

Appeal Number 2022-0007

Part C – Decision Under Appeal

The decision under appeal is the Ministry of Social Development and Poverty Reduction's ("ministry") reconsideration decision dated January 6, 2022, in which the ministry found the appellant is not eligible for income assistance ("IA") under sections 1 and 16 of the Employment and Assistance Regulation ("EAR") because she is currently enrolled as a full-time student in a funded program of studies, without prior approval from the ministry.

Part D – Relevant Legislation

Employment and Assistance Regulations sections 1 and 16

(Detailed legislation can be viewed in the Appendix)

Part E – Summary of Facts

The information that was before the ministry at reconsideration included:

- An undated letter from the ministry to the appellant requesting the appellant submit information regarding schooling, student loans, and banking information prior to December 17, 2021.
- A Notification of Assessment from Student Aid BC which shows the appellant is eligible to receive funding from Canada Student Loan in the amount of \$6,300 on October 11, 2021 and BC Student Loan in the amount of \$3,300 to be paid on January 14, 2022. The period of studies is listed as October 11, 2021 to April 18, 2022.
- A copy of a Student Enrolment Contract from the institution the appellant is attending which indicates a start date of October 11, 2021 and end date of April 18, 2022 with the appellant scheduled to attend on Mondays and Wednesdays from 9-3pm. The total fees due are listed as \$6,300 due in October 2021 and \$580 due in January 2022.
- Copies of the appellant's bank statements for the months of August, September, October and November 2022.
- A letter from the appellant's education institution dated December 16, 2022 which states the appellant is enrolled in a part time program from October 11, 2021 to April 18, 2022 and that the days of attendance are Monday and Wednesday.
- A letter from the same education institution, also dated December 16, 2022, which states the appellant is enrolled at their institution at a 60% scheduled attendance, which is classified as full time, but that due to the lengthy travel time the appellant faces, she is attending on a part time basis.
- A letter from the ministry to the appellant dated December 17, 2021 notifying the appellant that after a review of her file they have determined she is no longer eligible for assistance because she had not notified the ministry that she was currently attending a full time post-secondary education program from October 11, 2021 to April 18, 2022 and while in a full-time program she is not eligible for assistance.
- A Request for Reconsideration (RFR) in which the appellant wrote as her reasons for requesting a reconsideration of the decision:
 - She hopes to better herself by attending a program which would allow her to be self-supporting.
 - She thought the program would be considered part time because she only goes two days a week and was not aware that she would be cut off assistance.
 - She has no other income.
 - She would like to continue to go to the program and receive assistance.
 - Her October stub was already submitted before she started school.
 - She forgot to include the school status change on her November stub.
 - She advised that she was attending school on her December stub.

Additional Information

On the Notice of Appeal form (NOA) dated January 13, 2022 the appellant cited the same reasons as in the RFR and emphasized that without help from the ministry to pay rent and bills she will be forced to quit the school year and be back at the beginning, sitting on assistance and

doing nothing with her life. She hopes she can continue schooling with financial help and not have to quit.

At the hearing, the appellant stated she wanted to get off of IA so she got a student loan to go to school because she wanted to support herself. The appellant indicated she goes to school on Mondays and Wednesdays and was not aware that she could not do this. The appellant stated that she forgot to note on the November stub that she was going to school, but she did mark it on the December stub.

When asked if the ministry had explained about consequences of attending school, the appellant stated she had been on assistance for about three years and could not recall. She added that she is currently receiving medical care for a condition, but that she is still able to work.

When asked about the student loan application, the appellant indicated that the school helped her with the application and that they received their funding directly in October, which is when she started school. The appellant added that in mid-January the school received about \$600 for the remaining tuition and she received around \$2,000.

When asked about the number of days she attends school, the appellant indicated that due to Covid everyone in the program goes two days a week as well, and that during December they did not attend hardly at all. She is not sure whether she will be able to graduate in April due to the number of days missed, and that she does not do any extra schoolwork from her home, only the two days a week at the school.

