

APPEAL NUMBER

2020-00267

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the ministry) reconsideration decision dated November 9, 2020 which held that the appellant is not eligible for income assistance pursuant to Section 16(1) of the Employment and Assistance Regulation (EAR) since the appellant is enrolled as a full-time student in a funded program of studies. The ministry also found that the exemption in Section 16(1.1) of the EAR did not apply to the appellant.

PART D – RELEVANT LEGISLATION

Employment and Assistance Regulation (EAR), Section 16 and Section 1- Definitions
Canada Student Financial Assistance Regulations (CSFAR), Section 2- Definitions

PART E – SUMMARY OF FACTS

The ministry did not attend the hearing. After confirming that the ministry was notified, the hearing proceeded under Section 86(b) of the Employment and Assistance Regulation.

The evidence before the ministry at the time of the reconsideration decision included:

- 1) Undated print-out of the Statement of Student Funding indicating that the appellant was found eligible to receive a BC Access Grant for \$2,529 and a Canada Student Loan of \$6,044 available on or after September 6, 2020, and a BC Access Grant for \$2,530 available on or after February 11, 2021 (total of \$11,103) towards the total assessed costs of \$25,811. The program start date is indicated as September 8, 2020 and the end date is July 16, 2021;
- 2) Copy of the undated print-out of Statement of Student Funding with handwritten note that: “living expenses calculated \$16,727. Amount received (or will receive \$11,103). Amount still needed \$14,708”;
- 3) Undated print-out of part of a letter from an Admissions & Registration Assistant indicating an offer of admission for a (trade) program;
- 4) Undated screen-shot from the studentaidbc.ca website with a notice that “funding can only be released once you’ve completed your Master Student Financial Assistance Agreement (MSFAA) and your school has confirmed your enrolment. We will initiate the Confirmation of Enrolment process shortly before the disbursement date. Once confirmed, you can expect to receive your funding within 7 business days of the disbursement date.” Total funding for September 8, 2020 is \$8,573.
- 5) Undated screen-shot from the studentaidbc.ca website with a timeline indicating that there was an application on July 16, 2020 and a notice of assessment on July 24, 2020 showing the funding decision that the appellant has been approved for financial assistance and “your application has been assessed under an agreement with the Ministry of Social Development. As a result, only direct education costs are assessed, as your living expenses are covered by the Ministry of Social Development. We have received your MSFAA.”
- 6) Undated handwritten note of the total received or will receive \$8,673 (loan \$6,044, grant \$2,529, and ministry \$100) and total paid \$8,797.97 (tuition, books, supplies, computer, bus pass, student fees) and amount borrowed so far \$224.97;
- 7) Undated note of “complete list of funds received and funds spent (detailed list)”;
- 8) Undated screen-shot of the bclaws.ca website reciting portions of Section 16 of the EAR;
- 9) Undated page 1 of a 2-page Request for a Supplement form describing a need as: “required to wear professional attire while studying”;
- 10) Undated screen-shot of ministry website indicating that the appellant does not have any Employment Plan (EP);
- 11) Undated screen-shot of schedule for classes: Tuesdays online both Synchronous and Asynchronous, Wednesday online both Synchronous and Asynchronous, Thursdays half the class will participate at the campus, half the class will participate online Asynchronous, Fridays half the class will participate at the campus and half the class will participate online Asynchronous, plus handwritten notes indicating the appellant’s schedule as Tuesday through Friday 9:00 AM to 4:30 PM both Synchronous, Asynchronous and on campus and “additional 2-3 hours of homework given every day except Thursday. The homework is due by 11:30 PM each night”;

