

### PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (“ministry”) decision of July 21, 2015 which held that the appellant was not eligible for income assistance pursuant to section 16 (1) of the Employment and Assistance Regulation (EAR) which provides that a family unit is not eligible for assistance if a recipient is enrolled as a full time student in a student loan fundable program of studies. The ministry held that the appellant was not eligible for income assistance from the first day of the month following the month in which her classes started.

### PART D – Relevant Legislation

Employment and Assistance Regulation (EAR) Section 1 and Section 16

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

## PART E – Summary of Facts

The evidence before the ministry at reconsideration was as follows:

- The appellant is in receipt of income assistance with his spouse and three dependent children.
- June 1, 2015 – A copy of the appellant's monthly report for social assistance in which the question of "attending school/training" is answered "yes" for "applicant 2".
- June 18, 2015 – A Student Loan Data Match indicated the appellant's spouse was registered at a college from April 17, 2015 to April 15, 2016. The Student Services Advisor with the college confirmed the course in which she was enrolled was full time.
- June 22, 2015 – A letter from the appellant's employer confirming that he is employed for casual work as of June 19, 2015 and is scheduled for 10 hours per week at \$11.00 per hour.
- June 23, 2015 – A Notice of Eligibility Decision letter from the ministry in which is stated that the appellant is no longer eligible for assistance because the appellant's spouse is attending full-time post-secondary courses from April 4, 2015 to April 24, 2016.
- June 24, 2015 – The appellant requested that the minister reconsider the decision.
- June 26, 2015 – A letter from StudentAid BC confirming that the appellant's spouse withdrew from full-time studies on June 24, 2015.
- July 8, 2015 – A 10 Day Notice to End Tenancy for Unpaid Rent or Utilities in the appellant's name indicating that the tenant must move out or vacate the site by July 21, 2015.
- July 10, 2015 – The appellant submitted a signed Request for Reconsideration in which he stated that his spouse did indicate on her monthly report to the ministry that she was attending school and had received a student loan. The appellant also stated that she has since withdrawn from the StudentAid BC funds. She is still considered as enrolled in the online course but she will not receive any further funding or awards for which she is eligible. The reason she decided to enroll in the course is that it is online and will increase her employability. As they do not have long term daycare for the children, she is a full time caregiver and therefore unable to work. They have never been dishonest and will continue to comply with the ministry's rules and regulations. They have 3 small children and will struggle greatly without the help of government sources. The appellant is currently employed and actively seeking more full time hours. The family has been served with a 10 day eviction notice and he fears they will be homeless.
- A copy of the monthly report (undated) submitted to the ministry in which is indicated 'yes' to the question of attending school/training.
- A Tax Return Summary (undated) for the 2014 tax year prepared for the appellant.
- A Tax Return Summary (undated) for the 2014 tax year prepared for the appellant's spouse.
- A 2014/2015 StudentAid BC Internet Application for college – Spouse/Common-Law Partner Questions/Answers (undated).
- A 2014/2015 StudentAid BC Internet Application for college – Applicant Questions/Answers (undated).

In the reasons for appeal, the appellant stated that "We disagree with this decision as [spouse] has withdrawn from Student Aid funding. She recorded she was a student and the loan amount received. No other funding is available.

The appellant did not attend the hearing. After confirming that the appellant was notified, the hearing proceeded under Section 86(b) of the Employment and Assistance Regulation (EAR).

APPEAL #

For the appeal, the ministry adopted its reconsideration summary as its submission and did not introduce any new evidence.

## PART F – Reasons for Panel Decision

The issue on appeal is whether the ministry's decision to deny the appellant income assistance because the appellant's spouse was enrolled as a full time student in a funded program of studies contrary to Section 16 of the Employment Assistance Regulation (EAR) is reasonably supported by the evidence or a reasonable application of the applicable legislation in the circumstances of the appellant.

The relevant legislation is Section 16 of the (EAR) and Section 2(1) of the Canada Student Financial Assistance Regulation (CSFAR).

### ***Employment and Assistance Regulation Definitions***

1(1) "**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);

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

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.

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*)

#### **Decision of the Panel**

Section 1(1) of the EAR indicates that the definition of full time student is the same as that provided in the CSFAR.

The panel finds the ministry's determination that a member of the appellant's family unit is a full-time student in a funded program of studies that commenced April 17, 2015 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 the EAR Section 1.

Section 16(1) of the EAR sets out that a family unit is not eligible for income assistance if a recipient is enrolled as a full-time student in a funded program of studies.

The panel finds that the ministry reasonably applied the provisions of the EAR Section 16(1) in declaring the appellant ineligible for income assistance commencing April 1, 2015 because a recipient of income assistance in the family unit was enrolled as a full-time student in a funded program of studies.

In conclusion the panel finds that the reconsideration decision dated July 21, 2015 was a reasonable application of the applicable legislation in the circumstances of the appellant and confirms the decision.