

**Part C - Decision Under Appeal**

The decision under appeal is the reconsideration decision of the Ministry of Social Development and Poverty Reduction (“Ministry”) dated July 24, 2023, in which the Ministry determined that the Appellant was not eligible for income assistance because she was a full-time student. The Ministry determined that the Appellant was ineligible from June 2023 until the end of the month in which final exams in the program of studies are held.

**Part D - Relevant Legislation**

Employment and Assistance Regulation (“Regulation”), section 16  
Employment and Assistance Act (“Act”), section 22(4)

Full text of the Legislation is provided in the Schedule of Legislation after the Reasons.

**Part E – Summary of Facts**

The hearing took place by videoconference on August 17, 2023.

Evidence Before the Ministry at Reconsideration:

The Appellant is a recipient of income assistance and qualifies as a Person with Persistent and Multiple Barriers to Employment (“PPMB”).

On April 10, 2022, the Appellant submitted a monthly report to the Ministry, stating that she was enrolled in a one-year program of studies at a college, leading to a diploma. She told the Ministry that she would be attending school full-time starting May 29, 2023 and ending on May 3, 2024.

The Appellant applied for financial aid through StudentAid BC. StudentAid BC approved financial aid, stating that no amount was included for living allowance because the Ministry would provide income assistance while she was attending school.

The Appellant did not ask for or receive prior approval from the Ministry before she enrolled in the program. Nor was she required to enroll in the program as a condition of an employment plan. As a PPMB recipient, the Appellant was not required to have an employment plan as a condition of eligibility for income assistance.

On June 22, 2023, the Ministry received a student loans data match reporting that the Appellant had received a student loan for the program of studies. The Ministry phoned the Appellant that day and told her that she was ineligible to receive income assistance because she was enrolled as a full-time student.

Additional Evidence:

Appellant:

The Appellant submitted the following documents before the hearing:

- Screenshot of StudentAid BC student loan application status page showing:
  - Application filed April 11, 2023
  - Student loan approved April 17, 2023
  - Total award: \$23,514
  - Funding decision stating: *“You have been approved for financial assistance.”*

*Your application has been assessed under an agreement with the Ministry of Social Development. As a result, only direct education costs are assessed, as your living expenses are covered by the Ministry of Social Development."*

- WorkBC list of applications, showing that the Appellant accessed WorkBC self-serve services on May 1, 2023, and submitted (unidentified) documents on June 30, 2023.
- Written statement titled Request for Appeal:
  - She cannot work full-time to support herself and her child with special needs while she attends the program.
  - If she withdraws from the program now, she will still owe tuition for the whole year because she has completed 10% of the course, which will leave her with a debt of \$17,000.
  - According to the rules for student funding, if she withdraws for a non-medical reason, she will not be able to return to school and receive StudentAid BC funding until she pays one year of tuition herself.
  - She registered with WorkBC for self-service, and tried to set up a meeting with them, but they never contacted her.
  - As a PPMB recipient, she has never been required to seek employment or be on an employment plan and has never been told the rules around full-time studies by representatives of the Ministry or WorkBC.

At the hearing, in answer to questions from the Panel, the Appellant shared a screenshot of a page from her application to StudentAid BC, showing total assessed costs of \$56,596, including living allowance of \$31,161, child care costs of \$6,000 and alimony/child support of \$2,940. The balance of the assessed costs is for tuition (\$15,995) and books (\$500).

At the hearing, the Appellant stated:

- Since the Ministry determined that she was not eligible for income assistance while attending school, she has looked for other ways to support herself while she is studying:
  - WorkBC tried to make an exception for her, but could not because she is already enrolled in the program;
  - StudentAid BC told her that she has received the maximum amount for which she could be eligible.
- She had asked to end her PPMB qualification one year ago, because she did not think she qualified for it any longer, but a Ministry worker questioned why she would want to end PPMB qualification when it was a benefit to her, and it was continued.
- She has struggled with homelessness in the past and does not know what she will

do to provide for herself and her young child with special needs if she does not receive income assistance.

- It is her understanding that StudentAid BC funding beyond the cost of tuition and books is for child care costs and child support obligations for another child who does not live with her.

In answer to questions from the Panel, the Appellant stated:

- She has not received the StudentAid BC funds directly. StudentAid BC pays tuition directly to the college as it falls due, and the balance of \$7,519 would not be paid to her until November.
- StudentAid BC uses the assessed need to determine the amount of funding the applicant can receive, but she does not receive the amount they calculate, only the amount they approve.

Ministry:

In answer to questions from the Panel, the Ministry stated:

- Prior approval from the Ministry to attend a program of full-time studies comes through WorkBC.
- The Ministry cannot give approval after the recipient has started attending a full-time program of studies.
- When a recipient of income assistance reports that they will be attending school, the usual Ministry procedure is that the person who processes the report generates a “New Service” request that is reviewed by the Employment Planning team; that did not happen in the Appellant’s case.

Admissibility of Additional Evidence:

Neither the Ministry nor the Appellant objected to the additional written and oral evidence. The Panel finds that the additional evidence is reasonably required for the full and fair disclosure of all matters in the appeal. Therefore, the Panel finds that the additional evidence is admissible under EAA s. 22(4).