- 12) Monthly report to the ministry dated May 3, 2020 in which the appellant indicated that the appellant is attending/ enrolled in school/ training, there is no income from student funding (e.g. loans, bursaries), and a note that the appellant is enrolled and attending an educational institution ("Q") and dealing with mental illness;
- 13) Monthly report to the ministry dated June 4, 2020 in which the appellant indicated that the appellant is attending/ enrolled in school/ training, there is no income from student funding, and a note that the appellant is enrolled and attending Q online and is not required to look for employment (mental health);
- 14) Monthly report to the ministry dated August 7, 2020 in which the appellant indicated that the appellant is attending/ enrolled in school/ training, there is no income from student funding, there is online education at Q for [a trade] and the appellant is not required to look for employment (mental health);
- 15) Print-out of part of a letter dated August 19, 2020 congratulating the appellant on admission to the educational institution ("V");
- 16) Monthly report to the ministry dated September 3, 2020 in which the appellant indicated that the appellant is attending/ enrolled in school/ training, there is no income from student funding, and the appellant is starting classes at a new educational institution ("V") for [a different trade] and is not required to look for employment (mental health);
- 17) Invoice dated September 9, 2020 for a list of supplies in the total amount of \$1,451.68 and a receipt dated October 5, 2020 for cash received in this amount;
- 18) Mail Order Packing List dated September 14, 2020 for textbooks;
- 19) Screen-shot of the ministry website indicating a request for a crisis supplement for clothing was approved on September 15, 2020;
- 20) Screen-shot of a bank account indicating a deposit of \$100 from the province of BC on September 15, 2020;
- 21) Screen-shot indicating itemized tuition charges for the period August 21 to October 19, 2020 and \$3,000 paid September 22, 2020 through Internet banking, with \$3,772.61 outstanding;
- 22) Screen-shot entitled "Bank Statement September 2020" of bank account transactions over the period August 31 to September 29, 2020;
- 23) Monthly report to the ministry dated October 3, 2020 in which the appellant indicated that the appellant is attending/ enrolled in school/ training, there is no income from student funding and the appellant is attending V fulltime and is not required to look for employment (mental health);
- 24) Screen-shot of the ministry website in response to a ministry message dated October 6, 2020 with a response message: "here is part of the documents required. I will have the rest in a few days. I'm sorry this wasn't done already but in my student loan application I had reported that I receive housing and a bit of living expenses from you guys and then when I was approved for the loan I was approved solely for tuition and they had stated they contacted you guys to confirm that living and housing expenses were given to me by you because I didn't apply for it with my loan and you guys confirmed and authorized it so I didn't think I needed to do anything myself but that I completely my fault and I am sorry not that this excuses me but getting back into school [over 10] years after high school is a lot harder than I ever expected and so I never even thought about contacting you guys just in case and I am sorry. I will send the rest of the documents within a few days. Thank you for bringing it to my attention quickly"; and,
- 25) Request for Reconsideration dated October 23, 2020.

In the Request for Reconsideration, the appellant wrote that:

- The appellant understands Section 16 [of the EAR] states someone would NOT be eligible for assistance if the student in question was enrolled in a funded program. The program the appellant was enrolled in was not funded by [anyone] or any business. The appellant paid from a loan, which requires repayment.
- [Section 16 of the EAR] also says there is ineligibility if the student in question is enrolled in an unfunded program but without notifying and getting the green light from the ministry. The appellant's program is unfunded but to the appellant's knowledge the ministry was notified and made an agreement about the appellant attending school and receiving the funds required to do so.
- The appellant referred to Section 16 of the EAR and wrote that the appellant understood that as long as the appellant received income assistance for a minimum of 3 months prior to the first day of class, which the appellant has, then there should not be much that could go wrong, especially if the ministry has been informed.
- The appellant believes the appellant did due diligence and satisfied the requirement to notify the ministry prior to attending school.
- The appellant determined what was required before moving on. In the Spring, the appellant began attending the educational institution that is a majority solely online teaching that is very interactive between the teacher and the other classmates.
- Some of the tuition paid is for the textbooks and a large supply kit required to participate in the class and to complete assignments and tests in the class.
- The appellant took the last bit of credit left, at a horrible interest rate, but the appellant paid a portion of the tuition that way while agreeing to a payment plan to start upon completion of the classes and/or if dropping out.
- Being that the schooling was online, the appellant has no idea if it was considered part-time or fulltime, but the appellant knew there was no requirement to look for employment as long as the appellant was still attending counselling and a clinic to work towards recovery to eventually beat addiction and mental illness.
- Confident there would be no issues or concerns by the ministry, the appellant 100% honestly and accurately completed and submitted the cheque stub answering "yes" when asked if the appellant was currently attending training or school. The appellant also continued to answer "no" when asked if the appellant was looking for work.
- The appellant knew that if there were any issues, the appellant would be notified.
- The appellant referred to the screen-shot from the studentaidbc.ca website with a timeline indicating that there was an application on July 16, 2020 and a notice of assessment on July 24, 2020 showing the funding decision that the appellant had been approved for financial assistance. The appellant understood that the student loan worker had contacted the ministry, confirmed that the appellant is receiving income assistance, and both parties made an agreement to ensure that there would not be [funds] given by both parties for the same intended purposes.
- The appellant understood that it was agreed that funds given for the purposes of living expenses were to be from the ministry only, while the funds received from 'Student Loan' would be for the sole purpose of tuition and textbooks.
- The appellant understood that the fact of the appellant's enrollment and the student loan funds to be received was communicated to the ministry and that the agreement made was further authorization given by the ministry.

