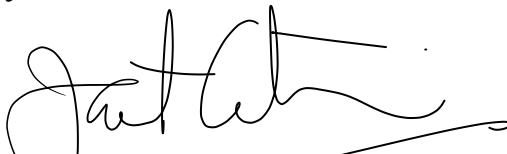


PROVINCE OF BRITISH COLUMBIA

ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL

Order in Council No. 426

, Approved and Ordered July 8, 2024


Lieutenant Governor

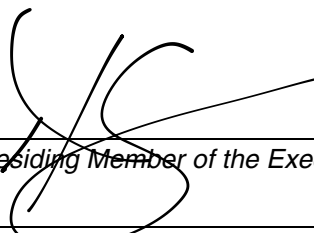
Executive Council Chambers, Victoria

On the recommendation of the undersigned, the Lieutenant Governor, by and with the advice and consent of the Executive Council, orders that, effective September 1, 2024,

- (a) the *Early Learning and Child Care Act*, S.B.C. 2021, c. 22, is brought into force,
- (b) the Child Care Subsidy Regulation, B.C. Reg. 74/97, is repealed, and
- (c) the attached Early Learning and Child Care Regulation is made.



Minister of Education and Child Care



Presiding Member of the Executive Council

(This part is for administrative purposes only and is not part of the Order.)

Authority under which Order is made:

Act and section: *Early Learning and Child Care Act*, S.B.C. 2021, c. 22, ss. 21 and 31

Other: OIC 271/97

R10786337

EARLY LEARNING AND CHILD CARE REGULATION

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PART 1 – INTERPRETATION AND APPLICATION

Definitions

- 1 In this regulation:
 - “**Act**” means the *Early Learning and Child Care Act*;
 - “**adjusted annual income**” means the income of a family unit, calculated under any of the following:

- (a) section 15 [*calculating adjusted annual income*];
- (b) section 16 (5) [*decrease in adjusted annual income*];
- (c) section 16 (10) (b) [*increase in adjusted annual income*];

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

“care surrounding a school day” means child care provided to children enrolled in school during a period beginning no earlier than 6 a.m. and ending no later than 7 p.m. on any of the following:

- (a) days in session, as defined in the School Calendar Regulation;
- (b) Family Day, Good Friday, Easter Monday, Victoria Day, Labour Day, Thanksgiving Day or Remembrance Day;

“Child Care Service Centre” means the government office responsible for administering the payment of a child care benefit on behalf of the minister;

“child with support needs” means a child

- (a) who is experiencing a developmental delay or disability, and
- (b) who, in the minister’s opinion, requires additional support services to optimize the child’s development, functional abilities and quality of life;

“dependant”, in relation to a parent, means either of the following:

- (a) a spouse of the parent who resides with the parent;
- (b) a dependent child of the parent who resides with the parent;

“dependent child” means a child, other than a child who is 18 years of age and is a person with disabilities, who

- (a) resides in the parent’s place of residence, and
- (b) relies on the parent for the necessities of life;

“director” has the same meaning as in the *Child, Family and Community Service Act*;

“eligible licensed child care facility” has the meaning given to it in section 2;

“employment-related program” means a program

- (a) delivered for the purpose of assisting unemployed or underemployed persons to search for or overcome barriers to, or to train for or obtain, employment or self-employment, and
- (b) in which a person participates for a specified period of time or until that person obtains employment or self-employment;

“enrolled in school” means enrolled in an educational program, in relation to kindergarten to grade 12 education, provided under any of the following:

- (a) the *School Act*;
- (b) the *Independent School Act*;
- (c) a Nisga’a law;
- (d) a law of a treaty first nation;

“family unit” means a parent and the parent’s dependants;

“Indigenous authority” has the same meaning as in the *Child, Family and Community Service Act*;

“Indigenous law” has the same meaning as in the *Child, Family and Community Service Act*;

“licence-not-required child care facility” means a child care facility

- (a) the setting of which is the home of the child care provider, unless the home is the home of the child receiving child care in the setting,
- (b) that is not registered under the Child Care Resource and Referral Program, established by the government, and
- (c) that is not required to be licensed under the *Community Care and Assisted Living Act*;

“licensed preschool program” means a child care program described in section 2 (c);

“month” means a calendar month;

“personal information” has the same meaning as in the *Freedom of Information and Protection of Privacy Act*;

“person with disabilities” means a person who is at least 18 years of age and is approved for the receipt of, or is receiving, a benefit or service under a program of the government of British Columbia or Canada to assist the person to perform daily living activities because the person’s capacity to perform those activities is restricted by that person’s physical or mental impairment;

“registered licence-not-required child care facility” means a child care facility

- (a) the setting of which is the home of the child care provider, unless the home is the home of the child receiving child care in the setting,
- (b) that is registered under the Child Care Resource and Referral Program, established by the government, and
- (c) that is not required to be licensed under the *Community Care and Assisted Living Act*;

“spouse” has the meaning given to it in section 3;

“young parent program” means a child care program

- (a) that is offered at or near a secondary school,
- (b) through which child care is provided to children whose parents are completing their secondary education, and
- (c) that is approved by the minister for the purposes of this regulation.

