



PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (Ministry) Reconsideration Decision dated March 29, 2016, wherein the Ministry determined that the Appellant is not eligible for income assistance. Under s. 16 of the Employment and Assistance Regulation (EAR) a family unit is not eligible for assistance if an applicant in the family unit is registered as a full-time student in a funded program of studies. The Ministry found that the Appellant's spouse is registered as a full-time student in a program that is fundable by student loans and determined that the family unit is not eligible for income assistance.

PART D – Relevant Legislation

Employment and Assistance Regulation (EAR) sections 1, Definitions; 16

PART E – Summary of Facts

Information before the minister at reconsideration included:

- A copy of a Budget Worksheet for the Appellant's spouse dated July 20, 2015.
- A copy of a Notification of Assessment to the Appellant's spouse from the Ministry of Advanced Education dated April 27, 2015, showing grants and student loan amounts.
- A copy of a Letter of Confirmation dated March 3, 2016, confirming acceptance and registration of the Appellant's spouse in a 30 week program at a college.
- The Appellant's Application for Income Assistance dated March 11, 2016.
- The Appellant's Request for Reconsideration dated March 23, 2016.

At the hearing, the Appellant submitted three documents:

1. A Canadian Travel Document for a single trip to Canada dated March 10, 2015.
2. A letter from Citizenship & Immigration Canada dated December 16, 2015 advising the Appellant that he will receive his last cheques from the Resettlement Assistance Program on March 10, 2016.
3. A copy of a Limited Coverage Drugs – Special Authority Criteria document authorizing the provision of certain drugs.

The Appellant stated that he submitted the documents to show that he was a government sponsored refugee, that he no longer receives resettlement assistance and therefore has no income and that he has been prescribed drugs to deal with conditions that are a result of torture. The Ministry did not object to the admission of these documents. The Panel admitted documents 1 to 3 above as information in support of the Appellant's argument to the Panel.

The Appellant stated that when he arrived in Canada he received assistance from the federal government for one year, then he was told to seek employment, however he became ill due to the effects of torture in his homeland and he is unable to work. He stated that he has an appointment with a specialist in December, 2016. He stated that his spouse is no longer attending school. In response to questions from the Panel, the Appellant stated that his wife left school last week to seek employment.

The Ministry responded that legislation determines eligibility for assistance. In the Appellant's circumstances, his spouse is employable and is therefore expected to seek work. The legislation does not exempt post-secondary education, and a couple must seek employment. If one of them chooses not to work, the Ministry cannot provide assistance. The Ministry noted that if the Appellant's spouse is no longer attending school, they may reapply for assistance.

PART F – Reasons for Panel Decision

The issue in this appeal is the reasonableness of the Ministry decision that the Appellant is not eligible for income assistance. Under s. 16 of the Employment and Assistance Regulation (EAR) a family unit is not eligible for assistance if an applicant in the family unit is registered as a full-time student in a funded program of studies. The Ministry found that the Appellant's spouse is registered as a full-time student in a program that is fundable by student loans and determined that the family unit is not eligible for income assistance.

Legislation

EAR

Definitions

1 (1) In this regulation:

"funded program of studies" means a program of studies for which funding provided to students under the *Canada Student Financial Assistance Act* may be provided to a student enrolled in it;

"student financial assistance" means funding provided to students under

- (a) the British Columbia Student Assistance Program,
- (b) the *Canada Student Financial Assistance Act*, or
- (c) a similar program provided by another province or jurisdiction;

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.

The Appellant's position is that he has no means of support and he may not have received complete and accurate information about eligibility for assistance when he originally applied. The Appellant argued that he is unable to work and his wife has now left her program of studies.

The Ministry's position is that a family unit is not eligible for income assistance if one of them is attending a full-time funded program of studies. The Ministry commented that the Appellant could reapply for assistance because the family unit might have been eligible for assistance from the date that his wife left her program of studies to seeking employment, and in any event, as the period of study ends on April 29, 2016, the family unit may be eligible for assistance after that date.

The Panel notes that the issue under appeal is whether the Ministry reasonably determined that the Appellant's family unit is not eligible for income assistance while an applicant is enrolled as a full-time student in a funded program of studies. There is no dispute that at the time of application, the Appellant's spouse was such a student. The Panel finds that the Ministry reasonably determined that the Appellant's family unit was not eligible for income assistance at the time of application.

The Panel therefore confirms the Ministry decision.