

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the ministry) reconsideration decision dated November 29, 2017 which found that the appellant is not eligible for income assistance under section 16 of the Employment and Assistance Regulation as he is enrolled as a full-time student.

PART D – RELEVANT LEGISLATION

Employment and Assistance Regulation (EAR) sections 1 and 16

PART E – SUMMARY OF FACTS

Information before the minister at reconsideration included:

- Two bank statements dated October 20, 2017.
- Two bank statements for the period September 8 to October 6, 2017.
- Two bank statements for the period August 8 to September 8, 2017.
- Receipt for purchases at a university bookstore date September 5, 2017.
- University textbook voucher, date illegible.
- A copy of a letter to the appellant from the ministry dated September 5, 2017, informing him that his assistance cheque has been held pending receipt of information.
- A copy of a monthly report to the ministry from the appellant dated August 31, 2017, showing income of \$500, with an explanation that states it is an ongoing loan.
- An information sheet for students from a university.
- A copy of a registration statement from a university in the appellant's name, showing he is registered in 3 courses.
- The appellant's Request for Reconsideration, signed November 16, 2017.
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The appellant submitted the following prior to the hearing:

- Sections C, D and E of a Persons with Disabilities (PWD) Application form.
- 2 copies of monthly reports to the ministry dated August 8, 2017 and August 31, 2017.

The ministry did not object to the admission of these documents. The Panel notes that the monthly report dated August 31, 2017 had previously been submitted. The Panel admitted the portions of the PWD application form and the monthly report dated August 8, 2017 under section 22(4) of the Employment and Assistance Act as written testimony in support of information and records that were before the ministry at reconsideration, as the appellant referred to his disability in his Request for Reconsideration.

At the hearing, the appellant stated that he would have asked for permission to enrol as a student if he had known it was required. He stated that he submitted a copy of his PWD application to show his medical condition, and he wanted to use his schooling as a test of his ability to work. The appellant stated that the vouchers he submitted for his textbooks are for a loan, not income. He stated that he informed the Ministry of his intention to apply for school on a number of occasions and in his Monthly Report of August 8, 2017. He also stated that he asked the ministry about attending school after he submitted his monthly report in September and was told the ministry cannot pay for him to attend school full-time. He was asked by the ministry for more information such as bank statements. When he received his assistance cheque, he assumed everything was fine. On October 10, 2017, his cheque was held and he submitted more information. On October 23, he was told he is not eligible for income assistance. In response to questions from the Panel, the appellant stated that he did not receive a form from the ministry giving him permission to attend school, but assumed the monthly reports and discussions with Ministry staff would do. He stated that he does not have an employment plan, but later stated that he does, however he made contradictory statements about a requirement for a doctor's note. The appellant stated that he has reenrolled in the next semester of studies at the same institution.

The ministry responded by referring to the Reconsideration Decision. The ministry stated that the legislation is clear that pre-approval is required in order for a recipient of income assistance to attend school full-time and continue to receive assistance. The ministry stated that every recipient who is considered to be employable is required to have an employment plan, although the appellant's is not available at the hearing. The ministry stated that there may have been a misunderstanding about the nature of the appellant's courses as limited upgrading, however at the end of October, 2017 it became clear that he is attending school full-time. The ministry stated that assistance is issued based on the previous month's report. The ministry stated that there is no suggestion that the appellant did not report accurately, but the legislation must be followed. In response to questions from the appellant, the ministry stated that the appellant was issued a cheque for October because cheques are issued one month ahead, and the appellant had not yet enrolled in his courses until September. The ministry stated that the appellant's cheque was

signalled at the end of August, then released because it was not certain whether he would attend school. He was warned in September, and he should have inquired further. The Ministry confirmed that the Appellant was responsible to inform a case worker of his intention to attend school and as they continued to receive Doctors notes regarding his physical condition limitations to searching for work, the appellant's discussions with front office staff and August 8 and 31 written reports were insufficient to constitute an application.

PART F – REASONS FOR PANEL DECISION

The issue in this appeal is the reasonableness of the ministry decision which found that the appellant is not eligible for income assistance under section 16 of the Employment and Assistance Regulation as he is enrolled as a full-time student.

Legislation

EAR

Definitions

1 (1) In this regulation:

"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 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 received inaccurate information from the ministry when he inquired about schooling, and that he has done everything correctly. The appellant argued that he continued to receive assistance cheques after he informed the ministry that he was attending school, so he assumed everything was fine.

The ministry position is that it took some time to establish that the appellant was a full-time student, but the legislation must be followed, and the appellant is ineligible for assistance while he is attending school full-time.

The Panel notes that section 16 of the EAR clearly states that a family unit is not eligible for income assistance while a recipient is enrolled as a full-time student. The appellant does not argue that he was not enrolled in a full-time prescribed program of studies, and stated that although he is aware of the ministry's position, he reenrolled in the spring semester. The appellant argued that his enrolment is primarily as a test of his ability to return to work, however the appellant is not designated as a Person with Disabilities, and any exemption for that category does not apply to him. The appellant submitted copies of pages of his application for PWD designation and stated that he has been approved for Persons with Persistent Multiple Barriers to Employment (PPMB) status, but not yet for PWD designation. The Panel therefore placed no weight on this evidence. The Panel notes that the appellant accurately reported his status as a student to the ministry.

The panel finds that the evidence demonstrates that the ministry reasonably determined that the appellant is not eligible for income assistance because he is enrolled as a full-time student in a funded program of studies and had not received the prior approval of the minister, pursuant to section 16 of the EAR.

The appellant is not successful on appeal.