

### PART C – Decision under Appeal

In a reconsideration decision dated 06 March 2013, the Ministry denied the Appellant income assistance (IA) because she is enrolled as a full time student in a student loan fundable program of studies and as such is not eligible for IA while enrolled as a full time student March 1 through October 31, 2013 under section 1 and 16 of the Employment and Assistance Regulation.

### PART D – Relevant Legislation

Employment and Assistance Regulation (EAR) Section 1  
 Employment and Assistance Regulation (EAR) Section 16  
 Canada Student Financial Assistance Regulation (CSFAR)

## PART E – Summary of Facts

The Appellant did not attend the hearing. After confirming that the Appellant had received notification of the hearing and waiting a reasonable time after the scheduled start of the hearing, the Panel proceeded with the hearing, pursuant to EAR, Section 86(b).

The evidence before the Ministry at the time of the reconsideration decision included:

- A copy of the Appellant's Request for Reconsideration dated February 26, 2013.
- A copy of the Appellant's Employment Plan dated January 28, 2013.
- A letter dated February 22, 2013 from the dean of the program in which the Appellant is enrolled.
- A letter dated January 25, 2013 from a representative of an employment program.
- A confirmation of registration to the Appellant from the registrar of the university in which the Appellant is enrolled.
- A course registration data form that states the course tuition totals \$4,520.82.

In the Reconsideration Decision, the Ministry states the Appellant is a single, employable recipient of IA. On February 20, 2013, the Appellant submitted her course registration for a program starting February 4 through October 11, 2013, attending Monday through Friday, 8:00 a.m. to 2:20 p.m. plus practicum hours.

In the Request for Reconsideration, the Appellant states she understands she has been denied IA because she is a full time student. She states she has been trying to complete a person with disabilities application, however she took a long time to find a doctor and her time was hampered by her school hours. She states that accessing government training funding fulfills her employment plan that states "exploring community resources that can help me become more employable". She continues that she understands she did not follow the steps set aside for such situations, given more time she would have and that she has just settled into stable housing, got access to her daughter and overcome addiction issues when she got the news that her school funding had come through.

She also states that she has applied for student loans, that she assumed going to school would help her anxiety issues and that she did not expect to be denied IA benefits while in school.

In the Employment Plan, the Appellant highlights the statement "I will participate to the best of my ability in activities that move me toward independence such as exploring community resources that can help me become more employable".

In the letter dated February 22, 2013 the dean confirms that the program that the Appellant is enrolled in is 7 hours per day for a period of 27 weeks and that it is a funded program meeting the necessary content and time requirements.

In the letter dated January 25, 2013, the employment program representative confirms the Appellant attended a program to become ready for attending the course starting February 4, 2013. The letter confirms they have provided the Appellant with apparel, tools, and books to attend the course but no financial supports or living allowances.

At the hearing the Ministry referred to the documentation that confirms the Appellant's registration in a program that is fundable and fulltime. She concluded that based on this documentation the applicable legislation gives the Ministry no discretion regarding the Appellant's eligibility for IA.

From the information provided, the Panel makes the following finding of facts:

- The Appellant was a single employable recipient of IA.
- The Appellant is enrolled in a course that began February 4 and will end October 11, 2013.
- The course is a program that is fundable and fulltime.

## PART F – Reasons for Panel Decision

The issue in this case is the reasonableness of the Ministry's decision to deny the Appellant IA while enrolled as a full time student for the period March 1 through October 31, 2013 under section 1 and 16 of the EAR. These sections are set out as follows:

### **CSFAR Section 2(1)**

*"full-time student"*

*"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 Section 1 - 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);

**Section 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 Appellant argues that although she is a full time, she believes the fundable course is fulfilling her employment plan and that she did not expect to be denied IA and she has applied for student loans.

The Ministry argues that as a full time student enrolled in a funded program that the Appellant is not eligible for IA.

The Panel finds the fact that the Appellant is a full time student in a funded program beginning February 4 and ending October 11, 2013 is not in dispute. The pertinent legislation gives the Ministry no discretion and as such the Panel finds the Ministry reasonably concluded that the Appellant is not eligible for IA as per section 16(1)(a) of the EAR.

Furthermore, based on the start and end date of the course, the Panel finds the Ministry reasonably concluded the Appellant is not eligible for IA for the period of March 1 through October 31, 2013, as per section 16(2)(a) of the EAR.

The Panel finds the Ministry's reconsideration decision is reasonably supported by the evidence and confirms the decision.