



PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (ministry)'s reconsideration decision dated August 19, 2015, which found that the appellant was not eligible to receive income assistance for the month of August 2015 because he was enrolled as a full-time student in a funded program for that month in accordance with section 16 of the Employment and Assistance Regulation.

PART D – Relevant Legislation

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

PART E – Summary of Facts

The appellant is a single person who has been receiving income assistance since December 2009.

On April 27, 2015, the appellant submitted to the ministry a letter from his college dated April 13, 2015 confirming his registration for full-time studies which would begin in the middle of July and end at the beginning of September 2015.

On July 30, 2015 the ministry worker advised the appellant that he was not eligible for income assistance in August 2015 because he was enrolled in full-time studies in a funded program.

PART F – Reasons for Panel Decision

The decision under appeal is the ministry's reconsideration decision dated August 19, 2015, which found that the appellant was not eligible to receive income assistance for the month of August 2015 because he was enrolled as a full-time student in a funded program for that month in accordance with section 16 of the Employment and Assistance Regulation.

The relevant legislation is sections 1 and 16 of the EAR and section 2 of the CSFAR.

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) Subject to subsection (1.1), 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.

Section 2

Definitions

"financial assistance" means any form of financial aid provided under the Act, including student loans;

At the appeal hearing the appellant stated that he was taken by surprise when he was told on July 30 that he would not be eligible for income assistance for the month of August. He did not recall being told by the ministry in April that by enrolling in a course of studies he would become ineligible for income assistance. The appellant stated that not receiving income assistance in August caused a great personal hardship as he is caring for unwell relatives. He also stated that he felt that "the carpet had been pulled out from under him" because he saw his going into studies as a way to move forward towards getting a job but not receiving income assistance for that month hampered his efforts both to attend the course and find a job.

The ministry's position at the hearing was that the legislation is very clear. A person who is attending full-time studies in a course which is eligible for funding becomes ineligible for income assistance in the month following the beginning of the course until the month following the end of the course. In this case the appellant was attending a funded course which began in July and ended in September making him ineligible for income assistance until October 1, 2015.

The panel finds that the legislation in this instance is clear. The appellant was attending a full-time course of studies which was eligible to be funded and ran from the middle of July to the beginning of September. While the tribunal acknowledges the appellant's extenuating circumstances at the time, and his observation that his not receiving income assistance for the month of August ultimately hampered his ability to take the course and to find a job, according to section 16 of the EAR he is not eligible for income assistance in the month of August 2015.

The panel concludes that the ministry's determination that the appellant was not eligible for income assistance in the month of August 2015 was a reasonable interpretation of the legislation in the circumstances and confirms the ministry's decision.