

**PART C – Decision under Appeal**

The decision under appeal is the Ministry of Social Development (the ministry's) reconsideration decision dated March 5, 2013 which held that the appellant is not eligible for income assistance pursuant to Section 16 of the Employment and Assistance Regulation (EAR) because he is enrolled as a full-time student in a funded program of studies.

**PART D – Relevant Legislation**

Employment and Assistance Regulation (EAR), Section 1- Definitions, and Section 16.  
Canada Student Financial Assistance Regulations (CSFAR), Section 2 - Definitions

## PART E – Summary of Facts

The evidence before the ministry at reconsideration comprised:

1. Notification of Assessment dated November 28, 2012;
2. Student Schedule and Registration dated December 6, 2012;
3. Fee Deferral Request Form dated December 6, 2012;
4. Two school Cashier Receipts dated January 15, 2013; and
5. Request for Reconsideration dated February 25, 2013 which included a letter from the appellant and a letter from his counsellor.

The Notification of Assessment indicates that the appellant was eligible to receive \$6,204 in student loans and has not been issued any money to date. The allowable costs are broken down as follows: Tuition/Fees - \$1,423, Books/Supplies - \$875 and Living Allowance - \$4,505. It also indicates that the appellant had an unmet need of \$509; the difference between education costs, the resources declared and the amount of funding from student loans. The total cost of his education is \$6,803 and payments of \$1,870, \$1,000 and \$3,334 will be made available on January 2, 2013.

The Student Schedule and Registration form indicates that the year program has 2 terms; January 2 until April 19 and September 3 until December 13, 2013. The appellant is registered for 5 courses in the first term.

The Fee Deferral Request is for one term fees of \$1,777.41 which the appellant agrees to pay no later than January 11, 2013. The reason for the fee deferral request is noted as "student loan".

The school cashier's receipts indicate 2 payments made by the appellant on the same day, January 15, 2013; one for \$777.41 and the other for \$1,000.

A letter from the appellant with his request for reconsideration states that he is currently in a recovery treatment facility, getting on track after a couple of scary relapses. He indicates that he enrolled in school in January to improve his life and find an enjoyable career. The appellant writes that his school is only 2.5 days a week which leaves him time to work. He indicates that he has had some interviews and is avidly looking for work and only needs assistance for a couple of months. The appellant reports that he is staying at the facility where he pays a small amount of money. He indicates that he hopes to be working in April and able to pay the treatment facility from his earnings. He states that his relapses are part of his disease, school is important to him and he understands the rules about collecting income assistance while in school, but adds that it will only be for a short time and will be used to pay for his treatment.

A letter from the appellant's counsellor who has known him since December 2010 reports that the appellant has successfully completed the recovery program 3 times and contributed to his group in a supportive and positive manner. He has also participated in phase 2 of the program but he has struggled with relapse as he attempted to transition into the community to live.

The counsellor indicates that at this time in the appellant's treatment, "he would benefit from a program that would allow him more time to practice and gain confidence with his relapse prevention skills in the community while interacting in a more normalized living environment." The counsellor highly recommends that he live in a supportive recovery based environment where he has access to

group therapy and treatment supports.

At the hearing, the appellant testified that he understood that he didn't qualify for income assistance while he was attending school. The appellant confirmed that a ministry representative had explained to him that the class schedule of 2.5 days per week is still considered full time due to being registered in a full load of 5 courses. The appellant stated that he wasn't clear on the process for repaying the supplement that he had received or for reapplying for income assistance. He explained that he would still require assistance once his schooling was finished until he could support himself through work. The appellant also indicated that he was doing very well at school and confident that it wouldn't take him long to find work once his courses were finished.

No additional evidence was provided by the ministry on appeal.

#### Finding of Facts

1. The appellant is a single employable recipient of income assistance.
2. He is registered for a program consisting of 5 courses in the first term of January 2- April 19, 2013.
3. As of January 2, 2013, the appellant was issued \$6,204 in student loans.

**PART F – Reasons for Panel Decision**

The issue on appeal is whether the ministry reasonably determined that the appellant is not eligible for income assistance because he is enrolled as a full-time student in a funded program of studies.

**Relevant Legislation****EAR Definitions**

"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

"student financial assistance" means funding provided to students under the Canada Student Financial Assistance Act (Canada)

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**CSFAR Definitions**

"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.

**EAR**

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.

The ministry's position is that the appellant's program is a fundable program of studies as financial assistance is available through student loans and verification that the appellant is eligible to receive \$6,204 for this program is confirmed; therefore, fitting the ministry's definition of a funded program of studies.

The ministry also determined from the student advisory that the appellant's program is recognized as full-time only with classes from Monday to Friday, 8am-4pm. The appellant's student schedule also confirms that he is enrolled in 5 classes for this term. Therefore, the ministry has concluded that the appellant is not eligible for income assistance from the period of February 1, 2013 to April 30, 2013.

The appellant's position is that his school is only 2.5 days a week which leaves him time to work. He states that he enrolled in school in January to improve his life and find an enjoyable career. The appellant indicates that he has had some interviews and is avidly looking for work and only needs assistance for a couple of months.

The panel finds that effective January 2, 2013; the appellant was issued \$6,204 in student loans while being in receipt of income assistance. The panel also finds that while the full-time program consists of 5 courses for the semester, the number of days of classes doesn't change the appellant's enrollment status. Therefore, the panel finds that the appellant was enrolled as a full-time student in a funded program of studies which runs from January 2 to April 19, 2013. In view of the above, the panel finds that the ministry reasonably determined that the appellant was not eligible for income assistance as a full-time student enrolled in a fundable program of studies pursuant to Section 16 of the Employment Assistance Regulation for the period of February 1, 2013 to April 30, 2013.

The panel finds that the ministry's decision was reasonably supported by the evidence and confirms the decision.