

Appeal Number 2022-0187

Part C – Decision Under Appeal

The decision under appeal is the Ministry of Social Innovation and Poverty Reduction (the ministry) dated August 4, 2022 that denied the appellant income assistance for May and June 2022 because of being a full-time student.

Part D – Relevant Legislation

Employment and Assistance Regulation (EAR) sections 1 and 16

Part E – Summary of Facts

From the ministry file:

- On May 24, 2022 the appellant completed an application for income assistance as a single person with no dependents. He is 19 years of age.
- He reported on the application that he was in school.
- He reported at the time of the application that he had quit employment 2 days per week to focus full-time on his studies.
- He reported to the intake worker that he was in full-time studies attending courses until June 17th, had been working and attending school but found that work was interfering with his studies. He said he would be a full-time student starting June 24th for the summer semester and was enrolled in prerequisite courses for university entrance and planned to attend university in September for engineering.
- The appellant did not submit any documentation related to his schooling.
- On July 4, 2022 the appellant contacted the ministry and reported that he was no longer a full-time student and thought he should receive income assistance for July.

The appellant did not dispute the information from the ministry file but stated the following exception at the hearing: when he said to the ministry worker that he was a full-time student he didn't say he was working - the ministry must have misunderstood. He had said he was looking for a job that fit his physical capability.

In his request for reconsideration dated July 15, 2022 the appellant wrote the following:

- He has finished his high school and will register at an adult education centre again in September.
- He will take courses part-time, not full-time.
- Studying engineering will be in the future.
- He has chronic diabetes, is taking medicines for the diabetes, and is still looking for jobs that will be easy for him and fit his health condition.

In a note dated May 17, 2022 the doctor wrote that the appellant has Diabetes 1.

In a BC Drivers Medical Examination dated July 5, 2022 the medical professional wrote that the appellant has diabetes, is on insulin and has a follow-up appointment with an Endocrinology specialist.

At the hearing the appellant repeated previous information and added that he had been attending school every day for 4 hours and taking 4 different subjects. He will be going to school Tuesdays and Thursdays for 2 hours a day starting September 13 of this year. He is expecting to receive confirmation from his school on September 13 or 14. He does not have the capability to start studying Engineering yet but has to improve his English first.

The appellant also provided argument which is reflected in part F of the decision.

The ministry reviewed its decision and clarified the following: An employment plan is not the same as an employment goal. An applicant is deemed employable unless otherwise designated. As the appellant

has not provided any school records the appellant's own report about his schooling is the only information available to the ministry. A key element of the ministry decision is that the appellant had not requested prior authorization of the ministry.

The ministry did not object to the admissibility of the new information provided by the appellant.

Admissibility of New Information

The panel finds that the information provided by the appellant and the ministry at the hearing is reasonably required for a full and fair disclosure of all matters related to the decision under appeal because this information is related to the appellant's studies and his request for income assistance. The panel therefore admits this information as evidence pursuant to section 22(4) of the Employment and Assistance Act.

Part F – Reasons for Panel Decision

The issue in this appeal is whether the ministry decision that denied the appellant income assistance for May and June 2022 because he was a full-time student is reasonably supported by the evidence or a reasonable application of the legislation.

Normally an applicant would not be eligible for income assistance if he is enrolled as a full-time student in a funded program of studies or in an unfunded program of studies without the prior approval of the ministry. The ministry may approve the appellant to enrol in a funded program of studies if he is a recipient of income assistance, is required to enrol in the program of studies as a condition of an employment plan, and was receiving income assistance, hardship assistance or disability assistance in each of the immediately preceding 3 calendar months, unless the ministry is satisfied that exceptional circumstances exist.

The appellant argues that he should be eligible for income assistance because he needs to improve his and his family's situation; his parents only work part-time, do not receive the full assistance amount and are not able to pay for rent and food. He owes his father money and is not able to work as a delivery driver at this time because gas prices are too high. Because of his chronic diabetes he is taking medicines and has to pay for items related to his condition. Because of this condition he cannot work jobs that require a lot of movement. He did not know the law and did not know he needed prior authorization to attend school full-time.

The ministry determined that the appellant is not eligible for income assistance for the months of May and June 2022 because he was a full-time student. The ministry explained that an employable person who is an applicant and/or recipient has employment obligations with the ministry. As such, the primary focus must be to search for, accept and maintain employment. Although the appellant has diabetes, he still has employment obligations with the ministry. As he was a full-time student at application in May and also in June, the ministry determined he was not eligible for income assistance for May or June 2022. The appellant's primary focus needed to be on searching for work which is clear was not as he reported at application that he had quit employment 2 days per week to focus full-time on his studies.

Panel Decision:

The panel finds that the ministry decision that denied the appellant income assistance because of being a full-time student is reasonably supported by the evidence and is a reasonable application of the legislation in the circumstances of the appellant. The panel bases their decision on the following evidence:

- On May 24, 2022 the appellant completed an application for income assistance.
- He reported to the intake worker that he was in full-time studies.
- On July 4, 2022 the appellant contacted the ministry and reported that he was no longer a full-time student.
- He had been attending school every day for 4 hours taking 4 different subjects.
- There is no documentation related to the appellant's schooling and no evidence of pre-approval of his studies by the ministry.

While the panel acknowledges that the appellant may not be able to work certain jobs due to his diabetes the panel finds there is no evidence that the appellant has been designated with barriers to employment or as unemployable. Consequently, section 16 of the EAR does apply.

Conclusion

The panel finds that the Ministry's decision that denied the appellant income assistance for May and June 2022 because he was a full-time student is reasonably supported by the evidence and a reasonable application of the legislation. Therefore, the ministry's decision is confirmed and the appellant is not successful in his appeal.

Employment and Assistance Regulation

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; ...

"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.

Canada Student Financial Assistance Regulations

Interpretation

2 (1) In the Act and these Regulations, ...

full-time student means a person

- (a)** who, during a confirmed period within a period of studies, is enrolled in courses that constitute at least 60 per cent of a course load recognized by the designated educational institution as constituting a full course load,
- (b)** whose primary occupation during that confirmed period 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*) ...

APPEAL NUMBER 2022-0187

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) and Section 24(1)(b)

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

Part H–Signatures

Print Name

Inge Morrissey

Signature of Chair

Date (Year/Month/Day)

2022/09/07

Print Name

Linda Pierre

Signature of Member

Date (Year/Month/Day)

2022/09/09

Print Name

David Handelman

Signature of Member

Date (Year/Month/Day)

2022/09/09