

**PART C – DECISION UNDER APPEAL**

The decision under appeal is the Ministry of Social Development and Poverty Reduction’s (“ministry”) reconsideration decision dated December 3, 2018, in which the ministry found the appellant is not eligible for income assistance (“IA”) under section 2 of the *Employment and Assistance Act* (“EAA”) and section 16 of the *Employment and Assistance Regulation* (“EAR”) because she is a full-time student in a funded program of studies.

**PART D – RELEVANT LEGISLATION**

- Employment and Assistance Act* - EAA - section 2
- Employment and Assistance Regulation - EAR - sections 1 and 16
- Canada Student Financial Assistance Regulations - section 2(1)

## PART E – SUMMARY OF FACTS

The evidence and documentation before the minister at the reconsideration consisted of:

1. Information from the ministry's record of decision indicating the appellant completed an application for IA on October 20, 2018 as a sole applicant with no dependents. The ministry found the appellant ineligible for IA on November 15, 2018. The appellant submitted her Request for Reconsideration ("RFR") on November 20, 2018. After review of the information provided and applicable legislation, the ministry determined the appellant is ineligible for IA (for the months of October - December 2018) due to being a full-time student in a funded program of studies.
2. The RFR, signed by the appellant on November 20, 2018, in which she states that she is not a full-time student.
3. An *Application for Assistance (Part 2)*, signed by the appellant on October 20, 2018, in which she states that her roommate moved out and it is difficult to find a cheaper place to stay. The appellant also has a medical condition impacting her life and she is receiving therapy for her mental health to get to the point where she can work and take care of herself. The appellant indicates in the application form that she is attending post-secondary school and has student funding in the amount of \$5,041.
4. A *Notification of Assessment* from Student Aid BC, dated July 20, 2018, indicating the following funding will be available to the appellant as of September 4, 2018 for her application ending December 19, 2018:
  - *British Columbia Student Loan*, \$1,870;
  - *Canada Student Grant - Full-time*, \$1,471;
  - *Canada Student Loan*, \$3,570.Total funding through Student Aid BC is \$6,911 for the appellant's study period of 17 weeks. The appellant's unmet need is \$3,057.
5. The appellant's course schedule for winter session 2018, indicating 4 courses (3 Lecture and 1 Tutorial) in Term 1, and 2 courses (both Lecture) in Term 2. The 5 Lecture courses are worth 3 credits each and the Tutorial (associated to one of the Lecture courses) is non-credit.
6. A bank statement for the appellant's chequing account, dated October 20, 2018, indicating the following student loan deposits on September 4, 2018:
  - *Canada GSL*, \$3,570;
  - *BC Student Loan GSL*, \$1,870;
  - *Canada GSL*, \$1,471.

[Redacted]

***Additional information***

Subsequent to the reconsideration decision the appellant filed her *Notice of Appeal*, received by the Tribunal on December 4, 2018. In her *Reasons for Appeal*, the appellant provides her argument and states that she is not a full-time student; she was enrolled in 3 courses. The appellant states that "1 was withdrawn; I was only in 2 classes from Sept. 2018 - Dec. 2018. I informed your agents about this, the documentation hasn't updated (yet) to reflect the 1 withdrawal."

The panel finds that the appellant's information about her course enrollment provides additional detail in support of her RFR in which she states that she is not a full-time student. The appellant's course schedule for winter session 2018 was also before the minister at the reconsideration. The ministry did not object to the additional information on appeal and the panel admits it under section 22(4) of the EAA as evidence in support of the information and records that were before the minister when the decision being appealed was made.

The ministry relied on the reconsideration decision and did not submit any new evidence.

***Procedural matter***

The appellant did not attend the hearing. Upon confirming that she was notified of the date and time, the panel considered the appeal in a party's absence as it is authorized to do under section 86(b) of the EAR.



**PART F – REASONS FOR PANEL DECISION**

The issue on appeal is whether the ministry's determination that the appellant is ineligible for IA under section 2 of the EAA and section 16 of the EAR, is reasonably supported by the evidence or a reasonable application of the legislation in the circumstances of the appellant. Was the ministry reasonable in finding that the appellant is ineligible for IA for October - December 2018 because she is a full-time student in a funded program of studies?

The ministry based the reconsideration decision on the following legislation:

**EAA**

**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.

**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;

**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.

## Canada Student Financial Assistance Regulations

### Interpretation

- **2 (1)** In the Act and these Regulations,  
**full-time student** means a person
  - (a) who, during a confirmed period within a period of studies, is enrolled in courses that constitute
    - (i) at least 40 per cent and less than 60 per cent of a course load recognized by the designated educational institution as constituting a full course load, in the case of a person who has a permanent disability and elects to be considered as a full-time student, or
    - (ii) at least 60 per cent of a course load recognized by the designated educational institution as constituting a full-time course load, in any other case,
  - (b) whose primary occupation during the confirmed periods within that period of studies is the pursuit of studies in those courses, and
  - (c) who meets the requirements of subsection 5(1) or 7(1) or section 33, as the case may be; (*étudiant à temps plein*)

### Analysis and panel's decision

To be eligible for IA, the family unit must satisfy initial conditions of eligibility and not have been declared ineligible for assistance under section 2 of the EAA. In relation to students, a family unit is not eligible for IA under section 16(1) of the EAR if the applicant for assistance is enrolled as a full-time student in a funded program of studies, or in an unfunded program of studies without the prior approval of the minister. The ministry notes that the Regulation provides exceptions for single parents but there are no exceptions under the legislation for sole applicants such as the appellant.

Essentially, the legislation makes the sole applicant ineligible for IA when two criteria are met:

- the applicant is enrolled in school full-time; and
- the program they are enrolled in is a funded program of studies.