Meaning of “eligible licensed child care facility”

2 For the purposes of a child care benefit under this regulation, a licensed child care facility is an eligible licensed child care facility if any of the following child care programs, as described in section 2 (1) of the Child Care Licensing Regulation, are provided at the child care facility:

- (a) Group Child Care (Under 36 Months);
- (b) Group Child Care (30 Months to School Age);
- (c) Preschool (30 Months to School Age);

- (d) Group Child Care (School Age);
- (e) Family Child Care;
- (f) Multi-Age Child Care;
- (g) In-Home Multi-Age Child Care;
- (h) School Age Care on School Grounds.

Meaning of “spouse”

- 3** For the purposes of this regulation, a person is the spouse of a parent if
- (a) the person and the parent are married to each other,
 - (b) the person and the parent, together, acknowledge to the minister that they are residing together in a marriage-like relationship, or
 - (c) the person
 - (i) has been residing with the parent for at least the previous 3 consecutive months or 9 of the previous 12 months, and
 - (ii) has a relationship with the parent that the minister is satisfied demonstrates the following characteristics consistent with a marriage-like relationship:
 - (A) financial dependence or interdependence;
 - (B) social and familial interdependence.

Determining whether person is of school age

- 4** (1) In this section, “**school year**” means the period beginning on July 1 and ending on the following June 30.
- (2) For the purposes of this regulation, except in a description of a child care program set out in section 2, the following rules apply in determining whether a person is of school age:
- (a) the person is deemed to be of school age beginning on September 1 in a school year if the person will have reached 5 years of age on or before December 31 of that school year;
 - (b) the person is deemed to continue to be of school age until the end of the school year in which the person reaches 19 years of age.

Determining duration of child care

- 5** (1) For the purposes of a child care benefit under this regulation, child care is considered to be provided as follows:
- (a) for a full day, if the child care is provided
 - (i) for more than 4 hours in the day, or
 - (ii) for 4 hours or less in the day but both before and after school that day;
 - (b) for a half day, if the child care is provided for 4 hours or less in the day, unless the child care is provided both before and after school that day;
 - (c) full time, if the child care is provided for the equivalent of at least 20 full days in a month;

- (d) part time, if the child care is provided for less than the equivalent of 20 days in a month.
- (2) For the purposes of determining, under subsection (1) (c) or (d), whether child care is provided full time or part time, 2 half days are the equivalent of one full day.

When care and supervision by parent is child care

- 6 (1) For the purposes of section 2 (b) [*application of Act*] of the Act, the care and supervision of a child by the child's parent constitutes child care for the purposes of the Act, and the Act applies, if the parent provides the care and supervision to the child in a child care facility in any of the following capacities:
 - (a) as an employee;
 - (b) under contract;
 - (c) as a volunteer;
 - (d) as a student completing a practical component of an educational program.
- (2) For certainty, the Act does not apply to a parent's care and supervision of the parent's child in a child care facility if the parent is an owner of the business through which the child care facility is operated.

Qualifying child care

- 7 (1) The minister may pay a child care benefit for a child, in accordance with this regulation, if a class of child care set out in column 1 of the applicable table in the Schedule 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 only if the child care is provided by a person
 - (a) who is not a relative of the child or a dependant of the child's parent, and
 - (b) who does not reside in the child's home.
- (3) Subject to section 8 (2), if a child is receiving child care in 2 or more child care facilities that are in different classes of child care facility for which the minister may pay a child care benefit, the minister may pay a child care benefit for child care provided to the child in each of those child care facilities.

Child care benefits in relation to licensed preschool programs

- 8 (1) This section applies in relation to a child who has reached 29 months of age if
 - (a) the child has not reached school age, or
 - (b) the child has reached school age, but is not enrolled in school.
- (2) If the minister pays a child care benefit for a child to receive 20 full days of child care in a month in a child care facility, other than through a child care program

set out in section 2 (a), (b), (c), (d), (f) or (h), the minister may pay an additional child care benefit for that child to receive child care for up to 20 half days in a month for child care received by the child through a licensed preschool program.

- (3) The additional child care benefit may be paid under subsection (2) beginning on the first day of the month in which a child reaches 29 months of age.

PART 2 – ELIGIBILITY FOR CHILD CARE BENEFITS

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).

Qualifying reasons for child care

- 10** (1) Subject to subsection (3), for the purposes of section 9 (3) (b), all of the following are qualifying reasons for which child care may be received:
 - (a) the child care is arranged or recommended by a director;
 - (b) the child care is arranged or recommended by an applicable Indigenous authority;
 - (c) the child care is recommended by Community Living British Columbia, established under the *Community Living Authority Act*, or by a service provider under contract with Community Living British Columbia, in respect of a child who has a parent approved for and receiving community living support under that Act and the minister is satisfied that the child care is needed;
 - (d) the minister is satisfied that the child care is needed for a reason specified in subsection (2) of this section.
- (2) For the purposes of subsection (1) (d), the following reasons are specified:
 - (a) in relation to a single-parent family unit, the parent

- (i) is employed or self-employed,
 - (ii) attends an educational institution,
 - (iii) is seeking employment or participating in an employment-related program, or
 - (iv) has a medical condition that interferes with the parent’s ability to care for the parent’s child;
- (b) in relation to a 2-parent family unit,
- (i) each parent is employed or self-employed, attending an educational institution or participating in an employment-related program,
 - (ii) one parent is engaged in an activity referred to in subparagraph (i) and the other parent is seeking employment or has a medical condition that interferes with that parent’s ability to care for that parent’s child, or
 - (iii) each parent has a medical condition that interferes with that parent’s ability to care for their child.
- (3) The reasons in subsection (1) do not apply in relation to child care provided through a licensed preschool program unless the child care is provided to a child enrolled in school.

