

APPEAL NUMBER
2021-0163

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction (ministry) Reconsideration Decision dated August 3, 2021, which discontinued the appellant's income assistance for being enrolled as 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, 16

PART E – SUMMARY OF FACTS

Information before the minister at Reconsideration included:

- A letter from the ministry to the appellant dated June 25, 2021 advising of their decision that the appellant is no longer eligible for income assistance.
- The appellant's Request for Reconsideration dated July 3, 2021.

The appellant wrote a note on the Notice of Appeal to the Tribunal: "I'll lose my housing, custody of my child and my housing."

The appellant submitted additional material to the Tribunal prior to the hearing:

- A Notice of Assessment from Student Aid BC dated 17 May 2021 stating eligibility to receive a total of \$35,563, with disbursements on June 7 and November 10, 2021.
- A Revised Notice of Assessment dated 2 July 2021 stating eligibility to receive a total of \$35,563, with disbursements on June 7 and November 10, 2021.

At the hearing, the appellant stated that the college counsellor gave misleading information about when a disability grant is payable and the amount. The appellant was unaware that the grant would not be paid until November. The appellant stated that they were unaware that it is not permissible to attend school and receive income assistance; however, the appellant also stated that income assistance would not be necessary if the disability grant was paid earlier. The appellant would have talked to the ministry if they had known it is not possible to attend school and receive income assistance. As it is, they will have to drop out of school and repay \$13,000 that has been advanced so far. The appellant stated that \$6,000 was received in June 2021, which was used to pay off car expenses, pay back a loan from parents and to pay a utility bill. The appellant was depending on the disability grant for support, but it will not be received until November; the appellant did not learn this until July. The appellant stated that they are not asking to remain on income assistance, just for support until November in order to stay in the college program.

In response to questions from the ministry, the appellant stated that the school program started on June 7, 2021 and agreed that the ministry advised on June 25, 2021 that they were not eligible for income assistance while attending school and that the first disbursement of the student loan was used to pay debt.

In response to questions from the Panel, the appellant stated that they were unable to identify anything in the Reconsideration Decision that is missing or inaccurate. The appellant stated that there have been cases where the ministry gave special permission for an individual to receive income assistance while being enrolled in a school program. The appellant stated that the court order regarding child custody gives the appellant custody 50% of the time.

The ministry responded by referring to the appeal record. The ministry stated that options to support the appellant were looked at, but based on the information available, the appellant does not, currently, qualify for income assistance.

In response to questions from the appellant, the ministry stated that as (i) the appellant does not have a dependent child on file, (ii) there is no agreement in place with the Ministry of Children and Family Development (MCFD), (iii) the appellant did not receive prior approval under the single parent exemption to enrol in a full-time course of studies in a funded program, (iv) the appellant is not designated as a Person with Disabilities (PWD), (v) Work BC has not required the studies as part of an employment plan and (vi) the appellant's child does not reside with them more than 40% of the time and cannot be considered a dependent child, the exemption or special permission referred to by the appellant was not available to them.

In response, the appellant stated that they possessed a court order which gives them custody 50% of the time and the child resides with the appellant 15 or 16 days per month. The ministry responded that this information is not on file, therefore the Reconsideration Decision was based on information available to the ministry at the time. Regardless, no prior approval was obtained, and the course of studies is not part of an employment plan. The ministry encouraged the appellant to find other means of support until November.

PART F – REASONS FOR PANEL DECISION

The issue in this appeal is the reasonableness of the ministry decision to discontinue the appellant's income assistance for being enrolled as a full-time student in a funded program of studies.

The applicable legislation is reproduced at the end of this decision.

The appellant's position is that they were not aware that it is not permitted to attend full-time schooling and continue to receive income assistance. The appellant is asking for special permission to receive income assistance so that they continue their schooling rather than lose the money borrowed so far.

The ministry's position is that the appellant did not receive prior approval to enrol in a full-time funded course of study and is not eligible for the exemptions listed in the legislation. The ministry noted that their decision was based on information available at the time.

Decision

The Panel notes the appellant's claim that they possess a court order awarding them custody which gives them custody 50% of the time, however this information was not available to the ministry at the time the Reconsideration Decision was made, and no evidence was provided to the Panel.

The fact that the appellant is currently enrolled in a full-time funded program of studies is not in dispute.

The appellant did not have prior approval from the ministry before enrolling in a full-time funded course of studies. The appellant is receiving income assistance as a single employable person with no dependent child, is not providing care to a supported child and is not required to enrol in a program of studies as part of an employment plan. The appellant, based on the information available at the time the decision was made, was not eligible for the exemptions listed in section 16 of the EAR. Whether the appellant would have qualified for approval under section 16, EAR, is not known as no application was made.

Based on the available evidence, the Panel finds that the ministry reasonably determined that the appellant is not eligible to continue to receive income assistance while enrolled as a full-time student in a funded program of studies.

The Panel confirms the ministry decision. The appeal is not successful.

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;

"sole", in relation to an applicant or a recipient, means the applicant's or recipient's family unit includes no other applicant, recipient or adult dependant;

"supported child" means any of the following:

(a) a child in care;

(b) a child who is described in section 1 (a) or (b) of the Child in the Home of a Relative Transition Regulation, B.C. Reg. 48/2010;

(c) a child who is subject to an agreement under section 8 or 93 (1) (g) (ii) of the *Child, Family and Community Service Act*;

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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

Reece Wrightman

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2021 SEPT 7

PRINT NAME

Maryam Majedi

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2021 SEPT 7

PRINT NAME

Anil Aggarwal

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2021 SEPT 7