

APPEAL NUMBER
2020-00091

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction (ministry) reconsideration decision dated March 11, 2020, which determined that the appellant was not eligible for income assistance, effective March 1, 2020, under section 16 of the Employment and Assistance Regulation because the appellant 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

PART E – SUMMARY OF FACTS

The appellant was not in attendance at the hearing. After confirming that the appellant was notified, the hearing proceeded under section 86(b) of the EAR.

Relevant Evidence Before the Minister at Reconsideration

Ministry records show:

- The appellant is a sole recipient of income assistance.
- On November 19, 2019 the appellant contacted the ministry to inquire about training and attending school and was advised that only training through the employment services organization would not affect their assistance. The appellant stated they were looking into school in January.
- On February 5, 2020, the employment services organization reported to the ministry that the appellant started a full-time program at a college on January 20, 2020. They had not yet received a student loan for tuition, were applying for bursaries and grants for living supports, but did not currently have living supports in place.
- The ministry reviewed the college website and determined that the program the appellant was enrolled in is a full-time program and includes a practicum.
- On February 10, 2020 the ministry advised the appellant they were ineligible for income assistance effective March 1, 2020 as they were a full-time student enrolled in a funded program of studies.

Letter of acceptance from a college issued to the employment assistance organization (December 2, 2019)

The letter advised that the appellant has been accepted into a program at the college. The program start date is February 17, 2020 and the finish date is October 9, 2020. The total training days are 165 and the hours per week are 20.

Letter from the ministry to the appellant (February 5, 2020)

The ministry advised the appellant that they are not eligible for income assistance as a full-time student enrolled in a funded program of studies and that they become ineligible on the first day of the month following the month in which classes began. And, as the appellant started school in January, they are not eligible for further income assistance regardless of when their living supports are issued via student loans.

Request for Reconsideration of the ministry decision (February 26, 2020)

Notice of Appeal (March 24, 2020)

The appellant states they are a full-time student going to college Monday to Thursday from 8:30 to 2:30 and can work 30 hours a week. They are still willing to work with the employment services organization. "They cut me off, didn't tell me prior to going to school, told me in Feb. I have no other income at all. So what do I do"

Additional Information - Ministry

The following information was received at the hearing from the ministry.

- A requirement for being on income assistance is that one has to be actively looking for work and full-time students cannot be considered as looking for work.
- Ministry records show the appellant has no dependants.
- Income assistance recipients may be able to accept part-time jobs; however it depends on the funding (e.g. grants, bursaries, etc.) and what it is used for (e.g. tuition, housing etc.).
- Ministry records show that the appellant has received hardship assistance.
- The ministry is considered the payer of last resort. In other words, if someone is receiving income from another source, they won't be eligible.
- Ministry records show the appellant applied for bursaries etc. but doesn't know if any were received.
- Only training through the employment services organization wouldn't affect income assistance eligibility (e.g., skills to look for work such as resume writing, first aid etc.).
- Ministry records show the appellant started school on January 20, 2020; however due to processing time they were already in receipt of assistance for February 2020. The ministry therefore determined the appellant was not eligible as of March 1, 2020.
- The ministry did not know why the acceptance letter from the college states the program start date is February 17, 2020.

The panel determined that the additional information in the Notice of Appeal, that the appellant can work 30 hours a week and is still willing to work with the employment services organization, is reasonably required for a full and fair disclosure of all matters related to the decision under appeal and therefore is admissible under section 22(4) of the EAA. The panel also determined that the appellant's statement in the Notice of Appeal "They cut me off, didn't tell me prior to going to school, told me in Feb. I have no other income at all. So what do I do", is considered argument and does not require an admissibility determination.

The panel determined that the additional information at the hearing from the ministry that the appellant is receiving hardship assistance and has no dependants is reasonably required for a full and fair disclosure of all matters related to the decision under appeal and therefore is admissible under section 22(4) of the EAA. The rest of the information from the ministry at the hearing was considered argument and does not require an admissibility determination.

PART F – REASONS FOR PANEL DECISION

The issue on appeal is whether the ministry's reconsideration decision, which determined that the appellant was not eligible for income assistance under section 16 of the EAR because the appellant is a full-time student, was reasonably supported by the evidence or was a reasonable application of the legislation in the circumstances of the appellant.

Relevant Legislation

Employment and Assistance Act

Part 1

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.

