



PART C – DECISION UNDER APPEAL

(State the reconsideration decision)

The decision under appeal is the ministry's reconsideration decision dated August 8, 2008 which determined that appellant is not eligible for a child care subsidy commencing September 1, 2008 under the *Child Care Subsidy Act* and *Regulation* based on her income because her daughter had reached age six.

PART D – RELEVANT LEGISLATION

(State the relevant Legislation considered)

Child Care Subsidy Act, Section 4
Child Care Subsidy Regulation, Section 2, 7, 8, 9, 10.

PART E – SUMMARY OF FACTS

Please set out the facts as determined by the panel, based on the evidence at the hearing. Please note that subsection 22(4) of the Employment and Assistance Act states that, in a hearing referred to in subsection (3), a panel may admit as evidence only:

- (a) the information and records that were before the minister when the decision was being made, and
- (b) oral or written testimony in support of the information and records referred to in paragraph (a).

The evidence before the ministry on reconsideration includes:

- The appellant's child care arrangement renewal application signed June 26, 2008
- Two by-weekly pay statements from appellant for the periods ending May 29, 2008 (\$1,191.64) and June 12, 2008 (\$1,175.60), totaling \$2,367.24
- Appellant's telephone call to the Child Care Subsidy Service Centre (CCSSC) on July 2, 2008 to advise of a change in care arrangements for her daughter
- July 2, 2008 – the date the Ministry of Children and Family Development CCSSC discontinued appellant's subsidy for her daughter's care, beginning July 1, 2008
- July 24, 2008 – the date CCSSC received appellant's request for reconsideration

On August 8, 2008, the ministry's reconsideration decision determined that appellant was not eligible for a child care subsidy commencing September 1, 2008.

The appellant provided the following written evidence and information on reconsideration:

- She is [redacted] who works from 2:30 pm – 10:30 pm or 6:30 am – 3:30 pm (plus ½ - 1 hr additional because of meetings/reports/patient problems)
- She cannot find another daycare provider that is open on early mornings
- She pays her weekend babysitter out of her own pocket due to no licensed daycare open on weekends; when she works weekends she pays \$25 per day which can amount to \$200 per month
- To "guarantee" a spot in the licensed day care, she has to pay for five days resulting in day care costs of \$600
- Total daycare of \$800 per month plus her rent of \$900 amounts to \$1,700 per month without including utilities, food, gas, and other living expenses
- She earns after taxes approximately \$2,300 - \$2,500 per month
- She feels that she is "living on the edge" and she has no family or other resources to help with day care
- She asks that her financial situation be reviewed so that she can get help financially; she is not asking for 100% subsidy
- She is disappointed that she received "no notice" about being "discontinued" – just an "informal decision on July 2, 2008" which resulted from her daughter turning age six (on June [redacted], 2008) and the rate of subsidy falling from \$1,500 (before age six) to \$515 per month (after age six) and her available income being too high to be eligible for any subsidy
- She understands that day care rates go down during school season, but being cut off at the start of summer holidays threw her into a financial hole

The appellant provided the following additional written evidence with her notice of appeal dated August 19, 2008:

- Her work hours are subject to change and her income varies
- Two additional bi-weekly pay statements for the periods ending July 26, 2008 (\$959.68) and August 9, 2008 (\$1,284.90) totaling \$2,244.58

The appellant confirmed the above information and evidence at the hearing and, among other things, stated that her chief complaint is that she was cut off with no warning and did not understand that once her daughter turned age six, she would no longer be eligible for a child care subsidy based on her income. She emphasized that she is now faced with a shortfall for which she is not prepared and, based on her expenses, she cannot afford to pay for day care and work at the same time.

The ministry presented an oral submission supporting the ministry's reconsideration decision based on the legislation and objected to the admission of the additional pay statement evidence insofar as it relates to the reconsideration decision.

The panel accepts the oral and written evidence presented on behalf of the ministry and the appellant (including the two additional pay statements) under Employment and Assistance Act, section 22(4)(b) because they are generally in support of the information and records that were before the ministry when the decision being appealed was made.

