

APPEAL NUMBER

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction (“the ministry”) reconsideration decision of October 7, 2019 in which the ministry found that the appellant was 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”) for the months of October – December 2019 because the appellant 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 September 24, 2019, summarized as follows:
 - The appellant was expecting to receive IA on September 25, 2019 to help pay October rent. For the past 3 months rent has not been paid in full and rapport with the landlord is of growing concern. If the appellant has to find other accommodation the stress will be detrimental.
 - The appellant will complete the program of studies and receive appropriate designation in one term.

Documents Received after Reconsideration

At the hearing the appellant submitted a document from the employment contractor that detailed the appellant's extensive and successful work history despite a traumatic family history, substance abuse and current recovery/sobriety. The document also described successful employment outcomes for persons who have completed the appellant's current field of studies.

Oral Evidence at the Hearing

The appellant confirmed that September 23, 2019 was the starting date and December 8, 2019 is the closing date for the program of studies and confirmed that the ministry had provided IA for the month of September 2019. The appellant also provided additional information related to current debts owed, including rent, internet charges, cable TV and mobile phone, and described past difficulties that have led to loss of previous employment and substance abuse.

Admissibility of Information Received after Reconsideration

The ministry objected to admission of the employment contractor's document on the basis that it did not pertain to the issue under appeal. The ministry did not take a position respecting the appellant's oral evidence.

The panel determined that the document was not admissible under EAA Section 22 (4) because the information was not relevant to the issue under appeal. The panel admitted the portion of the appellant's oral information that confirmed receipt of IA for the month of September 2019 and the commencement and completion dates of the program of studies.

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 for the months of October – December 2019 because the appellant 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 the ministry should provide IA for the month of October 2019 because program-related funding did not commence until September 23, 2019 and without September IA the appellant will be unable to pay outstanding rent and other debts.

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.

Both parties agree that the program of studies is a "funded program of studies" and that the appellant is a "full-time

student" as defined by as defined by EAR Section 1.

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 confirms that classes commenced on September 23, 2019 and will end on December 8, 2019. In the appellant's circumstances the period of ineligibility for IA commenced in October 2019 and expires at the end of December 2019.

The panel sympathizes with the appellant's need for IA to reduce existing debts, and notes that the program's commencement and completion dates result in a 3-month period of ineligibility for IA for a study program of 11 weeks' duration. However, based on the evidence before the ministry at reconsideration and the applicable legislation the panel finds that the ministry reasonably determined the appellant is not eligible for IA for the months of October - December 2019 because the appellant is a full-time student in a funded program of studies for the period September 23 – December 8, 2019.

Conclusion

The panel finds that the ministry's determination that the appellant is ineligible for IA for the month of October 2019 and continuing until the end of December 2019 because the appellant is a full-time student in a funded program of studies is a reasonably supported by the evidence, and confirms the decision. The appellant is not successful in this appeal.

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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

Joan Bubbs

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2019/Nov/06

PRINT NAME

Patrick Cooper

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2018/Nov/06

PRINT NAME

Mel Donhauser

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2018/Nov/06