- In September, the appellant received the assistance cheque without any problems or questions pertaining to attending the educational institution.
- Also, on September 13, 2020 the appellant requested a clothing supplement as the appellant was required to wear certain specific clothing and the appellant requested funds to purchase them.
- The appellant understood that the request for a clothing supplement was notifying the ministry of the new enrollment in the educational institution.
- The ministry told the appellant that the request for a clothing supplement and the explanation given were accepted and the appellant received the funds without any issues.
- The appellant referred to a screen-shot of the ministry website indicating that the appellant does not have any EP. The appellant does not have the same obligations as most would since the appellant's obligation is to take steps towards recovery from addiction.

Additional Information

In the Notice of Appeal dated November 23, 2020, the appellant expressed disagreement with the ministry's reconsideration decision and wrote that:

- The appellant did not know that prior approval from the ministry was required.
- The appellant thought the ministry knew because Student Loans stated they talked with the ministry.

At the hearing, the appellant stated:

- The appellant started an online course at the beginning of 2020, either January or February, at an educational institutional that "has places all around the world." The appellant had to pay \$5,000, which the appellant was paying by way of payments spread out over a few years.
- From the beginning, the appellant reported on the ministry stubs that the appellant was attending an educational program and the ministry said nothing and had no concerns.
- The first program ran from Monday to Friday "a few hours per day."
- Then the COVID pandemic happened and "everything was very scarce."
- The appellant looked into doing another program.
- The appellant is still in recovery and, although currently clean, the appellant still has a sponsor and the idea of jumping back into a full-time job "is not going to work" for the appellant. The appellant's doctor agreed.
- The appellant decided to apply for a hybrid program with 3 full days on Monday, Tuesday and Wednesday from 9:00 AM to 3:30 or 4:30 PM when the appellant is online with the instructor and other students. Thursdays the appellant goes to the campus for face-to-face instruction by the instructor. Fridays are online where the instructor lays out the homework and students have to complete the work by 11:30 PM.
- The appellant applied to the educational program at the end of July 2020 and also applied for a student loan. The appellant has bad credit and thought that would affect the application.
- The appellant did not hear anything until the end of August and the appellant called. The program and 'Student Loans' confirmed that the appellant was accepted. The appellant let them know that the appellant receives income from the ministry.

- 'Student Loans' advised the appellant that they would pay tuition but not living expenses because those are covered by the ministry.
- The appellant referred to the screen-shot from the studentaidbc.ca website with a notice of assessment on July 24, 2020 showing the funding decision that the appellant has been approved for financial assistance and "your application has been assessed under an agreement with the Ministry of Social Development. As a result, only direct education costs are assessed, as your living expenses are covered by the Ministry of Social Development." The appellant understood that there was an agreement between 'Student Loans' and the ministry.
- The appellant has no other document to show that the ministry's approval had been secured, but the appellant had been in the program for several months and the ministry had not taken any action or raised concerns.
- The appellant did not have an EP as the appellant had been a Person with Persistent Multiple Barriers to employment (PPMB) but then was "taken off" that but still did not have an EP.
- The appellant was consistent in always adding a note to the monthly report letting the ministry know that the appellant was attending school. At the end of September, the appellant filled out the report and added two words: "full time" and the ministry sent the appellant a message in October requesting more information.
- The appellant sent in the requested information over "My Serve" but only one message can be provided at a time.
- On Wednesday when the appellant did not have a direct deposit of income assistance, the appellant went in to the ministry office and was told that the income assistance cheque was "on hold" since one document was "not clear." The ministry confirmed that the second copy was received and was clear.
- The ministry said the appellant's request would be marked "urgent" because the appellant had no funds to pay rent or to reload the appellant's cell phone, or to take the bus to the school on the one day a week.
- On Thursday the appellant used the phone at the school to call the ministry and was told something else needed to be handed in. The appellant submitted the information and the ministry said the appellant would have to call back the next day.
- Using the appellant's "Dad's" phone, the appellant called in again and another ministry worker said the information had been seen and the ministry needed more information.
- On Friday the appellant called in the afternoon and was told that the appellant was no longer eligible for income assistance and would not be getting anything.
- The appellant was asked if the appellant wanted to request a reconsideration. The appellant wonders if this would have happened if the appellant had not been honest and had, instead, said the program was not full time.
- The reason the appellant is taking this program is to get off income assistance for good and to be a better self.
- The appellant was made aware of the benefits that provide income during reconsideration and appeal.
- The appellant indicated on the monthly reports that there was no income from "student funding (e.g. loans, bursaries)" because the appellant did not receive funds for anything except for tuition. The appellant did not think that there was a requirement to report this. The appellant would have reported income if there had been an amount paid for living

