



PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the ministry) reconsideration decision dated April 7, 2016, which held that the appellant is not eligible for income assistance from February 1, 2016 to April 30, 2016, pursuant to section 16 of the *Employment and Assistance Regulation*, because she is registered as a full-time student in a fundable program of studies, and pursuant to section 27 of the *Employment and Assistance Act*, she is liable to repay assistance she was not eligible to receive.

PART D – Relevant Legislation

Employment and Assistance Act (EAA) - Section 27
Employment and Assistance Regulation (EAR) – Section 16

PART E – Summary of Facts

The Panel heard evidence from the appellant and the Ministry representative and reviewed the evidence submitted in the written record.

The Ministry provided the following evidence in the appeal record:

- The appellant is a single parent with a young child who has indicated an intention to apply for Persons with Disabilities designation, however at the time of the reconsideration this application had not yet been submitted.
- On March 17, 2016 the Ministry completed a file review and found that the appellant was enrolled as a student, taking 3 courses, at the local college from January 4, 2016 to April 22, 2016.
- The college confirmed that three courses is considered to be a full time course load.
- The Appellant did not have prior approval of the Ministry to attend the program, and attendance was not a requirement of an Employment Plan.

At the appeal tribunal, the Ministry clarified the following:

- The Appellant had previously been enrolled in part-time studies at the college, which did not affect her eligibility for assistance;
- It is the Appellant's responsibility to advise the Ministry that her plans for schooling had changed
- The Ministry was unaware that the schooling situation had changed until March 17th, 2016 when the Appellant submitted her funding documents.
- The appellant was awarded \$3,800 which exceeded the \$1,340.13 charged for tuition so the Appellant had funds available to her during the time period in question.
- Three classes are considered a f/t course load, no matter which program you are enrolled in.
- The Ministry did not provide prior approval for her to attend school full-time, and the Appellant was 2 months into her program before they became aware that she was taking a full-time, funded course load.

The Ministry provided the following corroborating evidence as part of the appeal record:

1. A registration statement from the college confirming that the appellant was registered to attend three courses, from January 4, 2016 to April 22, 2016
2. A Calculation of Assessment dated March 16, 2016 indicating the Appellant received \$2300 in financial assistance to attend college.
3. An overpayment chart dated March 22, 2016, indicating the Appellant received \$1,891.16 in financial assistance from the Ministry during the time period in question.

The Appellant provided the following evidence:

- In the reconsideration package dated March 30, 2016, the Appellant noted that she took 3 courses worth 9 credit hours, the second semester is 19 credit hours. She has been on income assistance and never had an issue. She is a single parent with no other source of income. The Appellant states that the Ministry should help single mothers get an education, and that after she completes her education she will not need welfare and will be one less family they have to pay for.
- On the Notice of Appeal dated April 17, 2016, the Appellant noted that she didn't have adequate information to make an informed decision – would have done something different if she had known that she wasn't eligible.

At the appeal tribunal, the Appellant clarified the following:

- She receives no support from the father of her child, for child care or anything else.
- She has been in receipt of income assistance for 2.5 years, and has been attending school that entire time, taking 1-2 courses per semester and the Ministry was aware of that.
- She did not know that she needed prior approval to increase her course load to three classes; she does not have an Employment Plan.
- She applied for a student loan in February and when she received the award she submitted the documentation to the Ministry.
- At the college, she is considered a student with a disability so 3 courses is considered full-time however the full-time stream of the program has 6 courses per semester, so she is enrolled as a part-time student.

Summary of Facts:

- The Appellant had registered and attended college part-time in the past, taking 1-2 courses and the Ministry did



not object to this

- The Appellant registered for and attended post-secondary studies at the local college from January 4, 2016 to April 22, 2016, taking three courses.
- The college program is a funded program, in that student loans and grants are available to students enrolled in the program.
- Three courses is considered a full-time course load, although many students take 5 or 6 courses per semester.
- The Appellant received \$3,800 in student loans for that semester, while tuition was \$1,340.13.

PART F – Reasons for Panel Decision

The issue before the panel is the reasonableness of the ministry's reconsideration decision dated April 7, 2016, which held that the appellant is not eligible for income assistance due to being registered as a full-time student in a fundable program of studies pursuant to section 16 of the EAR and is liable to repay assistance she was eligible to receive pursuant to section 27 of the EAA.

Section 27 of the EAA states:

Overpayments

(1) If income assistance, hardship assistance or a supplement is provided to or for a family unit that is not eligible for it, recipients who are members of the family unit during the period for which the overpayment is provided are liable to repay to the government the amount or value of the overpayment provided for that period.

(2) The minister's decision about the amount a person is liable to repay under subsection (1) is not appealable under section 17 (3) [reconsideration and appeal rights].

Section 16 of the EAR states:

Effect of family unit including full-time student

(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.

[am. B.C. Regs. 284/2003; 145/2015, Sch. 1, s. 4.]

The Parties' Positions

The Appellant argues that she is registered for the part-time stream of her program and only took three courses, whereas students in the full-time stream take six courses. The Ministry argues that for the purposes of determining the minimum number of courses that constitutes a full-time course load, the college's standard is three courses.

The Appellant argues that she has been taking courses at the college in the past with no objections from the Ministry. She

argues that the Ministry should support single parents who are attending school. The Ministry argues that it did support her when she was attending part-time; the current issue arose when she registered for three courses, which constitutes a full-time course load. They argue that the exemption in Section 16(1.2) does not apply because she only notified the Ministry that she was taking 3 courses when she was already 2 months into the semester. Had she talked to the Ministry in advance regarding her plans, she would have been advised that it would impact her eligibility. They also argue that it is the responsibility of the Appellant to report changes and discuss plans to ensure they comply with the regulations.

The Ministry further argues that the Appellant received funding for the semester from the BC Student Loans program. This is not disputed by the Appellant.

Both the Ministry and the Appellant agree that she did not have an employment plan, and therefore attending college was not a condition of an employment plan.

Panel Decision:

The panel finds that the ministry reasonably applied the provisions of EAR Section 16 (1) and (2) in declaring the appellant ineligible for income assistance from February 1, 2016 to April 30, 2016 because she was enrolled as a full-time student in a funded program of studies that began on January 4, 2016 and ended on April 22, 2106. Section 16(1.2) of the EAR states the ministry may approve a person to enroll in a funded program of studies if the person is required to enroll in the program as a condition of an employment plan, but in the circumstances of the Appellant, the panel finds that no such approval was given. The panel finds that the ministry's decision was reasonable in applying section 27 of the EAA determining that the appellant is liable to repay assistance she was not eligible to receive

For these reasons, the panel finds that the Ministry's decision that the Appellant was not eligible for income assistance from February 1, 2016 to April 30, 2016 and therefore must repay the income assistance that she was not eligible to receive is a reasonable application of the legislation in this circumstance and confirms the decision.