

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation's (the "ministry") reconsideration decision of May 3, 2017 which determined under section 16(1) of the *Employment and Assistance Regulation* that the appellant was not eligible for income assistance because she enrolled as a full-time student in a funded program of studies without obtaining the prior approval of the minister.

PART D – Relevant Legislation

Employment and Assistance Act, sections 2, 11(1)(a) & (b)

Employment and Assistance Regulation, sections 1, 16, 33(1)

PART E – Summary of Facts

Nature of the Appellant's Appeal

The appellant wishes her social assistance funding reinstated.

Information Before the Ministry at Reconsideration

1. The appellant was in receipt of income assistance as a single parent of 1 dependent child
2. The appellant's monthly financial report dated January 26, 2017 in which she reported, among other things
 - receipt of \$450 child tax benefits, and no other income
 - that she was not attending or enrolled in school or training
 - that she was looking for work
 - that she was still in need of assistance
3. The appellant's monthly financial report dated February 22, 2017 in which she reported, among other things
 - receipt of no income
 - that she was not attending or enrolled in school or training
 - that she was looking for work
 - that she was still in need of assistance
4. An employment plan dated March 21, 2017, with a start date of March 10, 2017 and an end date of March 10, 2019
5. A Ministry of Advanced Education Notification of Assessment dated February 1, 2017 advising the appellant that she was eligible to receive \$19,347 student loans in order to attend Vancouver Career College at its Burnaby campus to study massage and hydrotherapy
6. A College Letter of Confirmation to the appellant dated April 26, 2017 confirming that the appellant is registered in a full-time program.
7. The appellant confirmed to the ministry on April 3, 2017 that she was attending school full-time, and advised the minister of the amount of the student loan received, that due to a previous default she did not receive a provincial student loan, and that she used her credit card and a loan from her friend to that pay the balance of her tuition.
8. A College invoice dated March 30, 2017 advising the total bill was \$18,255, that \$11,680 is approved by Canada Student Loan, but that British Columbia did not approve a loan because the appellant was in default of a previous student loan.
9. The Decision to be Reconsidered dated April 27, 2017 in which the ministry stated that
 - the appellant's income assistance is discontinued because the appellant was enrolled as a full-time student in a funded program of studies
 - the ministry received the appellant's student loan notice of assessment, Vancouver career College confirmation a student loan approval and letter of confirmation of enrolment in full-time studies at Vancouver career college as of December 12, 2016
 - the appellant did not inform the ministry that she had been approved for a student loan and started attending full-time studies on December 12, 2016
 - that Work BC notified the ministry on March 24, 2017 that the appellant declined to attend

Work BC intake meetings because she had told Work BC that she was a full-time student at Vancouver career College in the registered massage therapy program, a funded program

- that because the appellant was not participating with Work BC and was not accepted into the Single Parent Employment Initiative Program, she did not have the Minister's approval to attend school, prior to attending school, was therefore employment obligated and not eligible to participate in full-time studies as of December 16, 2016

10. The appellant's Request for Reconsideration dated May 1, 2017, in which she stated
- that she had started a Registered Massage Therapy program with the goal of obtaining a certification diploma and ceasing social assistance
 - that from a student loan she received \$11,600 but the tuition for her first year is \$18,000
 - that she took on credit card debt of \$6400 to continue studying
 - that she never received money for housing or living expenses
 - that she is a single mother of a 13-year-old child and without help from social assistance she will not be able to pay her rent and will be made homeless and that her son will be forced into foster care
 - that she will join the work force full-time in less than 18 months and will remain off social assistance for good

The Appellant Did Not Attend the Appeal

The appellant did not attend the hearing. After confirming that the appellant was notified of the date and time of the hearing, the hearing proceeded pursuant to Section 86(b) of the *Employment and Assistance Regulation*.

Information Provided on Appeal

There was no additional evidence provided at the appeal. The ministry mostly relied on the reconsideration decision.

PART F – Reasons for Panel Decision

Issue on Appeal

The Issue on Appeal is whether the Ministry of Social Development and Social Innovation's (the "ministry") reconsideration decision of May 3, 2017 which determined under section 16(1) of the *Employment and Assistance Regulation* that the appellant was not eligible for income assistance because she enrolled as a full-time student in a funded program of studies without obtaining the prior approval of the minister was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the circumstances of the appellant.

Relevant Legislation

Employment and Assistance Act (EAA), § 2

Eligibility of family unit

2 For the purposes of this Act, a family unit is eligible, in relation to income assistance, hardship assistance or a supplement, if

- (a) each person in the family unit on whose account the income assistance, hardship assistance or supplement is provided satisfies the initial and continuing conditions of eligibility established under this Act, and
- (b) the family unit has not been declared ineligible for the income assistance, hardship assistance or supplement under this Act.