expenses.

- The appellant requested a supplement for clothing expenses as it was part of the requirements for the schooling. The appellant needed all-black work shoes and pants. No one at the ministry said anything when this request was approved.
- The appellant completed the notes on the bottom of each monthly report to the ministry and wrote on the report of October 3, 2020 that the new program starting in September was “full time” in that the instruction occurred for the full day and there was not much time for anything else during the week.

The ministry did not attend the hearing and relied on its reconsideration decision. The ministry indicated in the decision that:

- Prior to the reconsideration decision, the appellant was in receipt of income assistance as a single person with no dependents.
- The appellant did not have an active EP and was not in receipt of assistance as a PPMB.
- There was no indication on the appellant’s file that schooling was discussed or that approval was obtained from the ministry.

The panel considered that there was no additional information for which a determination of admissibility was required under Section 22(4)(b) of the *Employment and Assistance Act*.

PART F – REASONS FOR PANEL DECISION

The issue on this appeal is whether the ministry reasonably concluded that the appellant is not eligible for income assistance, pursuant to Section 16 of the Employment and Assistance Regulation (EAR), as the appellant is enrolled as a full-time student in a funded program of studies.

Please refer to the Schedule at the end of this decision for the text of Sections 1 and 16 of the EAR and Section 2(1) of the CSFAR.

In the reconsideration decision, the ministry wrote that as the appellant is a full-time student in a funded program of studies, the appellant is not eligible for income assistance under Section 16(1) of the EAR. The ministry wrote that student loans are types of funding provided under the *Canada Student Financial Assistance Act* (CSFAA) and, as the appellant qualified for a student loan to attend the program, the ministry was satisfied that the appellant is enrolled in a “funded program of studies.” The ministry wrote that the appellant was a full-time student for the purposes of qualifying for the student loan received. The ministry wrote that the description of the day-to-day schedule of the program as provided by the appellant and on the website for the educational institution supports the finding that the appellant is a full-time student. The ministry wrote that the single parent exemption to Section 16(1) of the EAR is not applicable to the appellant as the appellant is a sole recipient with no dependent children. The ministry also wrote that, upon review of the appellant’s file, the appellant has no active EP with the ministry and there was no pre-approval provided by the ministry. The ministry wrote that as the appellant’s program started September 8, 2020 and is reported to end July 16, 2021, the period of ineligibility for income assistance lasts from October 2020 through July 2021.

In the Request for Reconsideration, the appellant wrote that Section 16 of the EAR states someone would NOT be eligible for assistance if the student in question was enrolled in a funded program; however, the program the appellant was enrolled in was not funded by anyone or any business. The appellant argued that the funds for the program were paid from a loan, which requires repayment by the appellant. The appellant also wrote that Section 16 of the EAR says there is ineligibility if the student in question is enrolled in an unfunded program but without notifying and getting the green light from the ministry. The appellant’s program is unfunded but to the appellant’s knowledge the ministry was notified and made an agreement about the appellant attending school and receiving the funds required to do so.

At the hearing, the appellant referred to the screen-shot from the studentaidbc.ca website showing the funding decision that the appellant has been approved for financial assistance and “your application has been assessed under an agreement with the Ministry of Social Development” and “only direct education costs are assessed, as your living expenses are covered by the Ministry of Social Development.” The appellant wrote in the Request for Reconsideration that the appellant understood that the student loan worker had contacted the ministry, confirmed that the appellant is receiving income assistance, and both parties made an

agreement to ensure that there would not be funds given by both parties for the same intended purposes. The appellant wrote that the appellant understood that it was agreed that funds given for the purposes of living expenses were to come from the ministry only, while the funds received from 'Student Loans' would be for the sole purpose of tuition and textbooks.