At the hearing, the ministry restated the reconsideration decision, summarizing that anyone enrolled in more than 60% course load is considered attending a full-time program of studies and pursuant to legislation are not eligible for IA effective the month following the start date of studies.

When asked as to what options the appellant would have if she had sought prior approval from the ministry to attend school, the ministry responded that she would have been informed that, as an employable person, she would need to apply for a student loan, which would have included funding for living expenses, and she would not have been eligible for continued assistance. The ministry explained that policy allows for some other designations to attend school and continue on IA, however, the appellant is not designated as a Person with Persistent Multiple Barrier (PPMB) or a Person with Disabilities (PWD) nor is she a single parent.

When asked about how many hours constitutes 60% course load, the ministry responded that the number of hours in attendance at a course are not specified in legislation, it is up to the school to determine if their program is full time or part time. If confirmation is received from a school which indicates over 60% course load, it is considered to be a full-time program of studies, and the school the appellant attends confirmed this. The ministry added that additional information from student loans was received that confirmed the appellant received funding for tuition and living expenses to attend a full-time program of studies.

Admissibility of Additional Information

The panel admits the appellant's NOA and the oral evidence given at the hearing under section 22(4) of the Employment and Assistance Act, which allows for the admission of evidence reasonably required for a full and fair disclosure of all matters related to the decision under appeal.

Part F – Reasons for Panel Decision

The issue on appeal is whether the ministry's determination that the appellant is ineligible for IA under sections 1 and 16 of the EAR is reasonably supported by the evidence or is a reasonable application of the legislation in the circumstances of the appellant. Was the ministry reasonable in finding that the appellant is not eligible for IA because she is a full-time student in a funded program of studies, without prior approval from the ministry?

The appellant's position is that she was not aware she could not attend school to help get herself off of IA and that she would like approval to continue with her program and stay on assistance until the program is completed in April.

The ministry's position is the appellant is enrolled in a full-time program of study and did not have the prior approval of the minister to attend therefore is not eligible for IA.

Panel Decision

Section 1 of the EAR defines a "funded program of studies" as a program of studies for which funding is provided to students under the *Canada Student Financial Assistance Act* (CSFAA). The evidence confirms the appellant received \$6,300 from Canada Student Loan as well as \$3,300 from the BC Student Loan. Section 1 also defines "full-time student" as having the same meaning as in the *Canada Student Financial Assistance Regulations* (CSFAR). As the panel does not have immediate access to the CSFAA or the CSFAR to review or question the eligibility for funding determination, the panel relied on the Canada Student Grant Assessment, which confirms the appellant received funding on the basis of being a full-time student.

Section 16(1) of the EAR sets out that a family unit is not eligible for IA for the period described if they are enrolled as a full-time student in a funded program of studies. The appellant argues that she only attends the program two days per week, which is not full time, however, the legislation does not address the frequency of attendance, only whether the person is enrolled as a full-time student in a funded program of studies. The evidence provided by both the school and the Canada Student Loan Assessment indicates the appellant is enrolled in a full-time program of studies for which she received student loans. The panel finds the ministry made a reasonable decision to determine the appellant is enrolled as a full-time student in a funded program of studies.

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 IA.

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. The appellant did not obtain the prior approval of the Ministry.

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 of subsection 1.2 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.

Therefore, the panel finds the Ministry reasonably determined that the appellant is not eligible for income assistance for the period set out in subsection 2 of section 16 of the EAR.

Subsection 2 of section 16 of the EAR sets out that the period of disenfranchisement 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." In the appellant's circumstance, the period of study is October 11, 2021 to April 18, 2022. The first day of the following month was November 1, 2021 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.

Conclusion

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.

APPENDIX

LEGISLATION

Income Assistance Regulations

Section 1 "definitions"

"**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;

Section 16

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.

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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

Janet Ward

Signature of Chair

Date (Year/Month/Day)

2022 February 2

Print Name

Diane O'Connor

Signature of Member

Date (Year/Month/Day)

2022 February 2

Print Name

Julie Iuvancigh

Signature of Member

Date (Year

2022 February 2