the same time, the Ministry states that they did not provide the Appellant with a family bonus top up supplement for both September and October.

The Ministry goes on to consider whether the Appellant was eligible to receive a supplement for a delayed family bonus under section 59(2) of the Regulation because, it says, the Appellant's "September BCFB [BC Family Bonus] was delayed due to an administrative error." In fact, the Panel finds that there is no evidence that a September BC Family Bonus was delayed – it was the July and August combined BC Family Benefit and Canada Child Benefit that were delayed and paid to the Appellant by a cheque re-issued in September 2024.

Where the Ministry's statement of the facts does not match the evidence, the Panel concludes that the Ministry has either fundamentally misapprehended the facts or failed to account for the evidence before it. At the hearing, the Ministry was not able to provide any explanation of the Reconsideration Decision beyond the verbatim reasons set out therein.

It is not appropriate for the Panel to fashion its own reasons to determine a reasonable outcome. As the Panel has found that the Reconsideration Decision does not set out facts that match the evidence and fails to explain its reasons for the decision in a coherent manner that reflects the evidence, the Panel finds that it would be procedurally unfair to review the evidence and legislation and provide a different analysis and determination to which neither party would have the opportunity to respond.

Conclusion

The Panel rescinds the Reconsideration Decision and returns the matter to the Ministry for further determination of the Appellant's eligibility for the family bonus top up supplement for September and October 2024, based on the Panel's finding that the Appellant has received the Canada Child Benefit and the BC Family Benefit for every month from July 2024 to the present, and the Ministry has provided her with the maximum family bonus top up supplement every month since then, except September and October 2024.

Schedule of Legislation

Employment and Assistance for Persons With Disabilities Act

Interpretation

s. (1) In this Act:

"supplement" means any form of assistance specified by regulation, other than disability assistance, hardship assistance or financial assistance provided under section 7 [*financial assistance to service or program providers*] and, without limitation, includes access to programs established or funded under this Act;

Disability assistance and supplements

s. 5 Subject to the regulations, the minister may provide disability assistance or a supplement to or for a family unit that is eligible for it.

Employment and Assistance for Persons With Disabilities Regulation

Definitions

s. 1(1) In this regulation:

"basic child tax benefit" means the Canada child tax benefit minus the national child benefit supplement;

"BC basic family bonus" means an amount calculated for the purposes of section 10 (3) (a) of the *Income Tax Act*,

"BC child adjustment amount", in relation to a dependent child in a family unit, means the amount of

- (a) \$195.02 for the first dependent child in the family unit,
- (b) \$172.54 for the second dependent child in the family unit, or
- (c) \$164.18 for each additional dependent child in the family unit,

and each of these amounts is adjusted every year on July 1, beginning on July 1, 2018, by the percentage increase, if any, of the consumer price index for the 12 month period ending September 30 of the previous year;

"BC family benefit" means an amount deemed to be an overpayment on account of an individual's liability for the taxation year determined under section 13.092 of the *Income Tax Act* as it read on or after January 1, 2023;

"Canada child benefit" means an amount deemed to be an overpayment on account of a person's liability for the taxation year determined under section 122.61 of the *Income Tax Act* (Canada) as it read on or after July 1, 2016;

"family bonus" means an amount consisting of the sum of the BC basic family bonus and the national child benefit supplement;

"national child benefit supplement" means the amount that is 1/12 the value of "C" in the formula calculated under section 122.61 of the *Income Tax Act* (Canada) as it read before July 1, 2016;

Supplement for delayed, suspended or cancelled family bonus

s. 59 (1) In this section, "maximum national child benefit supplement", in relation to a family unit, means the amount the family unit would receive for a calendar month as the national child benefit supplement if

- (a) the family unit were entitled to receive the national child benefit supplement for the calendar month, and
- (b) the income of the family unit, for the purposes of calculating the national child benefit supplement, were zero.

(2) The minister may provide a supplement to or for a family unit that is eligible for disability assistance or hardship assistance if

- (a) payment of the family bonus for a calendar month to a person in the family unit is delayed, suspended or cancelled under the *Income Tax Act* (Canada) or the *Income Tax Act* (British Columbia) for any reason other than that

- (i) the person refuses to apply for the family bonus,
 - (ii) the person refuses to provide information necessary to determine eligibility for the family bonus, or
 - (iii) the person refuses to accept the family bonus, and

- (b) the minister considers that the supplement is immediately needed for basic needs of food, clothing or shelter.

(3) The amount that may be provided for a calendar month as a supplement under subsection (2) is equal to

- (a) the maximum national child benefit supplement, minus
- (b) the family bonus, if any, received by the family unit for the preceding calendar month.

Schedule A

Disability Assistance Rates

Maximum amount of disability assistance before deduction of net income

s. 1 (1) Subject to this section and sections 3 and 6 to 8 of this Schedule, the amount of disability assistance referred to in section 24 (1) (a) [*amount of disability assistance*] of this regulation is the sum of

- (a) the monthly support allowance under section 2 of this Schedule for a family unit matching the family unit of the applicant or recipient, plus
- (b) the shelter allowance calculated under sections 4 and 5 of this Schedule.

Monthly support allowance

- s. 2 (1) A monthly support allowance for the purpose of section 1 (a) is the sum of
- (a) the amount set out in Column 3 of the following table for a family unit described in Column 1 of an applicant or a recipient described in Column 2, plus
 - (a.1) Repealed. [B.C. Reg. 193/2017, s. 9 (a).]
 - (b) the amount calculated in accordance with subsections (2) to (4) for each dependent child in the family unit.

Item	Column 1 Family unit composition	Column 2 Age or status of applicant or recipient	Column 3 Amount (\$)
6	Two applicants / recipients and one or more dependent children	One applicant / recipient is a person with disabilities, the other is not a person with disabilities and is under 65 years of age	\$1 478.50

- (2) If the family unit includes one or more dependent children or deemed dependent children, the support allowance under subsection (1) for a calendar month is increased by an amount equal to
- (a) the total BC child adjustment amount for all dependent children and all deemed dependent children in the family unit, minus
 - (b) the sum of
 - (i) the family bonus, if any, paid to the family unit for the preceding month,
 - (ii) the Canada child benefit, if any, paid to the family unit for the preceding month in respect of dependent children in the family unit, up to a maximum of the BC child adjustment amount in respect of those dependent children, and
 - (iii) the total amount of the supplements, if any, provided to or for the family unit under section 59 [*supplement for delayed, suspended or cancelled family bonus*] or 59.1 [*supplement for delayed, suspended or cancelled Canada child benefit*] of this regulation for the current calendar month.
- (2.1) If the amount calculated under subsection (2) is less than zero, it is deemed to be zero for the purposes of this section.
- (3) In calculating the adjustment under subsection (2), an amount that, under the *Income Tax Act* (British Columbia) or the *Income Tax Act* (Canada), is deducted or set off from the family bonus or the Canada child benefit must be treated as if it were paid to a person in the family unit.
- (4) The support allowance under subsection (1) for a calendar month is not increased under subsection (2) if a person in the family unit refuses to
- (a) apply for the family bonus or the Canada child benefit for the preceding calendar month, or
 - (b) accept the family bonus or the Canada child benefit for the preceding calendar month

in respect of a dependent child in the family unit who is, or may be, a qualified dependant within the meaning of the *Income Tax Act* (Canada).

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 2024-0464

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)
2025/01/21

Print Name

Sarah Bijl

Signature of Member

Date (Year/Month/Day)
2025/01/21

Print Name

Robert Kelly

Signature of Member

Date (Year/Month/Day)
2025/01/21