

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the “ministry”) Reconsideration Decision of December 17, 2014 in which the ministry declared the appellant ineligible for income assistance (IA) pursuant to section 16(1) and (2) of the Employment and Assistance Regulation (EAR) because she is enrolled as a full time student in a funded program of studies that commenced in November 2014. The ministry held that the appellant was not eligible for IA commencing December 2014, being the month following the month in which her classes began, until the last day of the month in which her exams in the program are held.

PART D – Relevant Legislation

Employment and Assistance Regulation (EAR) section 16

Canada Student Financial Assistance Regulation (CSFAR) section 2 (1)

PART E – Summary of Facts

The appellant is a recipient of IA with two dependent children.

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

- request for reconsideration dated December 3, 2014 in which the appellant stated that she had no financial aid to help with the living costs of her children and herself while at college, and requesting six months' financial assistance until her expected completion date in June 2014;
- a typewritten telephone log during the period October 31, 2014 – December 2, 2014 detailing the appellant's attempts to obtain the requisite Request for Reconsideration form from the ministry and repeating her plea for financial aid;
- September 18, 2014 letter from the college administrator confirming the appellant's anticipated attendance in the program at a total cost of \$13,804.30;
- December 2, 2014 letter from the administrator of the appellant's college confirming the appellant's full time attendance in their diploma course at a cost of \$13,804.60;
- photocopies of deposit and tuition amounts totaling \$6,400 received by the college from the appellant;
- September 19, 2014 BC Advanced Education Notice of Assessment advising the appellant that she is eligible to receive maximum federal and provincial funding of \$15,300 for a 30 week study period, apportioned as follows:
 - November 2014 federal grant for dependents: \$1,400
 - November 2014 Canada student loan: \$6,300
 - February 2015 federal grant for dependents: \$1,400
 - February 2015 BC student loan: \$6,200
- November 20, 2014 notice that the appellant received the November 2014 grant and loan;
- weekly class evaluations of the appellant's progress for the period November 10 – 28, 2014 noting perfect scores in all evaluation areas.

In her Notice of Appeal dated December 23, 2014 the appellant stated that she disagreed with the ministry's reconsideration decision because she is facing hardship and has exhausted all other financial options and has been unable to find a babysitter to care for her children after class time in order to find part-time employment.

Prior to the hearing the appellant submitted as additional evidence a letter from the BC Ministry of Advanced Education dated January 8, 2015 denying the appellant's request for additional funding because it exceeds the maximum allowable award for the length of the appellant's academic term. The panel finds that the letter is admissible under Section 22(4) of the EAA as evidence in support of the evidence before the ministry at reconsideration because it corroborates the appellant's evidence that she is not able to access additional funding from student loans or grants.

At the hearing the appellant stated that her IA was discontinued in November 2014. She acknowledged that she is a full-time student in a funded program of studies. Her children are being cared for by a relative while she is in college, but she does not have the funds to pay her rent or utilities. She has applied for a child care subsidy and awaits a decision from that office. Without additional financial assistance she will have to leave college and she and her children will have to move to another province where she can live with a family member.

The ministry relied on its Reconsideration Decision, which is summarized as follows:

- on October 31, 2014 the ministry completed a student loan data match review which indicated that during the period November 2, 2014 – June 2, 2015 the appellant would be attending college as a full-time student in a funded program of studies;
- on October 31, 2014 the ministry advised the appellant that pursuant to EAR Section 16 her family unit was not eligible for IA because she was enrolled as a full-time student in a funded program of studies, and would remain ineligible from the first day of the month following the month in which classes commence and continuing until the last day of the month in which the exams in the relevant program of studies are held. The ministry further advised the appellant that EAR section 1 defines a “funded program of studies” as a program of studies for which student financial assistance may be provided, and defines “full-time student” as having the same meaning as defined in the CSFAR.

The ministry tendered a written submission which reiterated the reconsideration decision. The ministry representative added orally that the ministry has no discretion to change the eligibility status of the appellant while she is a full-time student in a funded program of studies. The ministry representative also confirmed that the appellant is not eligible for a crisis supplement or any other short-term financial assistance.

PART F – Reasons for Panel Decision

The issue under appeal is the reasonableness of the ministry decision of December 17, 2014 in which the ministry declared the appellant ineligible for income assistance (IA) pursuant to section 16(1) and (2) of the Employment and Assistance Regulation (EAR) because she is enrolled as a full time student in a funded program of studies. The ministry held that the appellant was not eligible for IA commencing December 2014, being the month following the month in which her classes began, until the last day of the month in which her exams are held.

The relevant legislation is as follows:

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.

Canada Student Financial Assistance Regulation:

- 2** (1) “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. (*étudiant à temps plein*)

The appellant argues that she requires IA for an additional six months until she completes her college course in June 2015. She has exhausted all other financial assistance possibilities and will have to quit her program and move to another province unless she can obtain enough money to pay her rent, utilities and child care. She acknowledges that she is a full-time student in a funded program of studies but argues that a single mother cannot better herself and get off IA if she does not receive assistance while she is at college.

The ministry argues that the appellant is participating in a “funded program of studies” as defined in Section 1 of the EAR and meets the statutory criteria for a “full-time student” as defined in the CSFAR. The ministry also argues that pursuant to EAR Section 16 a family unit is not eligible for IA if a recipient is enrolled as a full-time student and the recipient remains ineligible from the first day of the month following the month in which classes commence and continuing until the last day of the month in which the exams in the relevant program of studies are held. In the appellant’s circumstances this period of ineligibility commences December 2014 and continues until June 2015.

Decision of the Panel

The panel finds that the ministry’s determination that the appellant is a full-time student in a funded program of studies that commenced in November 2014 is reasonably supported by the evidence and is a reasonable application of the statutory definitions of “full time student” and “funded program of studies” set out in EAR Section 1.

The panel also finds that the ministry reasonably applied the provisions of EAR Section 16 (1) and (2) in declaring the appellant ineligible for IA commencing December 2014 because she was enrolled as a full-time student in a funded program of studies that began in November 2014 and ends in June 2015.

In conclusion the panel finds that the reconsideration decision dated December 17, 2014 was a reasonable application of the applicable legislation in the circumstances of the appellant and confirms the decision.