Citizenship or alternative requirements

- 11** For the purposes of section 9 (3) (c), an applicant must be one of the following:
- (a) a Canadian citizen;
 - (b) a person who is authorized under an enactment of Canada to take up permanent residence in Canada;
 - (c) a person who is determined under the *Immigration and Refugee Protection Act* (Canada) to be a Convention refugee or a person in need of protection.

Income requirements

- 12** Unless an exception under section 13 (2) applies, for the purposes of section 9 (3) (d), the adjusted annual income of an applicant’s family unit must be less than the following:
- (a) \$70 000, if the applicant’s child is receiving child care in
 - (i) a licence-not-required child care facility, or
 - (ii) the child’s home;
 - (b) \$85 000, if the applicant’s child is receiving child care in a registered licence-not-required child care facility;
 - (c) \$111 000, if the applicant’s child is receiving child care in an eligible licensed child care facility.

Exceptions to income requirements

- 13** (1) In this section:
- “**care**”, when used in relation to the care of a child by a person, means physical care and control of the child;

“custody” includes care and guardianship of a child;

“guardianship” includes all the rights, duties and responsibilities of a parent.

- (2) The income requirements under section 12 do not apply to an applicant’s family unit for the purposes of section 9 (3) (d) if the child care is provided to a child in relation to whom any of the following apply:
- (a) the applicant has, in relation to the child, entered into an agreement with a director under section 8 of the *Child, Family and Community Service Act*;
 - (b) the applicant, by agreement under section 94 of the *Child, Family and Community Service Act*, carries out any of a director’s rights and responsibilities with respect to care, custody or guardianship of the child;
 - (c) the applicant has interim or temporary custody of the child under an order of the court under section 35 (2) (d), 41 (1) (b), 42.2 (4) (c), 49 (7) (b) or 54.01 (9) (b) of the *Child, Family and Community Service Act*;
 - (d) custody of the child has been permanently transferred to the applicant under an order of the court under section 54.01 (5) or 54.1 (3) of the *Child, Family and Community Service Act*;
 - (e) the applicant has custody of the child under an order of the court under section 42.2 (4) (a) of the *Child, Family and Community Service Act*, if the applicant is the other person referred to in section 42.2 (4) (a) (i) of that Act;
 - (f) the child is receiving assistance under the authority of the Child in the Home of a Relative Program Transition Regulation and the applicant is the relative with whom that child resides;
 - (g) the child is receiving assistance under a program, similar in nature to the program referred to in paragraph (f), provided
 - (i) on a reserve, within the meaning of the *Indian Act* (Canada), by the government of Canada, or
 - (ii) by the Nisga’a Nation or a treaty first nation;
 - (h) the applicant
 - (i) has been given care of the child by a parent of the child, and
 - (ii) has, under an Indigenous law, entered into an agreement with an Indigenous authority under which the Indigenous authority contributes to the support of the child;
 - (i) the applicant, by agreement under an Indigenous law with an Indigenous authority, carries out any of the Indigenous authority’s rights and responsibilities with respect to care, custody or guardianship of the child;
 - (j) the applicant has custody of the child under an Indigenous law.

Information and records requirements

- 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.

Calculating adjusted annual income

- 15** (1) In this section:
- “**notice of assessment**” or “**notice of reassessment**” means the notice of assessment or notice of reassessment issued to a person by the Canada Revenue Agency under the *Income Tax Act* (Canada);
 - “**previous year**” means the calendar year previous to the current calendar year.
- (2) The adjusted annual income of an applicant's family unit is calculated as follows:
- (a) by adding together the annual income of the applicant and the annual income of the applicant's spouse, if any, each calculated or determined under subsection (3) or (4), as applicable;

(b) by deducting from the total amount calculated under paragraph (a) any applicable amount under subsection (6).

- (3) If a notice of assessment has been issued to an applicant or the applicant's spouse for either of the 2 calendar years before the current calendar year, for the purposes of subsection (2) (a), the annual income of the person is calculated by the following formula:

$$\text{annual income} = \text{gross income} - \text{deductions}$$

where

gross income = the amount of the person's income for the previous calendar year, or for the calendar year before the previous calendar year if a notice of assessment is not available for the person for the previous calendar year, as reported on line 15000 of one of the following:

- (a) the notice of reassessment issued to the person for the applicable calendar year;
- (b) if no notice of reassessment was issued to the person for the applicable calendar year, the notice of assessment issued to the person for the applicable calendar year;

deductions = the amount, if any, reported on line 14500 of the applicable notice of reassessment or notice of assessment.

