



**PART C – Decision under Appeal**

The decision under appeal is the ministry's Reconsideration Decision dated 16 April 2012 which found the appellant not eligible for income assistance pursuant to section 16 of the Employment and Assistance Regulation for the period 01 February 2012 to 30 April 2012 because the ministry held that he was enrolled as a full time student in a funded program of studies for the period 01 January 2012 to 30 April 2012.

**PART D – Relevant Legislation**

Employment and Assistance Regulation (EAR), sections 1 and 9  
Canada Student Financial Assistance Regulations (Canada)

[REDACTED]

## PART E – Summary of Facts

The panel notes that the decision under appeal is a reconsideration of a ministry decision dated 09 March 2012, which also addressed another matter that was subject to a separate reconsideration. The appeal record contains some evidence and argument relating to this other matter. The panel finds this other material is not relevant to the present appeal and has not been summarized below.

The evidence before the ministry at reconsideration consisted of the following:

- The appellant is a single employable person in receipt of income assistance since December 2012.
- On 23 February 2012 the appellant advised the ministry that he was doing on-line schooling.
- A screen print-out from the university's Student Financial Assistance System dated 24 February 2012 indicates:
  - the trimester has a start date of 01 January 2012 and an end date of 30 April 2012;
  - on the basis of estimated costs and resources, an assessment was made as of 08 December 2011 that he had an eligible need for and was awarded financial assistance;
  - that the appellant is enrolled in the second year of a 4 year diploma program; and
  - that his course load for the period is 60%.
- In the appellant's Request for Reconsideration dated 04 April 2012, under Reasons, the appellant writes:

"I am not doing "full-time" university. My three courses will be completed in 7 months, not 4. I only did one course from Oct. to April."

In his Notice of Appeal dated 26 April 2012, the appellant writes:

"My courses are not even stated yet. There is no way they will be completed by April 30 2012. The three courses will likely be completed by the end of August. Therefore I am not doing a 60% course load; more like a 30% course load."

At the hearing, the appellant confirmed that he did receive student financial assistance for the 3 courses he is taking. He explained that his university works on a 3 four-month trimester system so student financial assistance is based on that schedule. However, since the University allows him to take longer in completing his courses, he plans to finish each of them at different times in July and August. He said that other students are able to carry a full 5 course load and complete it within the trimester, but because he is "ridiculously busy" with other things going on in his life, he can only manage 3 courses at a time and has to spread them out beyond the 4 months to as many as 7 months. He stated has not applied for student financial assistance for the May-August trimester.

## PART F – Reasons for Panel Decision

The issue under appeal is whether the ministry reasonably determined that the appellant was not eligible for income assistance pursuant to section 16 of the EAR for the period 01 February 2012 to 30 April 2012 because the ministry held that he was enrolled as a full time student in a funded program of studies for the period 01 January 2012 to 30 April 2012.

The relevant legislation is set out below:

From the EAR:

### Definitions

1 (1) In this regulation:

**"full-time student"** has the same meaning as in the Canada Student Financial Assistance Regulations (Canada);

**"funded program of studies"** means a program of studies for which student financial assistance may be provided to a student enrolled in it;

### Effect of family unit including full-time student

16 (1) A family unit is not eligible for income assistance for the period described in subsection (2) if an applicant or a recipient is enrolled as a full-time student

(a) in a funded program of studies, or

(b) in an unfunded program of studies without the prior approval of the minister.

(2) The period referred to in subsection (1)

(a) 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

(b) is not longer than one year.

From the Canada Student Financial Assistance Regulations (Canada):

2. (1) In the Act and these Regulations,

"full-time student" means a person

(a) who, during a confirmed period within a period of studies, is enrolled in courses that constitute

(i) at least 40 per cent and less than 60 per cent of a course load recognized by the designated educational institution as constituting a full course load, in the case of a person who has a permanent disability and elects to be considered as a full-time student, or

(ii) at least 60 per cent of a course load recognized by the designated educational institution as constituting a full-time course load, in any other case,

(b) whose primary occupation during the confirmed periods within that period of studies is the pursuit of studies in those courses, and

(c) who meets the requirements of subsection 5(1) or 7(1) or section 33, as the case may be.

The position of the ministry is that, as shown in the university's screen print-out, the appellant was a full-time student in a funded program from 01 January 2012 to 30 April 2012, and therefore, pursuant to section 16 of the EAR, was not eligible for income assistance from the first day of the month following the month in which classes commence – 01 February 2012 – until 30 April 2012. The ministry refers to the definition of "full-time student" in section 1(1) of the EAR, which has the same meaning as in the Canada Student Financial Assistance Regulations (Canada). This legislation in turn provides that at least 60% of a full-time course load is considered "full-time." Section 1(1) also defines "funded program of studies" as one for which student financial assistance may be provided. The ministry took into account that the appellant was enrolled in a 60% course load for which he was eligible for financial assistance.

The position of the appellant is that, despite being enrolled in 3 courses (out of a maximum of 5 courses) and despite the screen print-out showing a 60% course load, this misrepresents his situation as a "full-time" student. He argues that since it will take him up to seven months to complete these courses, as compared to the 4 months normally required, he does not meet the definition of a "full-time" student and therefore should not be ineligible for income assistance.

The panel finds that section 16(1) of the EAR is a clear statement of legislated policy: a full-time student who is eligible for student financial assistance is not eligible for income assistance. The panel notes that student financial assistance for each student is based on the estimated costs and resources for that student over the scheduled length of that student's term/trimester/semester course load. It is not based on how long it might take that student to actually complete all the courses. Since the appellant was eligible for, and was in fact provided, student financial assistance based on a 60% course load over a period of four months, the panel finds that the ministry reasonably determined that he was not eligible for income assistance for a prescribed period of time. The panel finds that, despite the appellant not taking the exams until later, the ministry reasonably applied the legislation in determining that the period of ineligibility would be from 01 February 2012 until 30 April 2012.

Accordingly, the panel finds the ministry decision is reasonably supported by the evidence. The panel therefore confirms the ministry's decision.