

Part C – Decision Under Appeal

The decision under appeal is the Ministry of Social Development and Poverty Reduction (ministry) reconsideration decision dated August 19, 2022, which determined the appellant was not eligible for income assistance, as per sections 1 and 16 of the Employment and Assistance Regulation, because he is a full-time student.

Part D – Relevant Legislation

Employment and Assistance Regulation (EAR) – sections 1 and 16

Canada Student Financial Assistance Act (CSFAA)

Canada Student Financial Assistance Regulation (CSFAR)

Part E – Summary of Facts**Relevant Evidence Before the Minister at Reconsideration****Ministry Records show:**

- The appellant and his spouse are recipients of income assistance with one dependent child.
- On June 4, 2022 (on his July monthly report), the appellant indicated that he was attending/enrolled in school and in May had received \$21,930 in student funding.
- On June 29, 2022 the appellant contacted the ministry to enquire about July assistance. The ministry advised the appellant that he was ineligible for July assistance because of the \$21,930 student funding received in May. The appellant advised that he had not received any student funding yet, but that he had been approved for a loan in that amount. He submitted:
 - Notice of Assessment (May 16, 2022) showing that he is eligible to receive \$21,930 in student funding, provided in two instalments of \$10,965, (first instalment on June 20, 2022 and the second on November 13, 2022).
 - Student Aid BC Application for Reassessment (June 28, 2022) where the appellant declared he would be attending a 41-week Accounting and Payroll Administrator Program with a college, starting on July 18, 2022 and ending on May 5, 2023, with a 100% course load.
- On July 5, 2022 the appellant submitted a revised Notice of Assessment showing that the two instalments (still totaling \$21,930) would now be provided on July 18, 2022 and Dec 11, 2022.
- On July 7, 2022 the appellant submitted a Student Loan Grant Disbursements document from a college confirming the same details as the document submitted on July 5, 2022.
- On July 13, 2022 the appellant advised the ministry he will be starting school full time on July 18, 2022. The ministry determined the appellant was not eligible for income assistance beginning in August 2022 because he is a full-time student in a funded program of studies.
- On July 14, 2022 the ministry determined the appellant was eligible for July assistance as he did not receive student loans in May.
- On August 4, 2022 the appellant submitted his request for reconsideration, along with an updated document from the college showing that he is approved to receive \$21,930 in student funding, with \$16,874 paid directly to the college on July 18, 2022 and \$5,056 paid to the appellant on December 11, 2022.

Request for Reconsideration (August 4, 2022)

The appellant states he is providing clarification about his student loan issue. He states he applied for enrollment in a college in an Accounting and Payroll Administrator Program on May 20, 2022 in order to update his knowledge, learn Canadian standards and rules in this area and work in this profession.

He applied for a student loan, which was approved in the amount of \$21,930. There was a misunderstanding regarding reporting in the monthly report and also for the amount of the student loan. From the \$21,930, \$16,874 is going directly to the college for the cost of the program and the appellant will receive \$5,056 on December 11, 2022. The appellant states as he hasn't received any of this loan, it should not affect his income assistance.

The appellant adds his wife attends school and doesn't work and his son just finished school and started his training for work.

Letter from College to Whom It May Concern (July 28, 2022)

The college confirms that the appellant is enrolled in the Accounting and Payroll Administrator Program. The program begins on July 18, 2022 and will be completed on May 5, 2023. The total cost for the program is \$16,874. The appellant has been approved for a student loan in the amount of \$21,930. The school is going to receive \$16,874 from his student loan and the remaining amount of \$5,056 will be received by the appellant on December 11, 2022. The appellant will not receive any amount from the student loan until December 11, 2022. A breakdown of the appellant's loan is below.

Recipient	Source of funding	Amount	Date
School	BC student loan	\$1,935	July 18, 2022
School	Canada student loan	\$9,030	July 18, 2022
Student	BC student loan	\$5,056	December 11, 2022

Monthly Reports

June 27, 2022

In answer to the question:

“Are you attending/enrolled in school or training?”, the appellant answered “yes”.

“Are you looking for work?”, the appellant answered “yes”.

Student Loan - \$21,000 was crossed out and initialed.

June 4, 2022

In answer to the questions:

“Are you attending/enrolled in school or training?”, the appellant answered “yes”.

“Are you looking for work?”, the appellant answered “yes”.

Student Loan \$21,930 was crossed out and initialed.

College Student Loan/Grant Disbursements (no date)

Application start date - July 18, 2022

Application end date - May 5, 2023

Revised Notification of Assessment (July 1, 2022)

Program Information

Program Title: Accounting and Payroll Administrator

Contract Start Date – July 18, 2022

Contract End Date – May 5, 2023

Program Duration – hours, 895, weeks, 41

Schedule – full-time

Additional Information

Appellant

Notice of Appeal (August 28, 2022)

At the hearing, the appellant stated that he did some part-time upgrading before college. The ministry was aware of these part-time courses. Through a friend he understood he could attend college and so in May 2022 he contacted a college and applied for a student loan. The college assisted him in securing a loan, knowing he was on assistance. The appellant acknowledged he is attending school full time and stated that if he had known that attending college would affect his assistance he wouldn't have started. If he had been told getting a loan would affect his assistance he would have done something else. Now he's in a difficult situation.

The appellant also stated he was told by the ministry that before starting school he should have received permission from the ministry. However, he didn't know this. He added that there is a cancellation policy with the college; however, the refund amount would be reduced.

