

APPEAL NUMBER
2021-00002

PART C – DECISION UNDER APPEAL

The decision under appeal is the reconsideration decision (the “Reconsideration Decision”) of the Ministry of Social Development and Poverty Reduction (the “Ministry”), dated December 29, 2020, in which the Ministry found that the Appellant was not eligible to receive income assistance starting on October 1, 2020, pursuant to section 16 of the Employment and Assistance Regulation (“EAR”), because the Appellant was enrolled as a full-time student in a funded program of studies.

PART D – RELEVANT LEGISLATION

EAR, sections 1 and 16

PART E – SUMMARY OF FACTS

The Information before the Ministry at the time of the Reconsideration Decision included:

- a Notification of Assessment, dated September 10, 2020 (the Assessment”), from the Provincial Government, indicating the Appellant’s eligibility for the following financial assistance for a specified funded education program:
 - Canada Student Grants for “F/T w/Dependents”;
 - a Canada Student Loan; and
 - a British Columbia Student Loan;
- letter from the Ministry, dated November 13, 2020, in which the Ministry advised the Appellant that the Appellant’s eligibility for income assistance had ended as a result of the Appellant being enrolled in full-time post-secondary courses from September 14, 2020; and
- the Appellant’s Request for Reconsideration, dated December 2, 2020 (“RFR”), which summarized the following chronology:
 - On August 29, 2020, the Appellant advised the Ministry that the Appellant was applying for a full-time education program;
 - On September 14, 2020, the Appellant began attending full-time post-secondary classes; and
 - On October 2, 2020, the Appellant’s monthly report confirmed that the Appellant was enrolled in school.

In the Appellant’s Notice of Appeal, dated January 5, 2021, the Appellant advised that:

- the Appellant was a full-time student and parent;
- it was hard to find a job which fit with the Appellant’s schedule;
- extra support was needed when trying to get off income assistance; and
- COVID-19 was making it more difficult to find employment that would fit with the Appellant’s schedule.

The panel considers the information in the Appellant’s Notice of Appeal to be argument.

PART F – REASONS FOR PANEL DECISION

The issue in this appeal is whether the Ministry reasonably determined that the Appellant was not eligible for income assistance starting on October 1, 2020, pursuant to section 16 of the EAR, by virtue of having started a full-time funded educational program On September 14, 2020.

Relevant Legislation

Section 1 of the EAR defines “full time student” and “funded program of studies” as follows:

"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;

In the Canada Student Financial Assistance Regulation (“CSFAR”), a full-time student is defined as follows:

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; (*étudiant à temps plein*)

Section 16 of the EAR concerns the eligibility of a full-time student for income assistance:

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.

Panel Decision

The Appellant meets the definition of a full-time student under both the EAR and the CSFAR, to which the EAR alludes in its definition of full-time student. The Assessment sets out that the Appellant is eligible to receive two Canada Student Grants for *full-time* students with dependents and the RFR sets out that the Appellant started *full-time* courses on September 14, 2020.

Section 16 of the EAR sets out that a family unit is not eligible for income assistance where an applicant or recipient is enrolled as a full-time student in a “funded program of studies.” The Assessment confirms that the Appellant’s program is a “funded program of studies”, as contemplated by section 1 of the EAR, as financial assistance is available for the Appellant’s program and the Appellant is eligible for that assistance. There is no suggestion in any of the materials submitted to the Ministry or in the Notice of Appeal that the Appellant is not a full-time student and, in the result, the panel finds that the Ministry reasonably determined that the Appellant is a full-time student as that terms is defined in section 1 of the EAR.

As a full-time student in a funded program of studies, the Appellant would need to meet the exceptions set out in subsections 1.1 or 1.2 of section 16 of the EAR to continue to be eligible for income assistance. Subsection 1.1 sets out that a family unit is eligible for income assistance if it includes a recipient who has obtained the prior approval of the Ministry before commencing a full-time funded program of studies.

In this case, however, the Appellant did not obtain the prior approval of the Ministry and subsection 1.2 indicates that the Appellant would not have been eligible, in any event, as there is no indication that the

Appellant enrolled in a program of studies as a condition of an employment plan, which is one of the three criteria that must be met for the Ministry to be able to approve an exception for a person enrolled in as a full-time student in a funded program of studies under section 1.2 of the EAR..

In the result, the panel determines that the Ministry reasonably determined that section 16 of the EAR operated to disentitle the Appellant to income assistance for the period set out in subsection 2 of section 16 to the EAR.

Subsection 2 of section 16 sets out that the period of disentitlement begins on “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 information before the Ministry was that the Appellant began classes on September 14, 2020. The first day of the following month was October 1, 2020 and that was the date from which the Ministry determined the Appellant was no longer eligible for income assistance. The panel likewise finds that determination to have been a reasonable application of section 16 of the EAR.

For the foregoing reasons, 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

Adam Shee

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2021/February/10

PRINT NAME

Diane O'Connor

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2021/February/10

PRINT NAME

Roy Wares

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2021/February/10