

PART C – Decision under Appeal

The decision under appeal is the Ministry's Reconsideration Decision dated November 14, 2013, which held that the Appellant is not eligible for income assistance because she is enrolled as a full-time student in a funded program of studies. The Ministry held that the Appellant is ineligible under the provisions of section 16, EAR, which states that an applicant or recipient is not eligible for income assistance if they are enrolled as a full-time student in a funded program of studies or in an unfunded program of studies without the prior approval of the minister.

PART D – Relevant Legislation

Employment and Assistance Act (EAA) Section 4

Employment and Assistance Regulation (EAR) Section 1, Definitions, "full-time student", "funded program of studies"

Employment and Assistance Regulation (EAR) Section 16

PART E – Summary of Facts

Information before the Ministry at Reconsideration included:

1. A copy of a college “program information” sheet, which lists the Appellant’s program of studies as schedule Wednesday 1:45 – 6:00 + Thursday + Friday 9 – 6, with a start date of August 7, 2013 and an end date of July 14, 2014, with a course duration of 987 hours; 47 weeks.
2. A copy of the Appellant’s Student Contract with a college, signed June 7, 2013.
3. A copy of the Appellant’s Proof of Enrollment at a college, dated October 18, 2013, with “academic status” stated as “Full-time”.
4. A copy of a letter to the Appellant from the Ministry, dated October 10, 2013, advising her that she is no longer eligible for assistance.
5. A copy of a letter to the Appellant from the Ministry, dated October 10, 2013, requesting information for the purpose of determining or auditing her eligibility for assistance.
6. A copy of a letter to the Appellant from the Ministry, dated September 12, 2013, requesting information for the purpose of determining or auditing her eligibility for assistance.
7. A copy of the Appellant’s application for income assistance, signed May 17, 2011.
8. The Appellant’s Request for Reconsideration, signed October 31, 2013.

At the hearing the Appellant stated that she attends school 2 ½ days per week, which she considers part-time. She stated that the school also considers it to be part-time. The Appellant stated that she telephoned the Ministry when she started school and told them she was attending part-time, and was told that was OK. The Appellant stated that when she received her student loan she paid off debt, which she would not have done if she had realized she would not receive income assistance. The Appellant stated that she lives with her mother and pays her rent. The Appellant stated that she is not currently receiving child support and needs income assistance until she receives the second part of her student loan in late January. She stated that she is on methadone therapy, and if she isn’t eligible for medical coverage as a recipient of income assistance, she will not be able to afford her medication. The Appellant stated that she did not report that she was in school on her monthly reports to the Ministry because she was in the habit of completing them quickly the same way every time. She stated that she was not trying to hide the fact that she was in school.

The Ministry responded that the Appellant’s school documentation states that she is a full-time student. The Ministry stated that the definition used for “full-time student” in the Employment and Assistance Regulation is the same as that used for student loans. The Ministry stated that the review of the Appellant’s eligibility for assistance started in December, 2013, which is when the Ministry found that the Appellant did not disclose that she was in school as required in her monthly reporting to the Ministry. The Ministry stated that as an employable person, the Appellant must dedicate 25 hours per week to searching for employment, and must report if they are attending school or training.

The Panel makes the following findings of fact:

- The Appellant’s Proof of Enrolment from her college indicates her academic status as full-time.
- The Appellant’s program of studies is funded.

PART F – Reasons for Panel Decision

The issue in this appeal is the reasonableness of the Ministry's decision that the Appellant is not eligible for income assistance because she is enrolled as a full-time student in a funded program of studies. The Ministry held that the Appellant is ineligible under the provisions of section 16, EAR, which states that an applicant or recipient is not eligible for income assistance if they are enrolled as a full-time student in a funded program of studies or in an unfunded program of studies without the prior approval of the minister.

Legislation

EAA

Income assistance and supplements

4 Subject to the regulations, the minister may provide income assistance or a supplement to or for a family unit that is eligible for it.

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.

Canada Student Financial Assistance Regulations

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

"**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.

The Appellant's position is that she is attending school part-time and should not be considered a full-time student, and discontinuing her income assistance will cause hardship.

The Ministry's position is that the Appellant is a full-time student under the definition in the Regulation; therefore she is ineligible for income assistance.

The Panel finds that the Ministry reasonably determined that the Appellant is enrolled as a full-time student in a funded program of studies. The documents provided from the Appellant's school establish that her academic status is full-time and that she is in receipt of a student loan. In addition, the Panel notes that the definition of full-time student in the EAR refers to the *Canada Student Financial Assistance Regulations*, which defines a full-time student as a person who is enrolled in courses that constitute at least 60 per cent of a course load recognized by the designated educational institution as constituting a full-time course load. The college information sheet describing the diploma program in which the Appellant is enrolled as comprising 987 hours over 47 weeks in duration, scheduled for 2 ½ days per week. The Appellant stated that she is attending the hours and days scheduled, therefore the Panel finds that the Ministry reasonably determined that the Appellant is a full-time student. With respect to the finding that the Appellant is in a funded program of studies, the definition of funded program of studies in the EAR refers to a program of studies for which student financial assistance may be provided. The Panel notes that the Appellant is in receipt of a student loan, therefore the Panel finds that the Ministry reasonably determined that the Appellant is in a funded program of studies. The Panel finds that the Ministry reasonably applied the provisions of section 16, EAR in determining that the Appellant is not eligible for income assistance.

The Panel therefore confirms the Ministry's decision as reasonably supported by the evidence.