Ministry

At the hearing, the ministry relied on its record and added that the main stipulation under the *Employment and Assistance Act* is employability. As the appellant is a full-time student he can't be looking for or available for work. The ministry also stated that during the pandemic a lot of the BC Work Centres were closed, and the ministry is unsure of exactly what information the appellant received in regard to attending school full time.

The panel determined the additional information to be argument.

Part F – Reasons for Panel Decision

The issue on appeal is whether the ministry's reconsideration decision that determined the appellant was not eligible for income assistance as per sections 1 and 16 of the EAR because he is a full-time student, was reasonably supported by the evidence or was a reasonable application of the legislation in the circumstances of the appellant.

Relevant sections of the legislation can be found in the Schedule of Legislation at the end of this decision.

Appellant Position

The appellant argues that there was a misunderstanding regarding reporting in his monthly report and also for the amount of the student loan. From the \$21,930 (approved loan), \$16,674 is going directly to the college for the cost of the program and he will receive \$5,056 on December 11, 2022. The appellant states as he hasn't received any of this loan, it should not affect his income assistance.

The appellant stated he was told by the ministry that before starting school he should have received permission from the ministry, but argues he didn't know this.

Ministry Position

The ministry states it acknowledges that the appellant has not yet received any student funding as all funding provided so far has gone directly to the college. However, the ministry argues that this decision is not made because of any loans, but rather because of the appellant's status as a full-time student in a funded program of studies.

The ministry also argues that the documents provided from the college confirm that the Accounting and Payroll Administrator Program, in which the appellant is enrolled, is a full-time program with a 100% course load. As such, the ministry is satisfied that the appellant is a full-time student and the appellant does not dispute this.

The ministry adds that The Notice of Assessment and Student Loan/Grant Disbursements documents confirm the appellant is approved to receive student loans to attend the college for a diploma program beginning July 18, 2022 and ending May 5, 2023.

The ministry also argues that although section 16(1.2), of the EAR states the minister may approve a recipient of income assistance to enroll in a funded program of studies, if the person is required to enroll as a condition of an employment plan, this section does not apply to the appellant as he did not enroll in a program of studies as a condition of an employment plan.

Therefore, the ministry is satisfied that the appellant is enrolled in a funded program of studies. As the appellant is a full-time student in a funded program of studies without the prior approval of the ministry, the appellant is not eligible for income assistance in accordance with section 16 of the EAR. The period

of ineligibility lasts from August 1, 2022 (first day of the month after classes start) and lasts until the last day of the month, in which exams occur.

The ministry argues further that the main stipulation under the *Employment and Assistance Act* is employability. As the appellant is a full-time student he can't be looking for or available for work.

Panel Analysis

Section 1, EAR – definitions of full-time student and funded program of studies

Section 1 of the EAR states, full-time student has the same meaning as in the Canada Student Financial Assistant Regulations, which states a full-time student is someone who is enrolled in courses that constitute at least 60 per cent of a course load - recognized by the designated educational institution as a full course load. The panel notes the Revised Notification of Assessment states the appellant is a full-time student. At the hearing, the appellant acknowledged he is attending school full time.

Section 1 also states a 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. Evidence, in the form of a letter from the college (July 28, 2022) shows the source of funding for \$9,030 as a Canada Student Loan. Therefore, the panel finds funding was provided to the appellant under the CSFAA.

As the evidence shows that the appellant is registered as full-time student and received funding for his studies, the panel finds that the appellant is a full-time student in a funded program of studies for the purposes of the EAR.

Section 16, EAR – full-time student effect on family

Section 16(1) of the EAR states a family is not eligible for income assistance if a recipient is enrolled as a full-time student in a funded program of studies. Section 16(2) states the period 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.

The panel notes the letter from the College, the College Student Loan/Grant Disbursements document and the Revised Notification of Assessment all show the program start date as July 18, 2022. The last day of the month in which exams are held, is yet to be determined.

Therefore, the panel finds the ministry reasonably concluded that the appellant is not eligible for income assistance in accordance with section 16 of the EAR from August 1, 2022 (the first day of the month following the month in which classes commence) until the last day of the month, in which exams occur, as per section 16 of the EAR. The panel recognizes the appellant's argument that he will not receive funds until December and should be entitled to continue to receive assistance until that time. However, the panel notes that it is not receiving loan funds that prohibits the appellant from receiving assistance but rather being a full-time student in a funded program of studies.

Although the panel acknowledges there may have been some gaps in communication regarding attending school and receiving assistance, between the appellant and the ministry, the panel is bound by the legislation.

Conclusion

In conclusion, the panel finds the ministry decision that determined the appellant was not eligible for income assistance as per sections 1 and 16 of the EAR because he is a full-time student, was reasonably supported by the evidence. The appellant is not successful on appeal.

Schedule of Legislation

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);

"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*.

"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;

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.

Canada Student Financial Assistance Act

Canada Student Financial Assistance Act

An Act respecting the making of loans and the provision of other forms of financial assistance to students, to amend and provide for the repeal of the *Canada Student Loans Act*, and to amend one other Act in consequence thereof...

Canada Student Financial Assistance Regulations

Canada Student Financial Assistance 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,...

APPEAL NUMBER 2022-0200

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
Connie Simonsen

Signature of Chair

Date (Year/Month/Day)
2022/09/18

Print Name
Robert Kelly

Signature of Member

Date (Year/Month/Day)
2022/09/18

Print Name
Diane O'Connor

Signature of Member

Date (Year/Month/Day)
2022/09/18