Employment and Assistance Act (EAA), § 11(1)(a) & (b)

Reporting obligations

11 (1) For a family unit to be eligible for income assistance, a recipient, in the manner and within the time specified by regulation, must

- (a) submit to the minister a report that
 - (i) is in the form prescribed by the minister, and
 - (ii) contains the prescribed information, and
- (b) notify the minister of any change in circumstances or information that
 - (i) may affect the eligibility of the family unit, and
 - (ii) was previously provided to the minister.

Employment and Assistance Regulation (EAR), § 1

Definition of "student financial assistance" & "funded program of studies"

"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;

"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;

Employment and Assistance Regulation (EAR), § 16

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.

Employment and Assistance Regulation (EAR), § 33(1)

Monthly reporting requirement

33 (1) For the purposes of section 11 (1) (a) [*reporting obligations*] of the Act,

(a) the report must be submitted by the 5th day of each calendar month, and

(b) the information required is all of the following, as requested in the monthly report form prescribed under the Forms Regulation, B.C. Reg. 95/2012:

(i) whether the family unit requires further assistance;

(ii) changes in the family unit's assets;

(iii) all income received by the family unit and the source of that income;

(iv) the employment and educational circumstances of recipients in the family unit;

(v) changes in family unit membership or the marital status of a recipient;

(vi) any warrants as described in section 15.2 (1) of the Act.

General Scheme of the Legislation

The general scheme of the legislation is that income assistance may be provided to a person if she satisfies the initial and continuing conditions of eligibility. One of the conditions of eligibility is that an income assistance recipient must report her situation as required by the minister and notify the Minister of any change in circumstances or information that may affect her eligibility. A person is not eligible for income assistance if she is enrolled as a full-time student in a "funded program of studies". A "funded program of studies" is 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.

is a program of studies where a person may receive British Columbia or Federal student loans.

Analysis

Authority to Provide Income Assistance Benefits - EAA § 2

This section is the authority for provision of income assistance to someone who satisfies the conditions of eligibility. It is not in dispute that the appellant was in receipt of income assistance and did satisfy the conditions of eligibility up until she became a full-time student.

Effect of Being a Full-Time Student – EAR §16

This section provides that a full-time student in a "funded program of studies" is not eligible for income assistance. If a person is a sole recipient of income assistance with a dependent child, the person may be enrolled in a "funded program of studies" with the minister's prior approval.

Appellant's Position

The appellant's position concerning her being a full-time student is not known because she did not attend the appeal, except for advising in her Notice of Appeal that she did not report going to school because she was not sure if she would receive a student loan, was a single mother a 13-year-old and would not be able to pay for housing "otherwise" and may become homeless, implying if not stating that without both the student loan and income assistance she would not have sufficient money to live.

Ministry Position

The ministry position was that as a full-time student in a “funded program of studies”, the appellant was not eligible for income assistance. The ministry position further was that although the minister may approve a person to an role in a “funded program of studies” if the person is a sole recipient of income assistance with a dependent child, the appellant was not accepted into the Single Parent Employment Initiative Program and did not have the Minister’s approval prior to enrolment and was therefore employment obligated and not eligible for full-time studies.

Panel Finding

The panel finds that because the appellant was eligible to receive Canada student loan funding, she was enrolled in a “funded program of studies”.

The panel finds that the appellant was enrolled as a full-time student and makes this finding based on the evidence from the Ministry of Advanced Education’s Notification of Assessment dated February 1, 2017 which stated that the appellant’s program of studies commenced December 12, 2016 and is scheduled to end November 17, 2017 together with the College’s Letter dated April 26, 2017 confirming those facts, together with the College Letter dated April 26, 2017 confirming those same dates and advising that the appellant is enrolled in a full-time program at the College. The College’s letter further confirmed that the appellant is enrolled in the course full-time. The panel finds that the appellant is enrolled in a “funded program of studies” as a full-time student, and that the appellant, as a sole recipient of income assistance with a dependent child, did not obtain the prior approval of the minister to enroll in a “funded program of studies”.

The panel finds that as a full-time student enrolled in a funded program of studies, pursuant to section 16 *EAR*, the appellant was no longer eligible for income assistance as at the date she became a full-time student, and that the determination of the minister at reconsideration was reasonably supported by the evidence and was a reasonable application of the legislation in the circumstances of the appellant.

Conclusion

The panel finds that the ministry’s reconsideration decision dated May 3, 2017, which determined that the Appellant was not entitled to income assistance, was reasonably supported by the evidence and was a reasonable application of the applicable enactments in the circumstances of the Appellant.

The panel confirms the ministry’s decision and the Appellant is not successful in her appeal.