

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the “ministry”) Reconsideration Decision of December 21, 2016 in which the ministry declared the appellant ineligible for income assistance (IA) pursuant to Section 16 of the Employment and Assistance Regulation (EAR) because:

- she was enrolled as a full time student in a fundable program of studies and was therefore ineligible for IA pursuant to EAR Section 16 (1); and
- as a sole recipient of IA with dependent children she did not fulfill the conditions of the employment plan to which she had been referred by the ministry, and as a consequence was not directed to enroll in the program of studies as a condition of the employment plan, as required by EAR subsections 16 (1.1) and (1.2).

PART D – Relevant Legislation

Employment and Assistance Regulation (EAR) Section 1, 16 (1), (1.1) and (1.2)

PART E – Summary of Facts

The appellant is a sole recipient of IA with two dependent children.

The information before the ministry at the time of reconsideration includes the following:

- ministry policy and procedure manual for full time students, effective September 1, 2015;
- August 16, 2016 letter from a post-secondary educational institution (“college”) confirming the appellant’s admission to a college trades program for the period October 31, 2016 to April 28, 2017;
- appellant’s IA monthly report form dated November 9, 2016 indicating that she is enrolled in school/training;
- college account summary dated November 29, 2016 indicating tuition and related fees totaling \$2,549.47 paid in full by debit card and a women in trades grant;
- appellant’s request for reconsideration submitted to the ministry on December 1, 2016 in which the appellant wrote:
 - she was told by a ministry worker in her home town that her IA would continue when she began to attend her college course;
 - she attempted to work through the Employment Program of BC (EPBC) but would have lost her place at the college due because the EPBC process takes months;
 - she participated in a mandatory EPBC seminar and completed weeks’ worth of assignments in a matter of days in order to be approved for the Single Parent Employment Initiative (SPEI), but couldn’t reduce the time frame determined necessary by EPBC to qualify for SPEI approval;
 - she requires the trades course in order to support her children because the child support she receives from the other parent is unreliable.

At the hearing the appellant explained that she attended an EPBC seminar, then met with an EPBC worker who recommended that she continue to work at her current career in the personal service field rather than participate in the SPEI in the college trades training program. She felt abandoned by her EPBC worker, became discouraged, and did not participate further. The appellant added that although she had planned to enroll in the college trades program in February 2017 she was offered early admission starting October 31, 2016 and accepted the offer.

The ministry relied on the reconsideration decision and added the following information:

- ministry approval of a person’s enrolment in a funded program of studies under EAR Section 16 (1.1) and (1.2) must be granted through the SPEI;
- because the appellant was fleeing domestic abuse she was not required to participate in EPBC employment planning as a condition of receiving IA, so long as she was not a full-time student in a funded or fundable program of studies.

PART F – Reasons for Panel Decision

The issue under appeal is the reasonableness of the ministry decision of December 21, 2016 in which the ministry declared the appellant ineligible for income assistance (IA) pursuant to Section 16 of the Employment and Assistance Regulation (EAR) because:

- she was enrolled as a full time student in a fundable program of studies and was therefore ineligible for IA pursuant to EAR Section 16 (1); and
- as a sole recipient of IA with dependent children she did not fulfill the conditions of the employment plan to which she had been referred by the ministry, and as a consequence was not directed to enroll in the program of studies as a condition of the employment plan, as required by EAR subsections 16 (1.1) and (1.2).

Relevant legislation:

EAR:

Definitions

1 (1) In this regulation:

"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.

The appellant argues that she was told by a ministry employee that her participation in an employment plan was voluntary because she was fleeing from a domestic abuse situation, and that she would continue to receive IA if she became a full-time student. She also argues that she attempted to meet the conditions of her employment plan but was discouraged from attending her college trades program by her employment plan worker.

The ministry's position is that the appellant became ineligible for IA when she became a full-time student, and that the appellant was advised by the ministry that in order to remain eligible for IA she was required to participate in her EPBC employment plan to facilitate application to the SPEI. When the appellant failed to continue to participate in her EPBC program as directed by EPBC personnel her employment plan was closed and she became ineligible for IA as a sole recipient of IA with dependent children under EAR Section 16 (1.1) and (1.2).

Panel Decision

The evidence demonstrates that the appellant enrolled in a college trades program on October 31, 2016. The panel finds that the ministry's determination that the appellant is a full-time student in a funded program of studies that commenced October 31, 2016 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 EAR Section 1. Although the appellant received a tuition grant from another source her program remained "fundable", and thus continued to be categorized as a funded program of studies.

The legislation relating to eligibility for IA for a sole recipient with dependent children is complex, and in the appellant's circumstances it is complicated by the fact that on July 11, 2016 the ministry determined that she was not obligated to pursue employment because she had fled from an abusive relationship. However, the appellant acknowledges that she was informed by the ministry that if she wished to continue to receive IA while a full-time student she was required to participate in an EPBC employment plan in order to be directed to register with SPEI as a condition of her employment plan.

While the panel understands the appellant's confusion surrounding eligibility for IA, the legislation is clear. Under EAR Section 16 (1) a family unit is not eligible for IA if the recipient is enrolled as a full-time student in a funded program of studies. However, subsections 16 (1.1) and (1.2) allow for an exception to this prohibition. If a sole recipient of IA with a dependent child receives prior approval from the ministry to enroll in a funded program of studies because she has been required to enroll in that program of studies as a condition of an employment plan she will continue to be eligible for IA.

The appellant attempted to participate in the mandated EPBC employment plan in order to be referred to the SPEI as a condition of the employment plan, which would trigger ministry approval for continued IA while a full-time student. She chose to enter the college trades program on October 31, 2016 rather than in February 2017 as originally intended. She also chose to discontinue participation in her employment plan prior to being referred to the SPEI, and on December 1, 2016 her EPBC file was closed due to non-participation.

Although the panel is sympathetic to the appellant's position it finds that the ministry reasonably determined that the appellant was ineligible for IA under EAR Section 16 (1) effective December 1, 2016 because she was a full-time student in a funded program of studies. The panel also finds that the ministry reasonably determined that the appellant failed to meet the criteria set out in EAR

subsections 16 (1.1) and (1.2) which would have allowed her to continue receiving IA with prior approval from the ministry if, as a condition of an employment plan, she had been required to enroll in a funded program of studies.

In conclusion the panel finds that the ministry's decision to deny IA to the appellant because she was ineligible under EAR Sections 16 (1), (1.2) and (1.2) was a reasonable application of the applicable enactments in the circumstances of the appellant, and confirms the decision. The appellant is not successful in her appeal.