

APPEAL #

PART C – Decision under Appeal

The appellant appeals the ministry's reconsideration decision of November 22, 2011 in which the ministry denied the appellant's request for income assistance for the period from October 1, 2011 to December 31, 2011 under s. 16 of the *Employment and Assistance Regulation* on the basis that the appellant was ineligible for assistance as he was enrolled as a full time student during this time.

PART D – Relevant Legislation

Employment and Assistance Regulation, sections 1 (Definitions) and 16 (Effect of family unit including full-time student) ("EAR").

PART E – Summary of Facts

The appellant provided the following additional material prior to the hearing (attached to his notice of appeal and contained in the appeal materials):

1. Copy of StudentAid BC Revised Notification of Assessment to the appellant dated November 21, 2011 (1 page).
2. Copy of an email to the appellant from a Senior Verification Officer at StudentAid BC dated December 1, 2011 (1 page).
3. Typed letter from the appellant to the ministry regarding "reapplication of social assistance" dated December 30, 2011 in which the appellant described events that occurred in December 2011 (1 page).

Prior to the hearing, the appellant provided the following additional material (it was provided to the panel, and faxed to the ministry, but the ministry's representative did not have it at the hearing):

4. Copy of StudentAid BC Revised Notification of Assessment to the appellant dated November 21, 2011 (2 pages) (the first page was the same as document #1 above; the second page was the reverse side of document #1, but was not in the appeal materials).
5. A copy of a computer-generated exam schedule, with the appellant's handwriting identifying the document as "Exam Schedule Fall Term 2011".

The panel did not admit the additional evidence of documents #1, #2, #3, #4, and #5 as the information and records in these documents were not before the minister when the reconsideration decision being appealed was made, as per s. 22(4)(a) of the *Employment and Assistance Act*.

At the hearing, the appellant also provided the following material to the panel:

6. Copy of ministry form, Medical Report Persons with Persistent Multiple Barriers, completed by the appellant on April 29, 2009 and signed by a physician on April 23, 2009 (2 pages).
7. Copy of ministry form, Medical Report Persons with Persistent Multiple Barriers, completed by the appellant on May 4, 2011 (1 page – second page completed by physician not provided).

The Ministry did not object to the admission of these documents (#6 & #7). The panel admitted this additional evidence under s. 22(4)(a) of the *Employment and Assistance Act* as it is information that was before the minister when the reconsideration decision being appealed was made.

The appellant is a single recipient who has been designated a person with persistent multiple barriers (under s. 2 of the EAR) and who has been receiving assistance since November 2007. On October 26, 2011, the appellant contacted the ministry regarding his November 2011 assistance. He told the ministry that he was attending a post-secondary institution and that he had been attending since September 2011, but that he had not received his student loan funding. The ministry asked the appellant to submit confirmation of his course load (completed registration for each course) and repeated this request on October 27, 2011. On November 1, 2011, the ministry advised the appellant that he was denied income assistance. The appellant told the panel that from September through December 2011, he attended a post-secondary institution, taking 4 courses in a 17-week, full-time program, with the exams in December 2011. The appellant told the panel he received student loans during this period.

The panel makes the following findings of fact:

- The appellant is a single recipient, designated a person with persistent multiple barriers to employment;
- The appellant attended a post-secondary institution from September through December 2011 and received student loans during this time.

PART F – Reasons for Panel Decision

The issue on this appeal is the reasonableness of the ministry's reconsideration decision of November 22, 2011, denying the appellant income assistance for the months of October, November and December 2011 under s. 16 of the EAR on the basis that the appellant was enrolled as a full-time student from September 6 through December 21, 2011.

Section 1 of the EAR states that the definition of "funded program of studies" means a "program of studies for which student financial assistance may be provided to a student enrolled in it" and that the definition of "full-time student" has the same meaning as in the Canada Student Financial Assistance Regulations. Subsection 16(1)(a) of the EAR provides that a family unit is not eligible for income assistance for the period described in subsection (2) if a recipient is enrolled as a full-time student in a funded program of studies. Subsection 16(2) of the EAR states that the period referred to in subsection 16(1) extends from the first day of the month following the month in which classes commence and continues until the last day of the month in which exams in the relevant program of studies are held, and is not longer than one year.

At the hearing, the appellant told the panel that he was frustrated and confused by the legislation, referring to information he received from StudentAid BC indicating that he could receive both student loans and income assistance. The appellant told the panel that the ministry should have had the information from StudentAid BC at the time it made the reconsideration decision.

The ministry's position is that the denial of income assistance was reasonable. The ministry says that the appellant was enrolled in a full-time funded program of studies from September 6 through December 2011 and that under section 16 of the EAR, he cannot receive income assistance during this period. The ministry confirmed that the information presented by the appellant from StudentAid BC was not before the ministry at the time of the reconsideration decision.

The panel finds that the appellant was enrolled as a full-time student at a post-secondary institution from September 6, 2011 through December 31, 2011 and that he received some funding from StudentAid BC during this time. Accordingly, the panel finds that the ministry's decision to deny the appellant income assistance for the months of October, November and December 2011 under section 16 of the EAR on the basis that he was a full-time student in a funded program of studies is reasonably supported by the evidence. The panel confirms the reconsideration decision.