

### **PART C – DECISION UNDER APPEAL**

The decision under appeal is the Ministry of Social Development and Poverty Reduction (“the ministry”) reconsideration decision of February 12, 2019 in which the ministry found that 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 was a full-time student in a funded program of studies.

### **PART D – RELEVANT LEGISLATION**

EAA: Section 2

EAR: Sections 1, 16

Canada Student Financial Assistance Regulation (“CSFAR”): Section 2 (1)

## **PART E – SUMMARY OF FACTS**

The information before the ministry at reconsideration included the following:

- Request for Reconsideration submitted by the appellant on or about February 4, 2019, summarized as follows:
  - the appellant is enrolled in a university program of studies for a term commencing January 7, 2019 and ending April 30, 2019;
  - her course load is 60% of full-time (9/15 credits);
  - she attends classes only 2.5 days per week;
  - she has been unable to secure funding from Student Aid BC because she is on the "restricted list";
  - she has applied for bursaries and grants to assist with payment of her tuition and fees but not living expenses;
  - she has a college diploma in accounting but has been unable to find employment.
- university course registration form confirming that the appellant is registered in 3 courses for a total of 9 credits for the term starting January 7, 2019 and ending April 30, 2019;
- January 30, 2019 letter from the university student awards and financial support department confirming that the appellant has applied for awards and/or bursaries and if successful her award will not exceed the cost of tuition and fees.

### **Documents Received after Reconsideration**

1. February 27, 2019 email message from the appellant to the Employment Assistance Appeal Tribunal stating that she has withdrawn from university and has arranged an appointment with Work BC;
2. University form entitled "Withdrawal in Extenuating Circumstances" indicating that the appellant applied for a withdrawal from all 3 courses on February 25, 2019;
3. Work BC card confirming an appointment on March 8, 2019.

### **Admissibility of Information Received after Reconsideration**

The panel determined that Documents 1 and 2 tendered by the appellant are not admissible under EAA Section 22 (4) because they constitute new information that was not before the ministry at reconsideration and did not support the information upon which the ministry made its determination.

The panel also determined that Document 3 is inadmissible under Section 22 (4) because it is not relevant to the issues before the ministry at reconsideration and contains no substantive information.

[REDACTED]

## PART F – REASONS FOR PANEL DECISION

The issue under appeal is whether the ministry's determination that the appellant is not eligible for IA under EAA Section 2 and EAR Section 16 because she is a full-time student in a funded program of studies is reasonably supported by the evidence or is a reasonable application of the applicable enactment in the appellant's circumstances.

Relevant 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;

**"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;

**"unfunded program of studies"** means a program of studies for which a student enrolled in it is not eligible for funding provided to students under the *Canada Student Financial Assistance Act*.

### 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.

#### **CSFAR (Canada):**

2 (1) "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.

The appellant argues that she should be eligible for IA because she is a part-time university student who is actively seeking employment and has been unable to obtain funding through Student Aid BC.

The ministry's position is set out in the reconsideration decision, summarized as follows:

- a family unit is not eligible for IA if the recipient 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 ministry;
- the period of ineligibility 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.

#### **Panel 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 is a funded program of studies.

"Full-time student" is defined in section 1 (1) of the EAR as having the same meaning as in the federal CSFAR. In relation to a student who does not have a disability, Section 2(1) of the CSFAR 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. The panel therefore finds that at the time of reconsideration the appellant was a full-time student because she was taking 60% of the course load offered in her program of studies.

"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. Although the appellant was declared ineligible for funding due to being on the "restricted list", the program of studies in which she was enrolled is one for which funding may be provided. The panel therefore finds that at the time of reconsideration the appellant was a full-time student in a funded program of studies.

EAR Section 16 (2) states that the period for which a full-time student in a funded program of studies is not eligible for IA 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. The appellant's study period began on January 7, 2019 and ends on April 30, 2019.

Based on the evidence before the minister at reconsideration and the applicable legislation the panel finds that the ministry reasonably determined the appellant is not eligible for IA for the period February 1, 2019 – April 30, 2019 because at the time of reconsideration she was a full-time student in a funded program of studies.

#### **Conclusion**

The panel finds that the ministry's decision to deny IA to the appellant for the period February 1, 2019 – April 30, 2019 because she is a full-time student in a funded program of studies is a reasonable application of the applicable enactments in the appellant's circumstances, and confirms the decision. The appellant is not successful in her 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)      or Section 24(1)(b) <input checked="" type="checkbox"/>	
and	
Section 24(2)(a) <input checked="" type="checkbox"/> or Section 24(2)(b)	

<b>PART H – SIGNATURES</b>	
PRINT NAME Joan Bubbs	
SIGNATURE OF CHAIR	DATE (YEAR/MONTH/DAY) 2019/Apr/11

PRINT NAME Chris McEwan	
SIGNATURE OF MEMBER	DATE (YEAR/MONTH/DAY) 2019/Apr/11
PRINT NAME Glenn Prior	
SIGNATURE OF MEMBER	DATE (YEAR/MONTH/DAY) 2019/Apr/11