

APPEAL NUMBER
2020-00083

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the ministry) reconsideration decision dated March 3, 2020, which held that the appellant is not eligible for income assistance (IA) pursuant to section 16 of the Employment and Assistance Regulation (EAR), because the appellant is registered as a full-time student in a funded program of studies.

PART D – RELEVANT LEGISLATION

Employment and Assistance Regulation (EAR) – section 16
Canada Student Financial Assistance Regulation (CSFAR) – Interpretation

PART E – SUMMARY OF FACTS

Evidence at Reconsideration

- The appellant is a sole recipient of IA.
- On January 3, 2020 the appellant informed the ministry that they were enrolled in an educational program that was funded by a student loan. At this time, it was confirmed that the student loan had been approved but funds had not been received.
- Monthly report stub dated January 1, 2020 which indicated that the appellant still needs assistance, is attending/enrolled in school/training and looking for work.
- Student loan application dated December 13, 2019. The application appears to indicate that the loan was for tuition and educational expenses only and does not include living costs.
- Course description from the college's course guide. Also in hand writing the following was indicated about the program the appellant enrolled in: start and end dates (December 9/19-Jan 20/20), schedule (Monday – Friday), time (8:30am – 12:30pm), length (8 months) and capacity (12 students).
- Request for Reconsideration (RFR), signed and dated February 14, 2020, in which the appellant indicated the following:
 - The appellant's new legal name.
 - Class hours are from 8:30am – 12:30pm daily and not from 7:00am to noon (as indicated by the ministry original decision.
 - The extra 1.5 hours added to the daily schedule would increase the workload by 40% and therefore would be considered fulltime studies.
 - Money is required for rent and other expenses and therefore assistance is needed.

Evidence at Appeal

Notice of Appeal (NOA), signed and dated March 9, 2020, which indicated the following about the appellant and/or the circumstances:

- Is a student living at home and pays \$400.00 rent to the family per month to help with other essential expenses.
- Can no longer go to college because money is needed to obtain bus fare.
- Not all medications are covered by the government and therefore money is needed.
- Search for work is done daily.
- Mother suffers from lower back pain and requires physical therapy which costs \$35.00 per session. The appellant must help with this expense.

Evidence at the Hearing

At the hearing the appellant reiterated the information contained in the RFR and NOA, and added, in part, the following:

- In class studies are only for 4 hours and then the appellant looks for work for 3-4 hours per day.
- Upon asking a ministry personnel the definition of full-time studies was told verbally that 4 hours of in class work was not considered to be full-time studies.
- A job was sacrificed in order to go to school and family cannot provide support for school.
- The appellant cannot attend school without the ministry's help (IA).
- Search for work continues but there has been no success.
- The appellant goes to sleep hungry at times and sees no reason to go on.
- The cell phone bill is unpaid and is accumulating interest. Money was also borrowed from the

credit card and now they are getting calls for repayment.

- IA is needed for food, transportation, medication and rent.
- The student loan has been approved but not received directly by the appellant.
- The appellant was on IA but did not know it would be terminated in order to attend school.
- Needs minimal help from the ministry while in school and is willing to pay the money back once work is established.
- The appellant confirmed that they are attending classes in the intended program of studies which was indicated to the ministry on January 3, 2020.

At the hearing the ministry relied on its reconsideration decision. The ministry added, in part, the following:

- Regardless to the number of hours the appellant is in school, according to the course description, they are enrolled in a full-time program which is for 37 weeks and 1-3 hours of homework is expected daily in addition to in-class work.
- The appellant was in an Employment Plan; however, the Employment Plan was an expected to work plan which did not include an educational component. Had the Employment Plan included an educational component, then the appellant would work with the worker to devise a plan and enroll in a ministry partner institution and program.
- Employment Plan's do not include programs with institutions that are not existing partners of the ministry and usually include obtaining grade 12 completion credits or single parent programs.
- The appellant is studying in an institution that is not a ministry partner school.
- The appellant confirmed that the student loan had been approved.
- The role of the Ministry is not to guide clients on the available funding programs such as loans for student living expenses.

Admission of Additional Information

The ministry did not object to the admission of the NOA.

A panel may consider evidence that is not part of the record as the panel considers is reasonably required for a full and fair disclosure of all matters related to the decision under appeal.

In this case, the panel determined that the NOA is admissible because the information in the document allows for full and fair disclose of all matters related to the issue on appeal. However, the panel notes that the information regarding expenses related to medication is new and the mother's physical therapy expenses is not specific to the appellant. Therefore, the panel places little weight on this part of the NOA.

PART F – REASONS FOR PANEL DECISION

The issue before the panel is the reasonableness of the ministry's reconsideration decision dated March 3, 2020, 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 1 of the EAR provides the following definitions:

"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

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

Canada Student Financial Assistance Regulation

full-time student means a person

- **(a)** who, during a confirmed period within a period of studies, is enrolled in courses that constitute
 - **(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.

The Appellant's Position

The appellant's position is that IA is needed from the ministry in order to continue studies and that 4 hours of in class schooling is not full-time school. The appellant also argued that though the student loan was approved it has not been received.

The Ministry's Position

The ministry's position is that the appellant is ineligible for IA while enrolled in full-time funded program of studies pursuant to section 16 of the EAR. The ministry argued that the definition of full-time student is found in the CSFAR and that the appellant course load and course description meets the definition of a full-time student. The ministry also argued that the appellant has been approved for assistance and is currently attending classes which was indicated at the hearing.

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.

Full-time Student

The ministry relies on CSFAR for the definition of 'full-time student'. The CSFAR indicates that a full-time student is one who, during a confirmed period within a period of studies, is enrolled in courses that are at least 60% of the intended course load as specified by the institution. The appellant argued that in-class work is only 4 hours per day for 5 days per week and not the 5.5 hours as indicated in the institution's course description guide. However, 4 hours per day for 5 days per week is more than 60% of the institution's intended course load of 5.5 hours per day for 5 days per week. Additionally, the institution's course description guide clearly indicated that the program that the appellant enrolled in is a 37-week full-time program. Therefore, the panel finds that ministry reasonably determined that the appellant is a full-time student.

Funded Program of Studies

On January 3, 2020 the appellant indicated to the ministry that they were enrolled in a program that would commence on January 20, 2020 and would be funded by a student loan. At the hearing, the appellant confirmed this to be the factual. The panel notes that one would likely be able to state that a program would be funded by a student loan if the loan had been secured in some form. In the hearing the appellant stated that the student loan had been approved but they had not received the money yet. The appellant also confirmed that they are currently attending the intended program of studies which started on January 20, 2020 (which is almost 3 months prior to the hearing date). The panel notes that, likely, one would be able to attend a program of studies for almost 3 months if tuition was paid for in part, in full or if the institution had some assurance that tuition would be paid at a later date. The panel considered if the tuition was directly paid to the institution and since the appellant did not apply for and receive funding for living cost, they may not have received the student loan payment directly. In addition, at no time did the appellant indicate that tuition was not paid in part, in full or that the approval of the student loan had been reversed. For these reasons, the panel finds that ministry reasonably determined that the appellant is in a funded program of studies. However, the panel notes that at no time did the ministry provide guidance or assistance to this appellant in their quest to secure a student loan. If it had,

perhaps the appellant would have included living costs in the loan application and thereby avoided the need of IA from the ministry.

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 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.

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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

Neena Keram

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2020/04/08

PRINT NAME

Diane O'Connor

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2020/04/08

PRINT NAME

Robert McDowell

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2020/04/08