The appellant wrote in the Request for Reconsideration that the appellant did due diligence and satisfied the requirement to notify the ministry prior to attending school. At the hearing, the appellant stated that the appellant started an online course at the beginning of 2020, either January or February, at another educational institutional and, from the beginning, the appellant reported on the ministry stubs that the appellant was attending an educational program and the ministry said nothing and had no concerns. The appellant stated that this fact, as well as the notice from 'Student Loans' about an agreement with the ministry, lead the appellant to understand that the ministry had provided approval. The appellant also wrote in the Request for Reconsideration that the appellant understood that the request for a clothing supplement was a way of notifying the ministry of the new enrollment in the educational institution. The appellant wrote that the ministry accepted the appellant's request for a clothing supplement and the explanation given and the appellant received the funds without any issues.

In the Request for Reconsideration, the appellant also referred to Section 16 of the EAR and wrote that the appellant understood that as long as the appellant received income assistance for a minimum of 3 months prior to the first day of class, which the appellant has, then there should not be much that could go wrong, especially if the ministry has been informed. The appellant referred to a screen-shot of the ministry website indicating that the appellant does not have any EP and explained that the appellant does not have the same obligations as most would since the appellant's obligation is to take steps towards recovery.

Analysis

According to Section 16(1) of the EAR, a family unit is not eligible for income assistance for a defined period if a recipient is enrolled as a "full-time student" in a "funded program of studies" or in an "unfunded program of studies" without the ministry's prior approval.

Was the appellant enrolled as a "full-time student" in a "funded program of studies"?

The definition of "full-time student" in Section 1 of the EAR refers to the federal regulations by indicating that it has the same meaning as in the CSFAR, which states that "full-time student" means: a person 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, whose primary occupation during the confirmed periods within that period of studies is the pursuit of studies in those courses, and who meets the requirements of subsection 5(1) [obtaining a direct loan] or 7(1) [continuation and reinstatement] or section 33 [obtaining a Canada Student Grant], as the case may be.

In the reconsideration decision, the ministry wrote that the appellant was a full-time student for the purposes of qualifying for the student loan that was received and the description of the day-to-day schedule of the program, as provided by the appellant and on the website for the educational institution, supports the finding that the appellant is a full-time student. The appellant does not dispute that the program in which the appellant is enrolled is full-time and the appellant reported in the monthly report to the ministry dated October 3, 2020 that the program was full-time. The screen-shot of the class schedule and the appellant's handwritten notes indicate the appellant's schedule as Tuesday through Friday 9:00 AM to 4:30 PM both synchronous, asynchronous, and on campus, yielding a total of 30 hours of instruction per week. At the hearing, the appellant stated that instruction occurred for the entire day and there was not much time for anything else during the week. Given the appellant's admission, the likelihood that 30 hours per week is at least 60 per cent of a course load recognized by the educational institution as constituting a full-time course load, and the approval of the appellant for a Canada Student Loan, the panel finds that the ministry reasonably concluded that the appellant is enrolled as a "full-time student."

Section 1 of the EAR defines "funded program of studies" as "a program of studies for which funding provided to students under the CSFAA may be provided to a student enrolled in it." While the appellant acknowledges funds were received through 'Student Loans' towards the cost of the educational program, the appellant argued that the program was not "funded" because no company or individual gave the appellant the funds but, rather the monies were paid as a loan and the appellant must repay these amounts. Section 1 of the EAR also includes a specific definition for "unfunded program of studies" to mean a program of studies for which a student enrolled in it is not eligible for funding provided to students under the CSFAA. The print-out of the Statement of Student Funding indicates that the appellant was found eligible to receive a BC Access Grant for \$2,529 and a Canada Student Loan of \$6,044 available on or after September 6, 2020, and a BC Access Grant for \$2,530 available on or after February 11, 2021. The panel notes that the funds approved through the BC Access Grant (\$5,059) are grant monies that are not repayable by the appellant.