Employment and Assistance Regulation

Part 1 — Interpretation

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

Division 3 — Specific Circumstances of an Applicant or Recipient That Affect Eligibility

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

...

(ii) at least 60 per cent of a course load recognized by the designated educational institution as constituting a full-time course load..."

Ministry Position

The ministry argues that as the appellant is attending college as a full-time student in a funded program of studies, they are not eligible for income assistance. A requirement for being on income assistance is that one has to be actively looking for work and full-time students cannot be considered as looking for work. Income assistance recipients may be able to accept part-time jobs; however it depends on the

funding and what it is used for. Only training through the employment services organization wouldn't affect income assistance eligibility (e.g., skills to look for work such as resume writing, first aid etc.).

Appellant Position

The appellant argues that they can work 30 hours a week and are still willing to work with the employment services organization. They were denied assistance and have no other income.

Analysis

Section 2 of the EAA states, "a family unit is eligible, in relation to income assistance... if (a) each person in the family unit on whose account the income assistance...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...under this Act."

Ministry records show that the appellant is a sole recipient of income assistance.

EAR section 1 – definition of full-time student

Section 1 of the EAR states, full-time student has the same meaning as in the Canada Student Financial Assistance Regulations, which states, "full-time student means a person (a) who, during a confirmed period within a period of studies, is enrolled in courses that constitute...at least 60 per cent of a course load recognized by the designated educational institution as constituting a full-time course load..."

The panel finds the ministry reasonably determined that the appellant was a full-time student in accordance with section 1 of the EAR. The acceptance letter from the college, stating the total training days are 165 and the total training hours per week are 20, the appellant's statement that they are going to college Monday to Thursday from 8:30 to 2:30 and the ministry's website review which determined that the program the appellant is enrolled in is full time, all provide evidence that the appellant is a full-time student. In addition, in their Notice of Appeal the appellant states, "I am now a full time student..."

EAR section 1 – definition of funded program

Section 1 of the EAR provides the definition for, funded program of studies as 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".

The *Canada Student Financial Assistance Act* deal with loans and the provision of other forms of financial assistance to students.

The panel finds that, the program is considered a "funded" program. The letter (February 5, 2020) from the employment services organization advising the ministry that the appellant had not yet received their student loan for tuition and was applying for bursaries and grants for living supports, provides evidence which supports the definition of a funded program. Although the letter also stated that living supports were not in place at that time, section 1 of the EAR does not require the funding to be in place; only that the program itself is considered as a funded program in that funding *may* be provided under that Act.

EAR Section 16 – eligibility for assistance as full-time student

Section 16 of the EAR states that "a family unit is not eligible for income assistance... if an applicant or a recipient is enrolled as a full-time student...in a funded program of

studies...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... are held”

Although the appellant does not dispute that they are a full-time student, their position is that they can work 30 hours a week and are still willing to work with the employment services organization. They were denied assistance and have no other income.

The ministry’s position is that as the appellant is attending college as a full-time student in a funded program of studies, they are not eligible for income assistance under section 16 of the EAR.

The panel finds the ministry reasonably determined that the appellant was not eligible for income assistance as they are a full-time student in a funded program of studies in accordance with section 16 of the EAR. The panel determined the appellant’s full-time student status in a funded program above, under section 1 of the EAR.

On November 19, 2019, the appellant was advised that only training through the employment services organization would not affect their assistance. At the hearing, the ministry clarified that the goal of training through the employment services organization was to support employment (e.g., resume writing etc.).

Ministry records show that on February 5, 2020, the employment services organization reported to the ministry that the appellant started a full-time program at a college on January 20, 2020. As well, the letter from the ministry to the appellant, dated February 5, 2020 states, “You started school in Jan...”. At the hearing, the ministry stated that the information on the ministry records show the appellant started school on January 20, 2020; however due to the delay in processing time, the appellant had already been issued income assistance for February 2020, and therefore was deemed ineligible for assistance effective March 1, 2020.

Conclusion

In conclusion, the panel finds the ministry reconsideration decision, which determined that the appellant was not eligible for income assistance under section 16 of the EAR because they are a full-time student in a funded program of studies, was reasonably supported by the evidence.

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

Connie Simonsen

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2020/04/21

PRINT NAME

Diane O'Connor

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2020/04/21

PRINT NAME

Adam Rollins

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2020/04/21