

## PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the ministry) reconsideration decision dated October 7, 2015 which held that the appellant is not eligible for income assistance pursuant to Section 16 of the *Employment and Assistance Regulation* (EAR) since he is enrolled as a full-time student in a funded program of studies.

## PART D – Relevant Legislation

*Employment and Assistance Regulation* (EAR), Section 16 and Section 1- Definitions

*Canada Student Financial Assistance Regulations* (CSFAR), Section 2- Definitions

## PART E – Summary of Facts

With the consent of the parties this appeal was conducted in writing in accordance with s. 22(3)(b) of the *Employment and Assistance Act* (EAA).

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

- 1) Letter dated July 13, 2015 from a post-secondary educational institution 'To Whom It May Concern' confirming that the appellant is currently attending a program from April 6, 2015 through June 2017 and that she is currently attending a total course load of 12 credits;
- 2) Letter dated August 27, 2015 from the post-secondary educational institution confirming that the appellant has been approved for a student loan through StudentAid BC in the amount of \$26,520 for the April 2015 to March 2016 study period. Approximately \$19,200 of this funding will be sent to the school directly towards her tuition fees and the remaining \$7,300 will be disbursed to the appellant to help with her living costs. She received \$3,500 of this amount in April 2015 and the remaining amount (approximately \$4,300) will be released to her in October 2015; and,
- 3) Request for Reconsideration- Reasons stamped received by the ministry on September 24, 2015.

In her Request for Reconsideration, the appellant wrote that:

- She is a single mother with a young child and she is currently going to school so she may better support her child in the future.
- With going to school, she cannot currently get a job as she is already having to balance school and raising her baby.
- She has no time to look for and obtain a job and the money received was to help with child care for her daughter while attending school.

In her Notice of Appeal, the appellant expressed her disagreement with the ministry's reconsideration decision and wrote that:

- She is trying to better her life for her and her child, but without financial help she is unable to do so.
- With the program that came out in September, she feels she should not be disqualified from receiving assistance.

The ministry relied on its reconsideration decision as its submission on the appeal. Information in the reconsideration decision included:

- The appellant has been in continuous receipt of income assistance as a single parent of one dependent child.
- In July 2015 a student loan data match indicated that the appellant was enrolled as a full-time student and the educational institution subsequently confirmed the appellant was enrolled from April 2015 through June 2017.
- In August 2015 the educational institution confirmed that the appellant was in receipt of a student loan in the amount of \$26,520 for the April 2015 to March 2016 study period.
- On September 1, 2015, the ministry sent a letter to the appellant advising that she was not eligible for income assistance.

## PART F – Reasons for Panel Decision

The issue on this appeal is whether the ministry reasonably concluded that the appellant is not eligible for income assistance, pursuant to Section 16 of the *Employment and Assistance Regulation* (EAR), since she is enrolled as a full-time student in a funded program of studies.

### **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.
- (1.1) Subsection (1) (a) does not apply to a family unit that includes a recipient who is enrolled in a funded program of studies with the prior approval of the minister under subsection (1.2) during the period described in subsection (2).
- (1.2) For the purposes of subsection (1.1), the minister may approve a person to enroll in a funded program of studies if the person
- (a) is a sole recipient of income assistance who
    - (i) has a dependent child, or
    - (ii) provides care to a supported child,
  - (b) is required to enroll in the program of studies as a condition of an employment plan and
  - (c) was receiving income assistance, hardship assistance or disability assistance in each of the immediately preceding 3 calendar months, unless the minister is satisfied that exceptional circumstances exist.
- (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 1 of the EAR:

"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;

### **Canada Student Financial Assistance Regulations (CSFAR)**

#### **"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.

#### *Ministry's position*

The ministry's position is that the appellant is enrolled as a full-time student in a funded program of

studies from April 2015 through June 2017 and that she is, therefore, ineligible for income assistance pursuant to Section 16 of the EAR. The ministry pointed out that the appellant was not required to enroll in the program as a condition of an Employment Plan (EP) as the appellant currently does not have an active EP.

#### *Appellant's position*

The appellant does not dispute that she was registered as a full-time student in the program which runs from April 2015 through June 2017 but argued that she is attending the program so she may better support herself and her child in the future, that the schooling is part of her own employment plan. The appellant argued that she cannot currently get a job as she is already having to balance going to school and raising her child. The appellant also does not dispute that she obtained a student loan to cover her tuition fees and living costs but argued that the money received was to help with child care for her daughter while attending school.

#### *Panel decision*

Pursuant to Section 16(1) of the EAR, a family unit is not eligible for income assistance for a defined period if an applicant or a recipient is enrolled as a full-time student in a funded program of studies or in an unfunded program of studies without the ministry's prior approval. Section 1 of the EAR also defines "funded program of studies" as a program of studies for which student financial assistance may be provided to a student enrolled in it. The appellant did not dispute that she is enrolled as a full-time student in a program of studies for a program which runs from April 2015 to June 2017. The appellant argued that the schooling is part of her overall "employment plan" to better support herself and her child in the future but she also did not dispute the ministry's information that she does not currently have an active and formal EP with the ministry. The appellant also did not claim to have the approval of the ministry to enroll in a funded program of studies pursuant to Section 16(1.2) of the EAR that may have provided an exemption for her under Section 16(1.1). Rather, the information is that the fact that the appellant is enrolled as a full-time student was provided to the ministry via a third party student loan data match.

The appellant also does not dispute that she obtained a student loan to cover her tuition fees and living costs but argued that the money received was to help with child care for her daughter while attending school. The panel notes that assistance for child care is provided under the *Child Care Subsidy Act* and is not the subject of this appeal. While the calculations of the amounts disbursed to the appellant from the \$26,520 in student loan is stated in the letter from the educational institution dated August 27, 2015 to be an estimate only and is not exact, the definition of "funded program of studies" means a program for which student financial assistance 'may' be provided to a student enrolled in it. The panel finds that the definition does not make a distinction based on the purpose for the student financial assistance, whether for tuition or a living allowance, and does not require that the student personally be in receipt of any funds. The panel finds that the ministry has reasonably concluded that Section 16 of the EAR applies in the appellant's circumstances and that the appellant is, therefore, not eligible for income assistance for the prescribed period. Section 16(2) of the EAR provides that the defined period of ineligibility for income assistance 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 is not longer than one year.

#### *Conclusion*

The panel finds that the ministry's reconsideration decision was a reasonable application of the applicable enactment in the circumstances of the appellant and confirms the decision.