- (4) If a notice of assessment has not been issued to an applicant or the applicant's spouse for either of the 2 calendar years before the current calendar year, for the purposes of subsection (2) (a), the annual income of the person is the amount determined by the minister based on the information given to the minister under subsection (5).
- (5) For the purposes of subsection (4), a person must give to the minister a statement, in the form required by the minister, attesting to the person's total income from all sources except social assistance payments, expressed in Canadian dollars, for the calendar year preceding the current calendar year.
- (6) For the purposes of subsection (2) (b), the following amounts may be deducted, if applicable:
- (a) \$0, for the first dependant in a parent's family unit who is not a child with support needs;
 - (b) \$2 000, for each additional dependant in the parent's family unit;
 - (c) \$3 000, for each child in the parent's family unit who is a child with support needs.

Calculating income after income review

- 16 (1) In this section:

“**estimated annual income**”, in relation to a relevant period, means a person's estimated total income from all sources except social assistance payments, expressed in Canadian dollars, for the relevant period;

“**relevant period**” means one of the following:

- (a) in relation to a decrease in income, the 12-month period beginning the month after the month in which a request for review is made under this section;
 - (b) in relation to an increase in income, the 12-month period beginning the month after the month in which the income increased.
- (2) An applicant may request a review of income under this section if the income of the applicant or the applicant's spouse has decreased.
 - (3) An applicant must request a review under subsection (2) by giving to the minister a statement, in the form required by the minister, attesting to the estimated annual income, for the relevant period, of the person whose income has decreased.
 - (4) If the income of an applicant or the applicant's spouse has decreased, despite section 15 (3), the minister may determine the annual income of the person based on the information provided in the statement under subsection (3) of this section.
 - (5) On receipt of a request for review under subsection (2), if the minister is satisfied that the decrease in income of the person may result in an increase in the amount of child care benefit, despite section 15 (2), the minister must calculate the adjusted annual income of the applicant's family unit in accordance with the following formula:

adjusted annual income = (decreased annual income + other annual income) – applicable deductions

where

decreased annual income = for the person whose income has decreased, the lesser of the following:

- (a) the person's annual income as determined by the minister under subsection (4) of this section;
- (b) the person's annual income as calculated or determined under section 15 (3) or (4), as applicable;

other annual income = for the other person, the annual income of that person as calculated or determined under section 15 (3) or (4) or this section, as applicable;

applicable deductions = the total of all amounts that may be deducted under section 15 (6).

- (6) If, after conducting a review requested under subsection (2), the minister is satisfied that the adjusted annual income of the applicant's family unit calculated under subsection (5) will result in an increase in the amount of child care benefit, the minister must redetermine the amount of the child care benefit under section 18 [*amount of child care benefits*] using the adjusted annual income calculated under subsection (5) of this section as the basis for that determination.
- (7) If, under subsection (6), the minister determines that an applicant is eligible for an increase in the amount of the child care benefit, the increased amount of child care benefit may be paid as follows:

- (a) in the case of an applicant in respect of whom a determination about eligibility of a child care benefit has not yet been made, from the first day of the month in which the applicant completes an application for the child care benefit;
 - (b) in any other case, despite section 20 (1), from the first day of the month after the month in which the income review was requested.
- (8) Subsection (9) applies if
- (a) an increased child care benefit is payable to or on behalf of an applicant as a result of a review under subsection (2),
 - (b) the income of the person that resulted in the request for review has since increased, and
 - (c) the adjusted annual income of the applicant's family unit was calculated under subsection (5) using the annual income of the person determined by the minister under subsection (4).
- (9) If this subsection applies, the applicant must give to the minister a statement, in the form required by the minister, attesting to the estimated annual income, for the relevant period, of the person whose income has increased.
- (10) On receipt of a statement under subsection (9) about the estimated annual income of an applicant or the applicant's spouse,
- (a) despite section 15 (3), the minister may determine the annual income of that person based on the information provided in the statement, and
 - (b) if the minister is satisfied that the increase in income may result in a decrease in the amount of the child care benefit, the minister must, despite section 15 (2), calculate the adjusted annual income of the applicant's family unit in accordance with the following formula:

adjusted annual income = (increased annual income + other annual income) – applicable deductions

where

increased annual income	=	for the person whose income has increased, the lesser of the following:
		(a) the person's annual income as determined by the minister under paragraph (a) of this subsection;
		(b) the person's annual income as calculated or determined under section 15 (3) or (4), as applicable;
other annual income	=	for the other person, the annual income of the person as calculated or determined under section 15 (3) or (4) or this section, as applicable;
applicable deductions	=	the total of all amounts that may be deducted under section 15 (6).

- (11) If the minister is satisfied that the adjusted annual income of the applicant's family unit calculated under subsection (10) (b) will result in a decrease in the amount of the child care benefit, the minister must redetermine the amount of the

child care benefit under section 18 using the adjusted annual income calculated under subsection (10) (b) of this section as the basis for that determination.

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.

**PART 3 – ADMINISTRATION AND ENFORCEMENT
OF CHILD CARE BENEFITS**

Amount of child care benefits

- 18** Subject to section 19, the minister may pay to or on behalf of an applicant the amount of a child care benefit determined in accordance with the Schedule.

