

Part C – Decision Under Appeal

The decision under appeal is the Ministry of Social Development and Poverty Reduction’s (the “ministry”) reconsideration decision (the “decision”) dated 15 February 2023. The ministry determined that the appellant was ineligible for income assistance because he is a full- time student as per the Employment and Assistance Regulation section 1 and 16.

Part D – Relevant Legislation

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

Part E – Summary of Facts

Evidence at the time of reconsideration

As part of the application for reconsideration, the appellant submitted:

- 1) A handwritten statement from the appellant explaining his situation, and concluded that his current income “cannot meet our food, rent and other amenities” for his family;
- 2) A Notice of Assessment for financial aid from the Ministry of Advanced Education and Skills Training dated October 7, 2022;
- 3) A letter from the ministry of January 31, 2023 which noted that the appellant was not eligible for assistance “due to full time enrollment in a funded post-secondary school program at [a College] from October 17 2022 to September 22, 2023.”

The appellant added that he was behind on rent and explains that the financial aid for school was not enough to live on without income assistance.

According to the Ministry’s decision, which is not disputed by the appellant, the following is a chronology of events:

The appellant submitted information to the ministry regarding his full-time studies and student loan on January 6, 2023.

The ministry advised the appellant that he was not eligible for income assistance because he was a full-time student.

The appellant initiated a Request for Reconsideration on February 2, 2023.

The ministry completed its review of the Request for Reconsideration on February 15, 2023.

In the Reconsideration decision, the ministry found that:

- 1) The appellant receives student loans to attend training at a specific college, and since students enrolled in the program can obtain student loans, it is a “funded” program.
- 2) The appellant acknowledges being a full-time student and is receiving financial assistance for full-time students.
- 3) The appellant did not receive prior approval from the ministry before enrolling in his classes.

- 4) The appellant is a full-time student in a funded program of studies and because of this, his family is not eligible for income assistance.

The appellant applied for a Notice of Appeal to the EAAT on February 21, 2023, stating that he had been provided with incorrect information and believed that he could “earn up to 50% of EI without deductions...” and that he has to pay rent for his family.

Additional information

During the hearing, the appellant submitted an update on his current health situation, which includes suffering from diabetes and high blood pressure.

The ministry did not object to this evidence being admitted. The panel determined that the additional information provided by the appellant regarding his current state of health was reasonably required for a full and fair disclosure of all matters related to his appeal and found that it would be admitted.

Testimony at the hearing

The appellant explained how he had immigrated to Canada in 2019 after working with international peacekeeping missions, becoming a target and having his life threatened several times. He arrived in Canada with his wife and child and discovered that, without a diploma he could not find employment.

He explained that his living situation is difficult, and he is waiting for his family to access BC Housing apartments, but in the meantime his family has had to move around from rental to rental.

He found a training program that he could do in a year that would lead to employment. He admits that he did not inform the ministry of his enrollment in the course.

The appellant states that he is familiar with the “Third World” which he describes as being “flexible” and was still getting used to the “First World” he now finds himself which he describes as “calculated” and more exacting. When he arrived in Canada, he was provided with training on how to fill out such forms, and he states he had been following what he had been told.

The appellant admitted that he had replied “no” in a written monthly report to the ministry of Dec. 21, 2022, in response to the question; “ Are you attending / enrolled in a school or training?”

The ministry explained that there were statements in the decision that were "typos". Specifically, on page 2, the statement "This does not apply to you because you seek approval prior to enrolling" should read "This does not apply to you because you did not seek approval prior to enrolling", and on page 3 the statement "You are a full-time student in a funded program of studies with prior approval" should read "You are a full-time student in a funded program of studies without prior approval".

Part F – Reasons for Panel Decision

The issue on appeal is whether the ministry's reconsideration decision that determined the appellant was ineligible for income assistance was reasonably supported by the evidence or was a reasonable application of the legislation in the circumstances of the appellant.

Specifically, did the ministry reasonably determine that the appellant was ineligible for income assistance because he was a full-time student?

Ministry position

The ministry found that the appellant was in a full-time, funded program and was receiving financial assistance.

The ministry reviewed the appellant's file and determined that the appellant was "receiving grants for full-time students" and was "a full-time student under the [EAR]".

The ministry states that the appellant informed them he was attending school on January 6, 2023, for a program which started on October 17, 2022, and determined that the appellant "did not obtain prior approval from the ministry".

The ministry concluded that the appellant was "a full-time student in a funded program of studies without prior approval, and therefore our family unit is not eligible for income assistance."

Appellant's position

The appellant does not dispute that he is in the course, and states that he currently pays "3/4 of his money to school". He hoped that the ministry would consider his situation, notably his health and that he was a "new person to Canada" and that his family would be homeless if they can't pay their rent.

Panel's reasons

Section 1 of the EAR states that "full-time student" is the same meaning as in the Canada Student Financial Assistance Regulations, which states that such a person is enrolled in at least 60% of a full course load and has a primary occupation during the period as the "pursuit of studies".

The panel finds that the ministry reasonably determined the appellant was a full-time student based on the appellant's submitted student loan application.

Section 1 of the EAR also defines “funded program of studies” as a program that students can attend and receive financial assistance.

The panel finds that the ministry reasonably determined the appellant was attending a funded program, also based on the financial assistance statements and input from the appellant about his studies.

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

The panel finds that the ministry reasonably determined that the appellant was not eligible for income assistance.

Section 16 (1.2) of the EAR provides that the ministry can approve enrollment in a funded program of studies if the person (a) receives income assistance, (b) is required to enroll in the studies as a condition of an employment plan, and (c) was receiving income assistance in each of the preceding 3 calendar months.

In the case of the appellant, the ministry determined that the appellant did not have a condition in his employment plan requiring him to enroll in the program of studies. Without such a condition, the panel finds the ministry’s determination was reasonable.

The panel finds that, in this case, the ministry applied the relevant regulations and legislation reasonably. The ministry’s reconsideration decision was reasonably supported by the evidence. The panel confirms the ministry’s decision. The appellant is not successful in the appeal.

The panel empathizes with the appellant and notes the ministry’s statement at the hearing that alternative funding may be available to keep the appellant’s family from losing their home. The panel is hopeful that a ministry representative can contact the appellant to explain the situation further.

Schedule of Legislation**EMPLOYMENT AND ASSISTANCE REGULATIONS****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;

"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.

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.

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

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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

Robert McDowell

Signature of Chair

Date (Year/Month/Day)

2023/03/20

Print Name

Cherri Fitzsimmons

Signature of Member

Date (Year/Month/Day)

2023/03/17

Print Name

John Pickford

Signature of Member

Date (Year/Month/Day)

2023/03/19