

Appeal Number 2022-0006

Part C – Decision Under Appeal

The decision under appeal is the Ministry of Social Development and Poverty Reduction's (the "Ministry") reconsideration decision of January 5, 2022 in which the Ministry determined the Appellant was ineligible for income assistance due to being enrolled in a full-time funded program of study, pursuant to Section 16 of the *Employment and Assistance Regulation*.

Part D – Relevant Legislation

EAR – *Employment Assistance Regulation*, Section 16

Part E – Summary of Facts

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

1. **November 3, 2021** – The Appellant was receiving income assistance as a two-parent family with one dependent child.
2. **November 18, 2021** – The Ministry initiated a review of the Appellant’s file because information was received through the Ministry’s data match with Student Loan BC which indicated that they were a full-time student and in receipt of student loans. The Ministry asked the Appellant to provide school registration and a Notice of Assessment.
3. The Appellant provided the following documents:
 - o A letter explaining that they are currently in a practicum and both they and their spouse are looking for work.
 - o A revised Notice for Assessment confirming eligibility for student loans.
 - o Confirmation of College Enrollment – Full-time with a start date of July 19, 2021 ending February 21, 2022.
- 4) **December 7, 2021** – The Ministry advised that the Appellant is not eligible for income assistance because they are a full-time student in a funded program of studies. The Ministry informed that they received assistance the Appellant was not eligible for and that the file was being assessed to determine the amount of overpayment.
- 5) **December 22, 2021** – The Appellant submitted a Request for Reconsideration. They explained that they tried their best when they first applied for income assistance and they did not know that being a student would affect eligibility for income assistance.

Additional Information

The Ministry noted in the Reconsideration Decision that the issue of overpayment is being addressed separately, and as such, Sections 11, 27 and 28 of the EAA and Section 33 of the EAR were not addressed in the Reconsideration Decision.

The Appellant had submitted a January 24, 2022 dated letter reiterating their reasons for appeal. The letter’s admissibility was not objected to by the Ministry, and therefore was admitted as it was determined to be reasonably required for a full and fair disclosure of all matters related to the decision under appeal, pursuant to section 22(4) of the *Employment and Assistance Act*.

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 January 5, 2022 in which the Ministry determined the Appellant was no longer eligible for income assistance because they were enrolled in a full-time program of study, pursuant to section 16(1) of the *Employment and Assistance Regulation*.

Full text of EAR section 16(1) is provided at the end of the decision.

Panel Decision

The Ministry's position is that the Appellant is no longer eligible for income assistance because they are currently enrolled in a full-time funded program of study, and had not sought prior approval from the Ministry.

The Appellant's position, as was outlined in the appeal documents, is that they recognize now that it would have been required to report the full-time funded program during the initial eligibility interview, but that at the time of the interview, the subject of study was not discussed. The Appellant submits that many questions were asked regarding financial information, but no questions involving college enrollment had surfaced.

As outlined in Section 16(1) of the *Employment and Assistance Regulation* (EAR), 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. 16(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.

The panel finds that the evidence establishes the Appellant does not contest that they are enrolled in a full-time funded program of study and without prior approval from the Ministry, and therefore takes this information as fact. The panel acknowledges that the Appellant was unaware of the legislative requirements, and had made an honest mistake.

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 deny the Appellant continued income assistance under Section 16 of the *Employment and Assistance Regulation*.

Accordingly, the panel confirms the Ministry's decision, and the Appellant is not successful in this appeal, pursuant to Section 24(1)(a) and (2)(a) of the *Employment and Assistance Act*.

Legislation

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.

[am. B.C. Regs. 284/2003; 145/2015, Sch. 1, s. 4; 194/2021, s. 2.]

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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)

Section 24(2)(a) or Section 24(2)(b)

Part H – Signatures

Print Name

Jennifer Armstrong

Signature of Chair

Date (Year/Month/Day)

2022/02/09

Print Name

Cherri Fitzsimmons

Signature of Member

Date (Year/Month/Day)

2022/02/09

Print Name

Jean Lorenz

Signature of Member

Date (Year/Month/Day)

2022/02/09