The program in which the appellant is enrolled is eligible for funding as demonstrated by the approval detailed in the screen-shot from the studentaidbc.ca website with a notice of assessment on July 24, 2020 showing the funding decision that the appellant has been approved for financial assistance. The definition of "funded program of studies" in Section 1 of the EAR does not require that funding be secured, only that the program itself be considered one for which funding *may* be provided under the CSFAA. Based on the actual approval for funding for the appellant's program, the panel finds that the ministry reasonably determined that the appellant's program falls within the definition of a "funded program of studies" under Section 16(1)(a) of the EAR.

Under Section 16(1.1) of the EAR, an exemption to Section 16(1) of the EAR is set out for a recipient who is enrolled in a funded program of studies with the prior approval of the ministry

under Section 16(1.2) of the EAR.

Does the exemption in Section 16(1.1) of the EAR apply to the appellant?

Although the appellant argued that the appellant notified the ministry about the appellant attending the program through the monthly reports as well as through the request and approval for a supplement for professional clothing, Section 16(1.1) of the EAR refers to “prior approval of the ministry” under Section 16(1.2) of the EAR. The panel finds that the “prior approval” of the ministry is a definite decision by the ministry after reviewing the requirements in Section 16(1.2) of the EAR and cannot be provided through notification of enrollment in the program by the appellant and an implied approval by the ministry’s inaction, as argued by the appellant. The ministry wrote in the reconsideration decision that there was no indication on the appellant’s file that schooling was discussed or that approval was obtained from the ministry.

The appellant referred to the studentaidbc.ca website showing the funding decision that the appellant’s “application has been assessed under an agreement with the Ministry of Social Development” and “only direct education costs are assessed, as your living expenses are covered by the Ministry of Social Development” and explained that this led the appellant to believe the ministry had provided approval to the arrangement. The wording of this notice on the studentaidbc.ca website is confusing as it appears to confirm that the appellant’s living expenses will be paid by the ministry; however, if the ‘Student Loans’ office had incorrect information about the ministry continuing to pay the appellant’s living expenses, the appellant’s recourse is to update the Student Loans office to let them know that the appellant is no longer eligible for income assistance from the ministry and the appellant requires funding for living expenses.

In order for the “prior approval” to be provided by the ministry under Section 16(1.2) of the EAR, the person must meet all of the specific requirements, namely: be a sole recipient of income assistance who has a dependent child or provides care to a supported child, is required to enroll in the program of studies as a condition of an EP, and was receiving income assistance in each of the immediately preceding 3 calendar months unless the minister is satisfied that exceptional circumstances exist. The appellant did not argue that the appellant has a dependent child or that the appellant provides care to a supported child. The appellant did not dispute that the appellant does not have an EP and the appellant was not required to enroll in the program of studies as a condition of an EP. The ministry did not dispute the information in the appellant’s Request for Reconsideration that the appellant received income assistance for a minimum of 3 months prior to the first day of class. Based on the ministry’s undisputed information in the reconsideration decision that the appellant was in receipt of income assistance as a single person with no dependents and did not have an active EP, and the file information that no approval was provided by the ministry, the panel finds that the ministry reasonably concluded that the exemption in Section 16(1.1) of the EAR does not apply to the appellant.

The panel finds that the ministry has reasonably concluded that Section 16(1) of the EAR applies in the appellant's circumstances and that the appellant is, therefore, not eligible for income assistance for the prescribed period. Section 16(2) of the EAR provides that the defined period of ineligibility for income assistance 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 print-out of the Statement of Student Funding indicates that the program start date is September 8, 2020 and the end date is July 16, 2021. The panel finds that the ministry reasonably determined that the period of ineligibility for income assistance extends from October 1, 2020 and continues until July 31, 2021.

Conclusion

In conclusion, the panel finds that the ministry's decision which held that the appellant is not eligible for income assistance pursuant to Section 16(1) of the EAR since the appellant is enrolled as a full-time student in a funded program of studies and the exemption in Section 16(1.1) does not apply, was a reasonable application of the enactment in the circumstances of the appellant. Therefore, the panel confirms the ministry's reconsideration decision. The appellant is not successful in the appeal.

Schedule

Section 16 of the EAR:

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.

Section 1 of the EAR:

"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*.

Canada Student Financial Assistance Regulations (CSFAR)

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, and
- (c) who meets the requirements of subsection 5(1) or 7(1) or section 33, as the case may be.

APPEAL NUMBER
2020-00267

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
S. Walters

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)
2020-12-14

PRINT NAME
John Pickford

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)
2020-12-16

PRINT NAME
Jan Lingford

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)
2020-12-14