**Part F – Reasons for Panel Decision**

The issue in the appeal is whether the Ministry's determination that the Appellant was ineligible to receive income assistance because she is a full-time student, is a reasonable application of the legislation in the Appellant's circumstances.

Appellant's Position:

The Appellant says that, while she did not have prior approval to attend the program, it is not reasonable for the Ministry to find her ineligible to receive income assistance. She points out that the Ministry did not tell her she was ineligible for more than 2 ½ months after she told them she had enrolled, and a month after she had started the program. She cannot afford to continue the program without income assistance, and if she withdraws at this point, tuition will not be refunded, she will owe more than \$17,000 to StudentAid BC, and she will not be able to re-enroll until she can pay one year's tuition herself.

The Appellant says that this result causes undue hardship to her and her child. She also says that, if she can complete the program, she will be able to be employed and no longer need assistance, which is in the Ministry's interest as well as hers.

Ministry's Position:

The Ministry says that, under the legislation, a person is not eligible to receive income assistance if they are a student in full-time attendance at a funded program of studies, unless they have prior approval from the Ministry. A person may get prior approval if they are required to enroll in a program of studies as a condition of an employment plan. The Appellant did not have an employment plan and did not have prior approval of the Ministry to attend a full-time program of studies. Therefore, the Ministry maintains that the Appellant does not meet the criteria for a full-time student exemption, to continue income assistance while attending school. The Ministry says that it is bound by the legislation and without prior approval it is bound to find the Appellant ineligible for income assistance.

Panel Decision:

The Panel finds that the Ministry's reconsideration is not a reasonable application of the legislation in the Appellant's circumstances.

The Ministry decided that, because the Appellant did not have prior approval to enroll in the program and was not required to enroll in the program as a condition of an

employment plan, she was not eligible for full-time student exemption. The Ministry acknowledged that, as a PPMB recipient, the Appellant does not have an employment plan.

The Appellant reported to the Ministry on April 10, 2023 that she was enrolled in a full-time program of studies. She applied for financial assistance from StudentAid BC, and was approved, with the notation: "Your application has been assessed under an agreement with the Ministry of Social Development. As a result, only direct education costs are assessed, as your living expenses are covered by the Ministry of Social Development." The Appellant reasonably understood from that statement that she would continue to receive income assistance while she attended school, with the agreement of the Ministry.

The Ministry did not contact her to tell her of the ineligibility decision until June 22, 2023, almost one month after the Ministry was aware that she had started attending the program. The Ministry acknowledges that it did not follow its usual process when the Appellant reported on April 10, 2023 that she would be in a full-time program that started on May 29, 2023. Normally the information would have been passed on to an Employment Planning Team that would have contacted the Appellant in a timely way. If the Employment Planning Team was involved, according to the Ministry either they or WorkBC would have worked through the criteria with the Appellant and then either obtained prior approval or given her enough time to withdraw from the program before incurring significant student debt.

The result of the Ministry's failure to follow its own process has been that, if the Appellant does not receive income assistance, she will have to withdraw from the program. She is past the point where any of the tuition will be refunded. She will owe StudentAid BC the year's tuition paid to the college and she will not be eligible for student funding again until she is able to pay one year's tuition herself. In effect, because of the Ministry's error in processing the Appellant's report that she was enrolled in full-time studies, the Appellant is prevented from attending a program of studies in the future. Even with the Ministry's prior approval, she will not be eligible for further financial assistance from StudentAid BC unless she can fund one year's tuition herself, which will not happen as long as her only income is from the Ministry.

The Panel finds that it is not a reasonable application of the legislation in the Appellant's circumstances, to find her ineligible for income assistance when the Ministry did not process the information in her monthly report, or determine ineligibility, in a timely way. The Appellant reported her enrollment in the program promptly, and reasonably relied on the positive statement from StudentAid BC, apparently operating under an agreement with the Ministry, that the Ministry would provide income assistance while she attended

school. The Ministry continued to pay the Appellant income assistance for two months after she started the program (noting in the reconsideration decision that the Appellant “may have incurred a ministry error overpayment”). The Appellant relied on that statement from StudentAid BC, and the continuing income assistance payments from the Ministry, to her detriment.

While the Ministry’s error in failing to note the Appellant’s enrollment in the program and refer the Appellant’s report to the appropriate team was inadvertent, the consequences to the Appellant are severe. The Panel finds that it is not reasonable for the Ministry to disregard its own error, and the representations to the Appellant that she would continue to receive income assistance from the Ministry, when applying the legislation in the Appellant’s circumstances.

Conclusion:

The Panel finds that the Ministry’s reconsideration decision, in which it determined that the Appellant was not eligible for income assistance because she is a full-time student, is not a reasonable application of the legislation in the Appellant’s circumstances. The Panel rescinds the reconsideration decision.

The Appellant is successful in the appeal.

Schedule of Legislation

Employment and Assistance Regulation

Effect of family unit including full-time student

s. 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.

Employment and Assistance Act

s. 22 (4) A panel may consider evidence that is not part of the record as the panel considers is reasonably required for a full and fair disclosure of all matters related to the decision under appeal.



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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  
Susan Ferguson

Signature of Chair

Date (Year/Month/Day)  
2023/08/23

Print Name  
Katherine Wellburn

Signature of Member

Date (Year/Month/Day)  
2023/08/23

Print Name  
Edward Wong

Signature of Member

Date (Year/Month/Day)  
2023/08/23