"Full-time student" is defined in section 1(1) of the EAR with reference to the Canada Student Financial Assistance Regulations. In relation to a student who does not have a disability, section 2(1) of the federal Regulation defines a full-time student as a person who is taking at least 60 per cent of the course load recognized by the learning institution as a full-time course load during a confirmed period of studies. While the appellant refers to some mental health issues, the ministry determined there is insufficient evidence to find that she has a permanent disability.

"Funded program of studies" is defined in section 1(1) of the EAR as a program of studies for which funding under the *Canada Student Financial Assistance Act* may be provided to a student enrolled in it. The ministry explains that the period of studies extends from the first day of the month following the month in which classes begin, and ends on the last day of the month in which exams are held. The ministry notes that the appellant's study period begins on September 4, 2018 and ends on December 19, 2018 indicating that exams are held in December.

The ministry argues the appellant is a full-time student in a funded program of studies because she received Student Aid BC funding of \$6,911 that includes a *Canada Student Grant* (available to full-time students only) in the amount of \$1,471 for 4 classes during the current study period (September 3 - December 19, 2018) and 2 classes that are scheduled for next term. The ministry explains that students with a minimum of 4 courses in a study period are considered full-time students for the purposes of the student loans program. The ministry argues that the appellant's documented course load makes her eligible for the *Canada Student Grant - Full-time*. The ministry notes that it received no documentation from the school to confirm that the appellant is taking fewer courses.

The appellant argues she is not a full-time student because she only had 3 classes to begin with (her tutorial is a mandatory requirement for one of her classes and no credits are given for the tutorial). The appellant explains that she then withdrew from one class and was only in 2 classes from September - December 2018. The appellant explains that she informed her school but the documentation has not yet been updated to reflect her withdrawal from one course.

Based on the evidence before the minister at the reconsideration and the additional information on appeal, the panel finds that the ministry reasonably determined the appellant is not eligible for IA for October - December 2018 because she was a full-time student in a funded program of study for that period. The appellant's course schedule for winter session 2018 indicates 3 Lecture courses in Term 1 (one of which had a tutorial), and 2 Lecture courses in Term 2. The 3 courses in Term 1 are worth 3 credits each (for a total of 9 credits) and the 2 courses indicated for Term 2 are worth 3 credits each (for a total of 6 credits). The documentation therefore indicates a total of 15 credits for 5 courses over both terms. Only the fall semester is relevant to the appellant's eligibility for IA for October - December 2018.

The appellant argues that the documentation had not been updated to reflect her part-time status in Term 1 and if she had dropped one course worth 3 credits, she would only have a total of 6 credits for the 2 Lecture courses that remained. Where 15 credits per term is considered full-time enrollment, taking 2 courses worth 6 credits is 40% of a full-time course load for the first term. In such a case, the appellant would not meet the definition of a full-time student. However, the documentary evidence before the panel shows 3 courses, supporting the ministry's finding that the appellant meets the definition of a full-time student under the provincial and federal Regulations.

The appellant's receipt of the *Canada Student Grant - Full-time* confirms her enrollment as a full-time student as these funds are only available to students enrolled in a full-time program of study. The appellant's bank statement of October 20, 2018 shows this grant, in the amount of \$1,471, deposited on September 4, 2018. At the hearing, in response to questions, the ministry stated it did not have any evidence to indicate the appellant had been reassessed for financial aid as a part-time student. The appellant does not dispute that she received a study grant for full-time studies and her appeal submission does not include any evidence to indicate she was providing new information or arranging a repayment to Student Aid BC.

The appellant does not dispute that she was enrolled in a funded program of studies as set out in sections 1(1) and 16(1)(a) of the EAR. A funded program of studies means a program of studies for which funding is provided under the *Canada Student Financial Assistance Act*. The appellant's bank statement shows that she received both federal and provincial student aid funds (totaling \$6,911) on September 4, 2018. The panel therefore finds that the ministry reasonably determined the appellant is not eligible for IA under section 2 of the EAA and section 16 of the EAR due to being a full-time student in a funded program of studies.

**Conclusion**

Based on the information in its entirety; in particular, the student loan documents, bank statement, and evidence in the appeal submission, the panel finds that the ministry's reconsideration decision, which determined that the appellant is not eligible for IA, is reasonably supported by the evidence. The panel confirms the decision. The appellant is not successful on appeal.

<b>PART G – ORDER</b>	
THE PANEL DECISION IS: (Check one) <input checked="" type="checkbox"/> UNANIMOUS <input type="checkbox"/> BY MAJORITY	
THE PANEL <input checked="" type="checkbox"/> CONFIRMS THE MINISTRY DECISION <input type="checkbox"/> 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? <input type="checkbox"/> Yes <input type="checkbox"/> No	
<b>LEGISLATIVE AUTHORITY FOR THE DECISION:</b>	
<i>Employment and Assistance Act</i>	
Section 24(1)(a) <input checked="" type="checkbox"/> or Section 24(1)(b) <input type="checkbox"/>	
and	
Section 24(2)(a) <input checked="" type="checkbox"/> or Section 24(2)(b) <input type="checkbox"/>	

<b>PART H – SIGNATURES</b>	
PRINT NAME Margaret Koren	
SIGNATURE OF CHAIR	DATE (YEAR/MONTH/DAY) 2018/12/27

PRINT NAME Shirley Heafey	
SIGNATURE OF MEMBER	DATE (YEAR/MONTH/DAY) 2018/12/27
PRINT NAME Emily Drown	
SIGNATURE OF MEMBER	DATE (YEAR/MONTH/DAY) 2018/12/27