Payment of increased child care benefits

- 19** (1) The minister may pay a child care benefit in an amount that is greater than an amount determined under section 18 if
- (a) the minister considers the greater amount necessary to ensure that child care is provided to a child, and
 - (b) the child care is arranged or recommended by a director after a director has
 - (i) offered support services or agreements to the child and family under section 16 (2) (a) of the *Child, Family and Community Service Act*,
 - (ii) begun an assessment of the family under section 16 (2) (b.1) of the *Child, Family and Community Service Act*, or
 - (iii) begun an investigation, under section 16 (2) (c) of the *Child, Family and Community Service Act*, of the child's need for protection.
- (2) The minister may pay a child care benefit in an amount that is greater than an amount determined under section 18 if
- (a) the minister considers the greater amount necessary to ensure that child care is provided to a child, and
 - (b) the child care is arranged or recommended by an applicable Indigenous authority after
 - (i) the Indigenous authority has received information giving rise to a concern for the child's safety, and
 - (ii) one or more of the following steps have been taken under an Indigenous law to address the concern:
 - (A) offering support services or agreements to the child and family;
 - (B) beginning an assessment of the child's family;
 - (C) beginning an investigation of the child's need for protection.

- (3) Without limiting subsection (1) or (2), the minister may pay a child care benefit in an amount that is greater than an amount determined under section 18 if
 - (a) the minister considers the greater amount necessary to ensure that child care arranged or recommended by the director or Indigenous authority is provided to a child, and
 - (b) the child resides with an applicant, other than a parent in respect of whom a step referred to in subsection (1) (b) (i), (ii) or (iii) or (2) (b) (ii) (A), (B) or (C) was taken.

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.

Payment during child's absence

- 21**
- (1) Subject to subsection (2), the minister may continue to pay a child care benefit for child care provided to a child in an eligible licensed child care facility, a licence-not-required child care facility or a registered licence-not-required child care facility as follows:
 - (a) for a period of up to 2 weeks in one month, to a maximum of 4 weeks in a calendar year, if the child is absent because the child is on vacation;
 - (b) for a period of up to 2 weeks in one month if the child is absent because the child or child's parent is ill.
 - (2) The minister may continue to pay a child care benefit for any period the minister determines if
 - (a) the child care for which the child care benefit is being paid is provided through a young parent program, and
 - (b) the child for whom the child care benefit is being paid is absent for any reason.
 - (3) Unless child care is provided to a child through a young parent program, the child care provider must record the reason for the child's absence in an attendance register.

Payment after child's withdrawal

- 22**
- (1) If, at any time before the end of a month, a child for whom a child care benefit is being paid is withdrawn from child care provided in a child care facility, other than the child's home, the minister may do the following:
 - (a) if the vacancy is filled before the end of the month, the minister may pay to the child care provider the amount of the child care benefit that would otherwise be payable for the month prorated based on the number of days the child received child care in that month;

- (b) if the vacancy is not filled before the end of the month, subject to subsection (2), the minister may pay to the child care provider one of the following amounts:
 - (i) the amount of the child care benefit that would otherwise be payable for the month, if the child is withdrawn after the 15th of that month;
 - (ii) 1/2 of the amount of the child care benefit that would otherwise be payable for the month, if the child is withdrawn on or before the 15th of the month.
- (2) If, at any time before the end of a month, a child for whom a child care benefit is being paid is withdrawn from child care provided through a young parent program, the minister may pay to the child care provider the amount of the child care benefit that would otherwise be payable for the month even if the vacancy is not filled before the end of the month.

Accounts and payment

- 23**
- (1) In this section, “**statutory holiday**” means a holiday other than a Sunday.
 - (2) Subject to this section, the minister must pay a child care benefit as follows:
 - (a) subject to section 7 (2) [*qualifying child care*], directly to a parent for child care provided to a child in the child’s home;
 - (b) directly to the child care provider providing child care in a child care facility referred to in section 7 (1) (a), (b) or (c).
 - (3) The minister may not pay a child care benefit under subsection (2) (b) to a child care provider for a day on which the child care facility in which child care is provided is closed, unless the day is a statutory holiday.
 - (4) For the purposes of subsection (2) (b), a child care provider must submit a bill for a child care benefit to the minister in the form and manner required by the minister.
 - (5) If a licence issued for a child care facility under the *Community Care and Assisted Living Act* is cancelled, the minister may, for up to 30 days after the date the licence is cancelled, accept a bill for a child care benefit for child care provided in that facility before the licence was cancelled.

Duty to provide information

- 24**
- (1) For the purposes of section 8 (1) [*duty to provide information*] of the Act, a recipient of a child care benefit must, as soon as possible after the change, notify the minister of any change in circumstances affecting the recipient’s eligibility for the child care benefit.
 - (2) For the purposes of section 8 (2) of the Act, a child care provider must, as soon as possible after the change, notify the minister of any change in the operation of the child care provider’s child care facility affecting the payment of a child care benefit.
 - (3) A recipient or child care provider must notify the minister under subsection (1) or (2), as applicable, by giving notice to an employee in the Child Care Service Centre in writing or by telephone.

Recovery of debts

- 25** The following Acts are prescribed for the purposes of section 11 (2) (b) (ii) [*recovery of debts*] of the Act:
- (a) *Employment and Assistance Act*;
 - (b) *Employment and Assistance for Persons with Disabilities Act*.

