

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the ministry) reconsideration decision dated May 1, 2018, which held that the appellant is not eligible for income assistance (IA) pursuant to section 16 of the Employment and Assistance Regulation (EAR), because she is registered as a full-time student in a fundable program of studies without the ministry's prior approval.

PART D – RELEVANT LEGISLATION

Employment and Assistance Regulation (EAR) – section 16

PART E – SUMMARY OF FACTS

The following evidence was before the ministry at the time of reconsideration:

- Monthly report stub dated March 21, 2018 which indicated that the appellant still need assistance, is attending/enrolled in school/training and received \$3700 in student funding.
- Loan eligibility form which indicates that following information:
 - The program of studies runs from March 5, 2018 to December 17, 2018.
 - The appellant is eligible for a total of \$21, 930 in funding and has an unmet need of \$18, 650.
- Request for Reconsideration (RFR), signed and dated April 27, 2018, which stated: *"I am a single mother and I have a 2 year old daughter who suffers from [REDACTED]. If you are not aware of this genetic disorder I suggest you look it up. It is a catastrophic epilepsy genetic disorder with prolonged seizures that could result to status epilepticus if not given [illegible?] ([seizure] rescue medication). I cannot work because I have to care for her 24/7 as she could have a seizure at any given time. I have been trained to administer her seizure medication. On top of that when me and my daughter returned back to Canada from [REDACTED] my daughter got severely sick and was in the ICU and it was at that time her care and coverage was pending due to the 2 month waiting period. I had purchased private insurance just in case but they refused to cover her due to severe seizures. I requested from the ministry of health to backdate her coverage when we entered the country several times but with no success, telling me I came back to the country to provide medical attention for her. I now have a \$15,000 medical bill for my daughter's treatment and specialists that saved my daughter's life. I took the special education program at Stenberg (educator for kids with exceptionalities) because I need to be able to help with my daughter's development. I did not know my assistance would be discontinued. Our lives depend on my assistance to pay her (arranged?) monthly medical bills, rent, food, diapers and necessities. My course is online as I cannot leave my daughter at all. Please don't stop my assistance. You would be putting my daughter's life at risk. I pay her bills and extra medicine that is not covered by care card. Please help me. I currently have no money."*

Evidence on Appeal

Notice of Appeal (NOA), signed and dated May 24, 2018, which in part stated that the appellant was not aware that taking an online course would stop her assistance. She is a single mother to a child with a rare disorder and is taking the course to better her situation.

Evidence at the Hearing

At the hearing, the appellant described the challenges she faced with her ex-husband while living in a foreign country, her move back to Canada with a baby who experienced monthly seizures, the 24/7 care the child requires, the need to go to college to educate herself for employment and how to provide specialized care for her child, the medical bills she owes due to her child's care prior to qualifying for IA, and the money she owes to her family for their financial support. In part, the appellant also stated the following:

- She was unaware that going to school would disqualify her from IA benefits or that she was required to get the ministry's approval prior to enrolling in her studies.
- She is looking for the ministry to make an exception to the rules as she depends on IA benefits and due to her child's rare medical disorder, she is in an unique situation.
- She is pretty sure she advised the ministry in the beginning of February 2018 (one month prior to commencing her program of studies) that she was going to attend school but the ministry did not advise her that her IA benefits would be cut-off.
- On May 17, 2018 she provided a letter from one of her child's 10 doctor's indicating that the child has a rare disorder and requires 24/7 care.

- Her ex-husband, who lives in another country, does not provide her with any financial support for her or her child. The only financial support she has is from her parents who have lent her \$20,000 to cover her debts. She has not paid her rent because she does not have the funds.
- Her child tax benefit is not enough to cover the cost of her child's medication.
- Besides IA, her only source of income is the Canada child benefit of \$1,048 per month, with which she can only afford to pay for her and her child's essential needs, excluding shelter, as the rest of her money goes towards the child's medication costs, (which is \$200 every 20 days).
- She chose to attend the particular college in which she is enrolled because it is the only one that offers this specific program online which is essential because she cannot leave her child due to her medical condition.
- Her child was not 3 years old as of March 2018, but rather the child is 2.5 years old at this time and will turn 3 in December 2018.

At the hearing the ministry relied on its reconsideration decision.

PART F – REASONS FOR PANEL DECISION

The issue before the panel is the reasonableness of the ministry's reconsideration decision dated March 30, 2015, 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 without the ministry's prior approval pursuant to section 16 of the EAR.

Section 16 of the EAR states that:

(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

The appellant's position is that she was unaware that going to school would disqualify her from her IA benefits, that she had to receive prior approval to go to school and that she is trying better her financial situation by getting an education and provide better care for her child by getting an education in this specialized area of studies.

The Ministry's Position

The ministry's position is that the appellant is ineligible for IA at this time while she is enrolled in full-time funded program of studies without the prior approval of the ministry pursuant to section 16 of the EAR.

Panel Decision:

Pursuant to Section 16(1) of the EAR, a family unit is not eligible for income assistance for a period, as defined in Section 16(2), if an applicant or a recipient is enrolled as a full-time student in a funded program of studies. The appellant stated that she submitted her college application form in February 2018, one month prior to commencing her studies. However, the written evidence available suggests that the appellant submitted her college application information to the ministry along with her April 2018 monthly report in March 2018. The panel finds that providing the loan information as part of the ministry's monthly income and employment status report is not equivalent to seeking prior approval from the

ministry for her studies. Additionally, the appellant clearly stated that she was unaware that she required approval from the ministry prior to enrolling in her studies. In this case, the evidence demonstrates that the appellant did not seek approval from the ministry prior to enrolling in her program of studies as required under Section 16(1.1) of the EAR. As a result the panel finds that the ministry reasonably determined that the appellant is not eligible for IA pursuant to section 16 of the EAR as she is enrolled in full-time funded studies for which she did not seek prior approval.

Conclusion:

The panel finds that the ministry's decision to deny the appellant income assistance due to being registered as a full-time student in a fundable program of studies without the ministry's prior approval was a reasonable application of the legislation and was reasonably supported by the evidence. The panel therefore confirms the ministry's decision. The appellant is not successful on appeal.

PART G – ORDER

THE PANEL DECISION IS: (Check one)

 UNANIMOUS BY MAJORITY

THE PANEL

 CONFIRMS THE MINISTRY DECISION RESCINDS THE MINISTRY DECISION

If the ministry decision is rescinded, is the panel decision referred back to the Minister for a decision as to amount? Yes No

LEGISLATIVE AUTHORITY FOR THE DECISION:*Employment and Assistance Act*Section 24(1)(a) or Section 24(1)(b)

and

Section 24(2)(a) or Section 24(2)(b) **PART H – SIGNATURES**

PRINT NAME

Neena Keram

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2018/06/13

PRINT NAME

Simon Clews

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2018/06/13

PRINT NAME

Kim Polowek

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2018/06/13