

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction's ("ministry") reconsideration decision dated March 7, 2019, in which the ministry found the appellant is not eligible for income assistance ("IA") under sections 1 and 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

EAR sections 1 and 16



PART E – SUMMARY OF FACTS

The appellant is an applicant of income assistance on behalf of herself and one dependent child.

The information that was before the ministry at reconsideration included:

- A Request for reconsideration signed by the appellant on February 28, 2019 and in which the ministry determined that the appellant was denied income assistance because she is enrolled as a full time student in a funded program of studies;
- A letter from an advocacy group dated February 28, 2019 that explained that: the appellant receives partial rent supplement from an agency who have paid half of her rent each month since October 2018; her landlord has been patient however to date the appellant owes \$1025 for past due rent and the landlord is threatening eviction; and, the appellant is seeking income assistance until her student loan comes in April 2019;
- A letter from an Outreach agency dated February 19, 2019 that confirms the amount of rent they have been assisting the appellant with and that to date (February) she is in arrears of \$1025;
- A Court document, Parenting Order, dated February 2, 2017 that authorizes the appellant to apply for all government documentation without the necessity of obtaining consent of the parent, and that all powers, responsibilities, entitlements of guardianship and decision making regarding the child will be the appellant's sole responsibility;
- An Application for Assistance (Part 2) signed by the appellant on February 5, 2019; and
- A copy of Student Loan/Grant Disbursement for the study period October 2, 2017 to September 18, 2018 that shows the appellant received a total of \$18,218 and the education facility received \$20,182.

On her Notice of Appeal dated March 14, 2019 the appellant wrote: "Did not know that permission was needed to attend school to receive income assistance or about the S.P.E.I. until already a student. Received loans, mismanaged money. Learning curve. Would like to finish program and maintain housing. Have a dependant to consider."

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

At the hearing, the ministry restated the Reconsideration Decision and emphasized that the appellant was not eligible for income assistance pursuant to EAR section 16(1) because she was attending full time studies in a funded program. The ministry explained that the Single Parent Employment Initiative allows for the minister to approve a person to enrol in a funded program of studies if the person is a recipient of income assistance who has a dependent child and was required to enrol in the program of studies as a condition of an employment plan and was receiving income assistance, hardship assistance or disability assistance in each of the immediately preceding three calendar months. The ministry explained that the appellant is an applicant for income assistance, not a recipient of income assistance, so section 16(1.2) does not apply. The ministry confirmed that as long as the appellant was in a funded program of studies, meaning she receives student loan funding which the appellant acknowledged she had received, she would not be eligible for assistance until the last day of the month in which final exams are held.

[Redacted]

PART F – REASONS FOR PANEL DECISION

The issue on appeal is whether the ministry's determination that the appellant is ineligible for IA under sections 1 and 16 of the EAR is reasonably supported by the evidence or is 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 because she is a full-time student in a funded program of studies?

The ministry based the reconsideration decision on the following 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;

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 enrol 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 enrol 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, according to her written letters and statement on the notice of appeal, is that she did not know that permission was needed to attend school in order to receive income assistance, nor did she know about the Single Parent Employment Initiative until she was already a student. The appellant acknowledged that she is in a full-time program and that her program runs until August 2019 and that she is waiting for another student loan disbursement, which she will receive in April 2019. The appellant provided documentation in the Appeal Record that showed she had received a student loan, however she wrote that she had mismanaged her money and has \$1025 outstanding in rent as of February 2019. The appellant states she would like to finish her program and maintain her housing as she has a dependent to consider.

The ministry's position is that the appellant is not eligible for income assistance because she is enrolled as a full-time student, nor does she meet the exemption, which allows the minister to approve a recipient with a dependent

child to attend full-time school.

Panel Decision

Pursuant to section 16(1) 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. There is no dispute from the appellant that she is enrolled as a full-time student in a funded program of studies, therefore the panel finds the ministry was reasonable in determining that the appellant was not eligible for income assistance pursuant to section 16(1) EAR.

There is an exemption to section 16(1) EAR, which is section 16(1.2) EAR and that allows the minister to approve a person to enrol in a funded program of studies providing that: the person has a dependent child; is required to enrol in the program of studies as a condition of an employment plan; AND was receiving income, hardship or disability assistance in each of the immediately preceding three calendar months, unless the minister is satisfied that exceptional circumstances exist. In the reconsideration decision the Adjudicator referred to the Single Parent Employment Initiative (SPEI), writing that the appellant did not meet the requirements which are cited in section 16(1.2) EAR. The panel notes that by referring to these exemptions in terms of the SPEI, which mirror section 16(1.2) EAR, it may have caused confusion for the appellant as she wrote that she was not aware of the SPEI. In reviewing section 16(1.2) EAR the panel notes, in the appellant's circumstance, that she was an applicant of income assistance, not a recipient having received at least three months assistance with an approved employment plan prior to beginning her full time studies, so finds that the ministry was reasonable in determining that the appellant did not meet the exemption to section 16(1) EAR.

Conclusion

The panel finds that the ministry's decision that the appellant was not eligible for income assistance because she was enrolled as a full-time student in a funded program of studies was a reasonable application of the applicable legislation in the circumstances of the appellant. The panel confirms the ministry's decision in accordance with section 24(1)(b) and 24(2)(a) of the Employment and Assistance Act.

The appellant is not successful in her appeal.

PART G – ORDER	
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	
LEGISLATIVE AUTHORITY FOR THE DECISION:	
<i>Employment and Assistance Act</i>	
Section 24(1)(a) <input type="checkbox"/> or Section 24(1)(b) <input checked="" type="checkbox"/>	
and	
Section 24(2)(a) <input checked="" type="checkbox"/> or Section 24(2)(b) <input type="checkbox"/>	

PART H – SIGNATURES	
PRINT NAME Janet Ward	
SIGNATURE OF CHAIR	DATE (YEAR/MONTH/DAY) 2019 April 4

PRINT NAME Carl Gorham	
SIGNATURE OF MEMBER	DATE (YEAR/MONTH/DAY) 2019 April 4
PRINT NAME Keith Lacroix	
SIGNATURE OF MEMBER	DATE (YEAR/MONTH/DAY) 2019 April 4