PART 4 – RECONSIDERATION AND APPEALS

Reconsideration of decisions and status pending reconsideration

- 26**
- (1) In this section, “**business day**” means a day other than Saturday or a holiday.
 - (2) For the purposes of section 13 (3) [*reconsiderations*] of the Act, a person who requests the minister to reconsider a decision referred to in section 13 (1) or (2) of the Act must make that request as follows:
 - (a) in the form required by the minister;
 - (b) by delivering the request to the Child Care Service Centre, in accordance with subsection (3) of this section, within 20 business days after the person received notice of the minister’s decision.
 - (3) A request for reconsideration must be delivered by mail or fax or by submitting the request through the online platform known as My Family Services.
 - (4) A request for reconsideration that is delivered by mail is deemed to have been delivered 3 business days after the date it is mailed.
 - (5) Within 10 business days after receiving a request for reconsideration, the minister must
 - (a) reconsider the decision in respect of which the request was made, and
 - (b) give to the person who delivered the request notice of the minister’s decision on the reconsideration.
 - (6) A notice of decision under subsection (5) (b) must be in writing and must include the minister’s reasons for the decision.
 - (7) If a person delivers a request for reconsideration of a decision of the minister that results in a discontinuation or reduction of a child care benefit, the minister’s decision is set aside and the child care benefit is reinstated until the minister gives to the person notice under subsection (5) (b) of the result of the reconsideration.
 - (8) For certainty, a request for reconsideration of a decision of the minister that results in a refusal of a child care benefit does not operate to set aside the minister’s decision during the period of time before notice of the result of the reconsideration is given under subsection (5) (b).

Status of decisions pending appeal

- 27**
- (1) On the commencement of an appeal under section 84 of the Employment and Assistance Regulation of a decision on a reconsideration by the minister that results in a discontinuation or reduction of a child care benefit, the decision is set aside, and the child care benefit is reinstated, until the tribunal

- (a) hears the appeal, and
 - (b) delivers a decision to the appellant in accordance with that regulation.
- (2) For certainty, an appeal under section 84 of the Employment and Assistance Regulation of a decision on a reconsideration by the minister that results in a refusal to pay a child care benefit does not operate to set aside the minister's decision on the reconsideration during the period before a decision on the appeal is delivered under subsection (1) (b).

PART 5 – MISCELLANEOUS

Payment of child care benefits during COVID-19 emergency

28 (1) In this section:

“COVID-19 emergency” means the emergency that is the subject of the notice provided on March 17, 2020 by the provincial health officer under section 52 (2) of the *Public Health Act*;

“eligible child” means

- (a) a child in respect of whom a child care benefit is being paid, and
- (b) a child in respect of whom a child care benefit is not being paid if
 - (i) an application for the child care benefit has been received by the minister, and
 - (ii) the minister has determined that the applicant was eligible for the child care benefit at the time the application was received;

“end of the COVID-19 emergency” means the date on which the provincial health officer provides notice under section 59 (b) of the *Public Health Act* that the COVID-19 emergency has passed.

- (2) Subsection (3) applies if the minister is satisfied that, for a reason related to the COVID-19 emergency,
- (a) an eligible child is or has been absent, for any period of time, from a child care facility referred to in section 7 (1) (a), (b) or (c) [*qualifying child care*], or
 - (b) an eligible child's parent or parents, as the case may be, ceased to need the child care for a reason set out in section 10 (2) [*qualifying reasons for child care*].
- (3) The minister may, in respect of an eligible child, pay or continue to pay a child care benefit for child care provided to the child in a child care facility referred to in section 7 (1) (a), (b) or (c) as follows:
- (a) for a child referred to in paragraph (a) of the definition of “eligible child” in subsection (1) of this section, the minister may pay an amount based on the number of full days or the number of half days in a month for which the child was receiving child care immediately before a circumstance described in subsection (2) (a) or (b) of this section arose;
 - (b) for a child referred to in paragraph (b) of the definition of “eligible child” in subsection (1) of this section, the minister may pay an amount based on

the number of full days or the number of half days in a month for which the child would have received child care but for a circumstance described in subsection (2) (b) of this section.

- (4) Despite section 23 (3) [*accounts and payment*], the minister may not pay a child care benefit to a child care provider for child care provided in a child care facility referred to in section 7 (1) (a), (b) or (c) for any day on which the child care facility is closed if the minister is satisfied that the closure is related to the COVID-19 emergency.
- (5) This section ceases to apply as follows:
 - (a) if the end of the COVID-19 emergency occurs on or before the 15th day of a month, at the end of the month;
 - (b) if the end of the COVID-19 emergency occurs after the 15th day of a month, at the end of the following month.

SCHEDULE

Interpretation and application

- 1 (1) In this Schedule:
 - “**monthly benefit**” means the amount of child care benefit payable by the minister for each month of child care received by a child;
 - “**parent fee**” means a fee charged to a parent by a child care provider for child care for which the minister may pay a child care benefit;
 - “**threshold amount**” means one of the following:
 - (a) \$24 000, for a child who is receiving child care in either
 - (i) a licence-not-required child care facility, or
 - (ii) the child’s home;
 - (b) \$39 000, for a child who is receiving child care in a registered licence-not-required child care facility;
 - (c) \$45 000, for a child who is receiving child care in an eligible licensed child care facility.
- (2) In this Schedule,
 - (a) an amount set out in column 4 of a table is the maximum monthly benefit payable for the class of child care set out opposite in column 1 of the table and the age of child set out opposite in column 2 of the table, and
 - (b) a care code set out in column 3 of a table is the identifier assigned in respect of a child care benefit for the class of child care set out opposite in column 1 of the table and the age of child set out opposite in column 2 of the table.
- (3) For the purposes of determining under this Schedule the amount of a child care benefit payable for a month in which child care is provided,
 - (a) the maximum monthly benefit for a class of child care set out in column 1 of a table in the Schedule applies on the first day of the month in which a

child reaches the age of 19 months, 29 months and 37 months, as applicable, and

- (b) if a child of school age is receiving child care that is both within the meaning of care surrounding a school day and another class of child care, the maximum monthly benefit payable for care surrounding a school day applies.

