

Part C – Decision Under Appeal

The decision under appeal is the Ministry of Social Development and Poverty Reduction (ministry) reconsideration decision dated September 9, 2022, which determined the appellant was not eligible for income assistance, as per sections 1 and 16 of the Employment and Assistance Regulation, because she is a full-time student.

Part D – Relevant Legislation

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

Canada Student Financial Assistance Regulation (CSFAR) – section 2(1), definition of “full-time student”

Full text of the legislation is provided in the Extracts of the Relevant Legislation after the reasons.

Part E – Summary of FactsRelevant Evidence Before the Minister at Reconsideration

Ministry Records show:

- The appellant is a sole recipient of income assistance. The appellant's file has been open since July 11, 2017.
- The ministry received information through an electronic data match called the Student Financial Assistance Program indicating the appellant is enrolled in a diploma program at an educational institution (100% course load) from July 25, 2022 to July 24, 2023. The appellant advised the ministry that the educational institution received all the appellant's student grant and loan money, and that the appellant would withdraw from the diploma program.
- On August 26, 2022, the appellant advised that she will not withdraw, and the ministry determined the appellant was not eligible for income assistance because she is a full-time student.
- On August 30, 2022, the appellant advised that she is still a full-time student and does not receive a living allowance from the school. The appellant asked for an exception and said that she dropped out of school. The ministry advised the appellant that she could submit verification from the school that she is no longer enrolled or request reconsideration.
- On September 2, 2022, the appellant advised that she cannot drop out of school.
- On September 7, 2022, the appellant submitted a request for reconsideration. The appellant explained that she did not know that she needed to ask for permission to attend school and she is trying to educate herself, so that she does not have to be on income assistance forever. The appellant explained that if she drops out, she will still have to pay her student loans and is worried that she will lose her residence. The appellant provided:
 - Program Timeline
 - Snapshot showing student information
 - Disbursement Details for student loans

Additional Evidence*Ministry*

In response to a panel question, the ministry clarified that the appellant had an "active" employment plan, in place with the ministry since 2018, when she enrolled in full-time educational studies. The appellant's employment plan did not include enrollment in full-time educational studies.

Appellant

In response to a panel question, the Appellant checked her records and advised that she completed withdrawal from full-time studies on October 4, 2022.

Admissibility of Additional Evidence

Neither party objected to the inclusion of additional evidence. The details of the appellant's employment plan and the date of her withdrawal from the program relate to the conditions for eligibility for benefits under the EAA. The panel finds that the additional evidence is reasonably necessary for the full and fair disclosure of all matters relating to the decision under appeal, and therefore it is admissible under section 22(4) of the Employment and Assistance Act.

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 she 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 argued that she did not know that she had to ask for permission to attend school. She did not request funding for living expenses through the student loan program because she already was receiving income assistance payments and did not want to "cheat the system." The appellant pointed out that she was trying to do something good to improve her life; the appellant also believed she would be helping the community by educating herself so that she would not need to be on assistance "forever."

Instead, the appellant felt compelled to withdraw from her pre-paid education program because, without income assistance, she would have no money to cover her personal living expenses. The appellant expressed her frustration that she is now struggling to pay her rent and other living expenses because she is no longer receiving income assistance, and she must also repay the \$295 British Columbia Student Loan.

Ministry Position

At the hearing, the ministry relied on the reconsideration decision and reiterated that the appellant needed to have prior ministry permission before enrolling in full-time studies. Further, the appellant's employment plan would need to have included attendance in a full-time educational program for her to be eligible to receive shelter cost payments while attending school.

The ministry cannot give "retroactive" approval of a revised employment plan, as all clients need to be treated in the same way. The ministry explained that the appellant would need to make application for income assistance again, and then seek an employment plan that would include attending a full-time educational program.

Panel Decision

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 her employment plan did not include a condition to enroll in a program of studies.

Section 1 of the EAR states that full-time student has the same meaning as in the CSFAR. The CFSAR states that 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 appellant acknowledged that she had registered in full time studies commencing in late July 2022.

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 government documentation, shows the sources of funding for the appellant as a Canada Student Grant of \$2,400 and a British Columbia Student Loan of \$295 (for a total of \$2,695.) The same documentation shows that payment of \$2,695 was issued directly to the educational institution where the appellant had enrolled in a program studies.

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.

The panel found that the ministry reasonably concluded that the appellant was a full-time student, and the program she was enrolled in was a funded program of studies.

Section 16 (1.2) notes that:

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.

While the appellant was a recipient of income assistance at the time of enrollment in a full-time education program and was receiving income assistance in each of the immediately preceding three calendar months, the appellant had not been required to enroll in a program of studies as a condition of her employment plan. Accordingly, the appellant would not qualify for income assistance while enrolled in an educational program.

The panel acknowledges the appellant's goal to better herself so that she would no longer need to be a recipient of income assistance. The panel also empathizes with the appellant's frustration over the financial difficulties caused by this situation. However, the panel finds the ministry reasonable in its conclusion that the appellant is not eligible for income assistance in accordance with sections 1 and 16 of the EAR.

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 she is a full-time

student in a funded program of studies, was a reasonable application of the legislation in the appellant's circumstances. The appellant is not successful on appeal.

Extracts of the Relevant 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);

"**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 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;

APPEAL NUMBER

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

Melissa McLean

Signature of Chair

Date (Year/Month/Day)

2022/10/24

Print Name

Susan Ferguson

Signature of Member

Date (Year/Month/Day)

2022/10/24

Print Name

Kulwant Bal

Signature of Member

Date (Year/Month/Day)

2022/10/24