

APPEAL NUMBER
2021-0208

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction’s (the “Ministry”) decision of Oct 21, 2021 in which the Ministry denied the Appellant ongoing income assistance, due to the Appellant attending a full-time funded program of study without prior approval, pursuant to Section 1 and 16 of the *Employment and Assistance Regulation*.

PART D – RELEVANT LEGISLATION

EAR – *Employment Assistance Regulation*, Section 1 and 16

PART E – SUMMARY OF FACTS

The information before the Ministry at the time of reconsideration included the following:

- 1) The Appellant is in receipt of income assistance as Person with Persistent Multiple Barriers to employment (PPMB) and have a 14-year-old dependent child on file. The PPMB was approved February 2019.
- 2) **September 15, 2021** – The Appellant submitted their monthly report declaring they were in school. The ministry sent a message via MySS requesting additional information.
- 3) **September 17, 2021** – The Appellant reported the following:
That they are registered for a full-time master’s degree program and taking two courses from September-December 2021 and two courses January-April 2022.
The Appellant was not aware that they needed prior approval for full-time studies as a PPMB recipient.
They applied for StudentAidBC funding and were having trouble with securing the funding due to unpaid loans from previous years but had been approved for the federal portion only so far.
They did not receive enough to cover all of the tuition, tuition is due by the end of September, and if they are not eligible for the BC portion they will have to withdraw from the studies.
The Appellant also provided a screen print confirming Active Registrations in school that reports that on June 15, 2021 the Appellant “web-registered” for 2 graduate level classes for the first term (September-December 2021) and 2 graduate level classes for the second term (January-April 2022).
- 4) The ministry determined they did not receive prior approval from the ministry and were advised that the November benefits would be signalled for updates on the funding and further review and approval from the Ministry.
- 5) **September 22, 2021** – The Ministry advised the Appellant to contact WorkBC to determine if they were eligible to stay on assistance while in school. The Appellant stated they were working with a hiring agency and were waiting for confirmation of their student loan.
- 6) **October 4, 2021** – The Appellant confirmed their student funding had gone through and that the Appellant would be continuing their full-time studies.
- 7) **October 7, 2021** - The Appellant submitted the Request for Reconsideration.
- 8) **On October 25, 2021** - The Ministry contacted the graduate programs line for more information. The following is a summary of the NOA and information received from both inquiries. Details of NOA - NOA Date: September 3, 2021 - Study Period: September 8, 2021 – April 29, 2022 (34 weeks study period) - Canada Student Loan Award Amount: \$4,831 - Assessed Costs: \$29,505 (\$22,236 living costs, tuition \$5,269, books/supplies \$1700, other \$300) - Financial Resources: \$0 - BC student loan lifetime maximum reached - Disbursement Date: September 28, 2021 (\$4831) Details of the Student Loans Inquiry: - Assessed Date: September 20, 2021 - Assessed Costs: \$29,505 - Eligible Need: \$8,051 (\$22,236 living costs, tuition \$5,269, books/supplies \$1700, other

\$300) - Total Award: \$4,831 (\$4831 CSL, \$0 BCSL, \$0 Grants) - Disbursed Date: September 29, 2021 - Study Period: September 8, 2021 – April 29, 2022 - Program: Community Services Education Masters - Program Type: Master - Coarse Load: 100% -

- 9) The university confirmed that a student taking a least 3 credits per semester is considered a full-time student. - The university confirmed that the 2 courses the Appellant is taking are 1.5 credits each, 3 credits in total for the 2 courses, therefore a person taking the 2 graduate courses in one semester is considered to be a full-time student.

Additional Information

The Ministry Representative did not attend the hearing. After waiting ten minutes and confirming the Ministry had received the Notice of Hearing on November 3, 2021, the panel proceeded with the hearing in the absence of the party, pursuant to *section (86) of the Employment and Assistance Regulation*.

PART F – REASONS FOR PANEL DECISION

The decision under appeal is the reasonableness of the Ministry of Social Development and Poverty Reduction's (the "Ministry") decision of Oct 21, 2021, in which the Ministry denied the Appellant ongoing income assistance, due to the Appellant attending a full-time funded program of study without prior approval, pursuant to Section 1 and 16 of the *Employment and Assistance Regulation*.

Legislation

EMPLOYMENT AND ASSISTANCE REGULATION (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; "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; "part-time student" has the same meaning as in the Canada Student Financial Assistance Regulations (Canada); "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.

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 recipient of income assistance, (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 2 years.

Panel Decision

The Ministry's position is that the Appellant did not seek prior approval from the Ministry before enrolling in a full-time funded program of study, and therefore determined that the Appellant became ineligible for income assistance.

The Appellant's position, as was outlined at the hearing, is that they did not know that they needed prior approval to attend the 3-credit graduate course (considered full-time), as in the past, taking a 3-credit undergraduate course qualified as "part-time" and the Appellant did not need prior approval.

As outlined in Section 16 (1) Subject to subsection (1.1), of the EAR, 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)

The panel finds that the evidence establishes the Appellant did attend 3-credit undergraduate courses in the past, and as a recipient of income assistance, that were considered "part-time" and therefore prior approval from the Ministry was unnecessary. In this instance, the panel considered that the Appellant acknowledged the "honest mistake" of not knowing to seek prior approval from the Ministry to take the 3-credit graduate courses, where the credit structure was considered differently – and which placed the graduate courses into the "full-time" category.

The panel considered that the Ministry had no discretion in this matter, and the decision to determine the Appellant ineligible for income assistance while attending a fulltime funded program (without prior approval) was reasonable in the circumstances. The panel also considered that the Ministry did provide that if the Appellant could not continue with the full-time program, that they could reapply for income assistance.

Considering the evidence in this appeal that was reasonably required for a full and fair disclosure of all matters related to the decision under appeal, the panel finds that the Ministry was reasonable in its determination to find the Appellant ineligible for income assistance, pursuant to *Section 16 of the Employment and Assistance Regulation*.

Accordingly, the panel confirms the Ministry's decision, and the Appellant is unsuccessful in this appeal, pursuant to *Section 24(1)(b) and (2)(a) of the Employment and Assistance Act*.

APPEAL NUMBER
2021-0208

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

Jennifer Armstrong

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2021/11/12

PRINT NAME

VIVIENNE CHIN

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2021/11/18

PRINT NAME

Kulwant Bal

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2021/11/18