Maximum monthly benefit for full time child care

- 2 For each month a child is receiving full time child care, the amount of a child care benefit payable by the minister to or on behalf of the child's parent is the lesser of the applicable parent fee and the applicable maximum monthly child care benefit if
 - (a) the adjusted annual income of the parent's family unit is equal to or lesser than the threshold amount applicable to the child care facility in which the child care is provided, or
 - (b) section 13 (2) [*exceptions to income requirements*] applies in relation to the child.

Monthly benefit for full time child care in eligible licensed child care facilities

- 3 (1) If the adjusted annual income of a parent's family unit is more than \$45 000 but not more than \$60 000, for each month the parent's child is receiving full time child care in an eligible licensed child care facility, the amount of a child care benefit payable by the minister to or on behalf of the parent is the lesser of the applicable parent fee and the amount calculated by the following formula:

$$\text{amount} = \text{maximum benefit} \times \left[1 - \frac{(\text{adjusted annual income of family unit} - \$45\,000) \times 0.272}{\$15\,000} \right]$$

where

maximum benefit = the amount set out in column 4 of table 1 for the applicable class of child care set out opposite in column 1 and the applicable age of child set out opposite in column 2.

- (2) If the adjusted annual income of a parent's family unit is more than \$60 000 but not more than \$80 000, for each month the parent's child is receiving full time child care in an eligible licensed child care facility, the amount of a child care benefit payable by the minister to or on behalf of the parent is the lesser of the applicable parent fee and the amount calculated by the following formula:

$$\text{amount} = \text{maximum benefit} \times 0.728$$

where

maximum benefit = the amount set out in column 4 of table 1 for the applicable class of child care set out opposite in column 1 and the applicable age of child set out opposite in column 2.

- (3) If the adjusted annual income of a parent's family unit is more than \$80 000 but less than \$111 000, for each month the parent's child is receiving full time child

care in an eligible licensed child care facility, the amount of a child care benefit payable by the minister to or on behalf of the parent is the lesser of the applicable parent fee and the amount calculated by the following formula:

$$\text{amount} = (\text{maximum benefit} \times 0.728) \times \left[1 - \frac{(\text{adjusted annual income of family unit} - \$80\,000)}{\$31\,000} \right]$$

where

maximum benefit = the amount set out in column 4 of table 1 for the applicable class of child care set out opposite in column 1 and the applicable age of child set out opposite in column 2.

Table 1
Maximum Benefits for Eligible Licensed Child Care Facilities

Column 1 Class of Child Care	Column 2 Age of Child	Column 3 Care Code	Column 4 Maximum Monthly Benefit
Group Child Care, Multi-Age Child Care or School Age Care on School Grounds	child under 19 months	G1	\$1 250
	child 19 months or over but under 37 months	G2	\$1 060
	child 37 months or over but who has not reached school age	G3	\$550
	child of school age	G4	\$415
Family Child Care or In-Home Multi-Age Child Care	child under 19 months	J1	\$1 000
	child 19 months or over but under 37 months	J2	\$1 000
	child 37 months or over but who has not reached school age	J3	\$550
	child of school age	J4	\$415
Licensed preschool program	child 29 months or over but who has not reached school age or who has reached school age but who is not enrolled in school	N1	\$225
Care surrounding a school day	child of school age	L2	\$210

Monthly benefit for full time child care in registered licence-not-required child care facilities

- 4** If the adjusted annual income of a parent’s family unit is more than \$39 000 but less than \$85 000, for each month the parent’s child is receiving full time child care in a registered licence-not-required child care facility, the amount of a child care benefit payable by the minister to or on behalf of the parent is the lesser of the applicable parent fee and the amount calculated by the following formula:

$$\text{amount} = \text{maximum benefit} \times \left[1 - \frac{(\text{adjusted annual income of family unit} - \$39\,000)}{\$46\,000} \right]$$

where

maximum benefit = the amount set out in column 4 of table 2 for the applicable class of child care set out opposite in column 1 and the applicable age of child set out opposite in column 2.

**Table 2
Maximum Benefits for Registered Licence-not-required Child Care Facilities**

Column 1 Class of Child Care	Column 2 Age of Child	Column 3 Care Code	Column 4 Maximum Benefit per Month
Care surrounding a school day	child of school age	L2	\$210
Child care, other than care surrounding a school day	child under 19 months	R1	\$600
	child 19 months or over but under 37 months	R2	\$600
	child 37 months or over but who has not reached school age	R3	\$550
	child of school age	R4	\$415

Monthly benefit for full time child care in licence-not-required child care facilities

- 5 If the adjusted annual income of a parent’s family unit is more than \$24 000 but less than \$70 000, for each month the parent’s child is receiving full time child care in a licence-not-required child care facility, the amount of a child care benefit payable by the minister to or on behalf of the parent is the lesser of the applicable parent fee and the amount calculated the following formula:

$$\text{amount} = \text{maximum benefit} \times \left[1 - \frac{(\text{adjusted annual income of family unit} - \$24\,000)}{\$46\,000} \right]$$

where

maximum benefit = the amount set out in column 4 of table 3 for the applicable class of child care set out opposite in column 1 and the applicable age of child set out opposite in column 2.