The panel finds the facts are not in dispute.

ATTACH EXTRA PAGES IF NECESSARY

PART F – REASONS FOR PANEL DECISION

(State the reasons for the panel decision)

The issue on this appeal is the reasonableness of the ministry's reconsideration decision dated August 8, 2008 which determined that appellant is not eligible for a child care subsidy commencing September 1, 2008 under the *Child Care Subsidy Act and Regulation* based on her income because her daughter had reached age six.

The appellant's argument is that she needs financial assistance with child care because of her living expenses and that she received no notice that the child care subsidy would be abruptly discontinued. Further, while appellant acknowledges that her daughter turned six on June , 2008, day care in the summer is more expensive than day care during the school season (because it is for the entire day rather than being limited to before and after school) and she needs assistance. The panel notes that appellant's latter concern regarding summer day care for this summer was eliminated because the ministry in its reconsideration decision continued appellant's day care subsidy beyond July 1, 2008 to September 1, 2008.

The ministry's argument is that pursuant to the legislation, when appellant's daughter reached age six, the base threshold income level for her daughter fell from \$1,500 to \$515 per month and the resulting reduction in threshold, together with application of the requirements set out in the legislation, resulted in appellant being ineligible for a child care subsidy.

The *Child Care Subsidy Regulation*, Section 7 (1) provides:

An applicant is not eligible for a child care subsidy for a child receiving a type of child care if

- (a) the family's monthly net income exceeds the child's threshold, and
- (b) the result of the calculation under section 8(2) for the child is not more than zero

The *Child Care Subsidy Regulation (CCS Regulation)*, Section 8(2) provides:

If a family's monthly net income exceeds a child's threshold, the amount of child care subsidy for the child in respect of a type of child care is $A - B$ where $A =$ the amount set out in Schedule A or the parent fee, whichever is less, for the type of child care; $B =$ the amount of A for the child, divided by the sum of the amounts of A for all children in the family receiving child care . . . multiplied by 50% of the amount by which the family's monthly net income exceeds the child's threshold.

Applying the relevant legislation, the appellant's monthly net income based on an average of appellant's two pay statements before the ministry is \$2,566.68 [**\$1,191.64 and \$1,175.60 plus \$1.00 added back to each pay period for a social club deduction resulting in a total of the two samples of \$2,369.24 divided by two = \$1,184.62 (average) multiplied by 26 pay periods in a year and divided by 12 months = \$2,566.68**].

ATTACH EXTRA PAGES IF NECESSARY

The child's threshold monthly income exemption of \$1,597 [**\$1,082 plus \$515 (CCS Regulation, Section 10 (1), (2) and (3)(b))**] when deducted from the monthly income of \$2,566.68 results in a net amount of \$969.68 which when multiplied by 50% results in \$484.84 (parent's fee for child care) and because this latter amount exceeds the child care subsidy of \$415 set out in Schedule A of the CCS Regulation, the eligible child care subsidy is zero [**$\$2,566.68 - \$1,597.00 = \$969.68 \times 50\% = \484.84 ; $\$415.00 - \$484.84 = (\$69.84)$ a minus quantity, or zero].**

Applying the relevant legislation to the additional pay statements submitted by appellant results in a monthly net income of \$2,433.77 still resulting in a child care subsidy of zero [**$\$959.66 + \$1.00 + \$1,284.90 + \$1.00 = \$2,246.56/2 = \$1,123.28 \times 26/12 = \$2,433.77 - \$1,597.00 = \$836.77 \times 50\% = \$418.39$; $\$415.00 - \$418.39 = (\$3.39)$ a minus quantity, or zero].**

The panel finds that there is no provision in the child care legislation which would assist appellant with living expenses (other than child care if she were eligible); therefore, the panel concludes that the ministry's reconsideration decision was a reasonable application of the applicable enactment in the circumstances of the appellant under Employment and Assistance Act Section 24(2)(a) and confirms the ministry's decision.