**Table 3
Maximum Benefits for Licence-not-required Child Care Facilities**

Column 1 Class of Child Care	Column 2 Age of Child	Column 3 Care Code	Column 4 Maximum Benefit per Month
Care surrounding a school day	child of school age	L2	\$210

Child care, other than care surrounding a school day	child under 19 months	F1	\$438
	child 19 months or over but under 37 months	F2	\$404
	child 37 months or over	F3	\$354

Monthly benefit for full time child care in child's home

- 6 If the adjusted annual income of a parent's family unit is more than \$24 000 but less than \$70 000, for each month the parent's child is receiving full time child care in the child's home, the amount of a child care benefit payable to or on behalf of the parent is the lesser of the applicable parent fee and the amount calculated by the following formula:

$$\text{amount} = \text{maximum benefit} \times \left[1 - \frac{(\text{adjusted annual income of family unit} - \$24\,000)}{\$46\,000} \right]$$

where

maximum benefit = the amount set out in column 4 of table 4 for the applicable class of child care set out opposite in column 1 and the applicable age of child set out opposite in column 2.

**Table 4
Maximum Benefits for Child Care in Child's Home**

Column 1 Class of Child Care	Column 2 Age of Child	Column 3 Care Code	Column 4 Maximum Benefit per Month
Care surrounding a school day	1st child of school age unless another child in the family unit, who has not reached school age, is in care code H1 or H2	L2	\$210
	1st child of school age if another child in the family unit, who has not reached school age, is in care code H1 or H2	H4	\$147
	2nd child, unless the child is under 19 months	H4	\$147
	each child in addition to the 1st or 2nd child, as applicable	H4	\$147
Child care, other than care surrounding a school day	1st child under 19 months	H1	\$394
	1st child 19 months or over	H2	\$318
	2nd child under 19 months	H3	\$198
	2nd child, unless the child is under 19 months	H4	\$147

	each child in addition to the 1st or 2nd child, as applicable	H4	\$147
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Monthly benefit for child care through young parent programs

- 7 (1) Subject to subsection (2), for each month a child is receiving child care provided through a young parent program, the amount of a child care benefit payable by the minister to or on behalf of the child's parent is one of the following amounts:
- (a) despite sections 2 to 6 of this Schedule, for each month the child is receiving full time child care, \$1 500;
 - (b) despite section 8 of this Schedule, for each month the child is receiving part time child care, the amount calculated by the following formula:

$$\text{amount} = \left[\frac{(\text{number of half days} \times 0.5) + \text{number of full days}}{20} \right] \times \$1\,500$$

where

- number of half days = the number of half days in a month the child is receiving child care;
- number of full days = the number of full days in a month the child is receiving child care.

- (2) To be eligible for the monthly benefit under subsection (1), the child care provider operating the young parent program must confirm, in the form specified by the minister, that the parent of the child is participating in the young parent program.

Monthly benefit for part time child care

- 8 For each month a child is receiving part time child care through a child care program, the amount of a child care benefit payable by the minister to or on behalf of the parent is the lesser of the applicable parent fee and the amount calculated by the following formula:

$$\text{amount} = \left[\frac{(\text{number of half days} \times 0.5) + \text{number of full days}}{20} \right] \times \text{full time benefit amount}$$

where

- number of half days = the number of half days in a month the child is receiving child care;
- number of full days = the number of full days in a month the child is receiving child care;
- full time benefit amount = the amount of the child care benefit, determined under this Schedule, that would be payable if the child were receiving full time child care through the applicable child care program.

Monthly benefit for part time child care through licensed preschool programs

- 9 For each month a child is receiving part time child care through a licensed preschool program, despite section 8 of this Schedule, the amount of a child care benefit payable

by the minister to or on behalf of the parent is the lesser of the applicable parent fee and the amount calculated by the following formula:

$$\text{amount} = \left[\frac{\text{number of half days}}{20} \right] \times \text{full time benefit amount}$$

where

- number of half days = the number of half days in a month the child is receiving child care;
- full time benefit amount = the amount of the child care benefit, determined under this Schedule, that would be payable if the child were receiving full time child care through the licensed preschool program.

Monthly benefit for part time child care through care surrounding school day

- 10** For each month a child is receiving part time child care through care surrounding a school day, despite section 8 of this Schedule, the amount of a child care benefit payable by the minister to or on behalf of the parent is the lesser of the applicable parent fee and the amount calculated by the following formula:

$$\text{amount} = \left[\frac{(\text{number of half days} \times 0.83333) + \text{number of full days}}{20} \right] \times \text{full time benefit amount}$$

where

- number of half days = the number of half days in a month the child is receiving child care;
- number of full days = the number of full days in a month the child is receiving child care;
- full time benefit amount = the amount of the child care benefit, determined under this Schedule, that would be payable if the child were receiving full time child care through care surrounding a school day.