

Part C – Decision Under Appeal

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the Ministry) reconsideration decision (the Decision) dated September 14, 2023, in which the Ministry determined the Appellant was not eligible for income assistance because she is enrolled as a full-time student in a funded program of studies without prior approval.

Part D – Relevant Legislation

Employment and Assistance Act (the *Act*), section 2 and section 22(4)

Employment and Assistance Regulation (the Regulation), sections 1, 16(1), 16(1.1) and 16(2)

Canada Student Financial Assistance Regulation, section 2(1)

A full text of the relevant legislation is provided in the Schedule of Legislation after the Reasons in Part F below

Part E – Summary of Facts

The Decision provides the following background information relating to the Appellant's circumstances:

- The Appellant has been receiving income assistance as a sole recipient with one dependent child since January 2023;
- The Appellant has had a valid work permit since February 2023 and does not have an employment plan with the Ministry.
- On June 26, 2023, the Appellant submitted a monthly report indicating she was looking for work and was not attending or enrolled in school or training;
- On July 31, 2023, the Appellant submitted a monthly report indicating she was attending school and looking for work. She also reported she had recently started courses of study at a designated private training institution (the School) in an immigration assistance program. She had already received income assistance for the month of August 2023;
- On August 8, 2023, the Appellant submitted confirmation of schooling and funding. The funding confirmation comprised a StudentAid BC notification of assessment, dated August 2, 2023 (the Notice of Assessment), which indicates that the Appellant was approved for funding through student loans from July 31, 2023 to April 5, 2024, and which includes a work experience component running between March 4 and April 5, 2024; and,
- Based on this information, the Ministry determined that the Appellant was attending a thirty-five week full-time funded program of studies and was therefore not eligible for income assistance because she was enrolled as a full-time student.

The evidence the Ministry had when it made the Decision included:

- The Appellant's request for reconsideration, dated August 28, 2023, (the Reconsideration Request), in which the Appellant says she is asking the Ministry to reconsider its original decision because "*I (am) a single mother of a 14-year-old child ... as a newcomer to Canada (I have) tried several times to find a job ... but ... employers ask (for) either Canadian work experience or an approved Canadian degree In Canada. That's why I decided to (take) a 9-month course ... (The School) applied for (a) student loan (on my behalf) and the amount of \$17,340 was approved for tuition fee(s) ... I wasn't eligible for living allowance or any other grants. From this student loan amount, only \$1,000 will be paid to me in December ... I am not able to pay the cost of renting my shelter, providing food for my child and myself, and paying living expenses, and so far,*

with (income assistance), I have been able to pay the minimum living expenses ... (which include) ... rent, monthly bills, and ... (other) necessities”;

- Several documents relating to the Appellant’s student loan and grant application, including:
 - A one-page student loan/grant disbursement form issued by the School to the Appellant (the Loan Disbursement Form). The Loan Disbursement Form identifies the application start and end dates as July 31, 2023 and April 5, 2024 respectively, with a total approved loan amount of \$17,340 and total program costs of \$16,258. The Loan Disbursement Form also includes the following table:

Type of Funding	Disbursement Date	Total Disbursement	To Educational Institute	To Student
Canada Student Loan	August 1, 2023	\$1,530.00	\$1,530.00	\$0.00
BC Student Loan	August 1, 2023	\$7,140.00	\$7,140.00	\$0.00
BC Student Loan	December 3, 2023	\$8,670.00	\$7,588.00	\$1,082.00
	Totals	\$17,340.00	\$16,258.00	\$1,082.00

- Two pages of the eight-page Notice of Assessment, dated August 2, 2023, issued by the Ministry of Post Secondary Education and Future Skills in the name of the Appellant. The first page of the Notice of Assessment says that *“funding has or will be made available”* in the amounts provided above, and provides a *“Financial Needs Assessment”*. The Financial Needs Assessment says that the Appellant will require total funding for assessed educational costs of \$38,800, which is described as her *“Assessed Financial Need”*. The difference between the assessed financial need and the available funding in the amount of \$21,460 (\$38,800 – \$17,340) is identified as the *“Unmet Need”*, and includes the comment *“If your unmet need is greater than \$0, you may need to seek additional sources of funding outside StudentAid BC”*. The Appellant has added the hand-written comment indicating that she contacted StudentAid BC to see if she qualified for a grant *“but I wasn’t eligible ... I need financial support for rent, food, bills ...”*. The second page of the Notice of Assessment includes a slightly different calculation of the Financial Needs Assessment, where the tuition amount is identified as \$14,766, the amount for books and supplies is recorded as \$1,492, and the living allowance is recorded as \$22,542;
- Page two of a two-page student loan disbursement agreement form issued by the School to the Appellant and signed by the Appellant on July 19, 2023 (the Loan Disbursement Agreement). The Loan Disbursement Agreement lists tuition

fees of \$14,292, application and assessment & admin fees totalling \$475, and e-resources and material fees of \$1,492, for a total program cost of \$16,258. The *"Initial Payment Cost"* is recorded as 70% of the total amount (\$11,380.60) and is payable when the Appellant starts the program, and the remaining 30% (\$4,877.40) is due *"by the program's halfway point"*;

- A two-page letter from the Ministry to the Appellant, dated August 2, 2023 (the August 2 Letter). The August 2 Letter requests information confirming the Appellant's eligibility for assistance by providing the Ministry with the Notice of Assessment;
- Two monthly reports, one signed by the Appellant on June 23, 2023 (the June Monthly Report), the other signed by the Appellant on July 26, 2023 (the July Monthly Report). The June Monthly Report does not identify any changes in the Appellant's financial position. In the section of the July Monthly Report where the income assistance recipient is asked to *"explain any changes including income and submit proof"*, the Appellant has written *"recently I started my education at (the School) and my course is immigration assistance"*;
- The first page of an eight-page student enrolment agreement form providing information about the course program, including the start and end dates of the course, the number of hours and weeks of study, and the Appellant's citizenship and study permit status; and,
- A one-page document issued by the School in the Name of the Appellant (the School's Letter). The School's Letter says, in part, *"We are pleased to advise you that should your funding approval be delayed, we are extending this letter to allow you to start school while your funds are pending approval."* The School's Letter also sets out terms upon which the Appellant must agree to qualify to start school.

Additional Evidence After Reconsideration

In the notice of appeal, the Appellant writes *"As a newly arrived immigrant and a single mother, I am facing many problems, including the high cost of renting two rooms, the cost of food and clothing, and the cost of school for my ... child, and that ... employers either require Canadian work experience or a certificate approved by the country ... I suffered a ruptured lumbar disc and I have been undergoing treatment for several months, I was not able to stand on my feet and I could not find a job, all my medical documents are available ... I have a BA degree from (a foreign country) but unfortunately ... employers in Canada did not accept this degree ... I decided to get a Canadian degree for a better future. While I wasn't able to go out based on my health and physical problem ... I decided to start study. I applied for a student loan and only the scholarship was paid to (the School) and I was not eligible for the living allowance ... I need financial and monthly help to continue my life and take care of (my) child"*

and bear the heavy expenses of living so will be able to get this certificate approved by this country in the next few months and be ready to enter the working society."

At the hearing, the Appellant said that she has only been living in Canada for less than a year and *"everything was so complicated here"*. She explained that she was given a Canada work permit in February 2023 and immediately began looking for a job so she was able *"to stand on my own feet"*. She also applied for income assistance so she could pay living costs for herself and her child while she looked for a job. She said she was able to survive on her income assistance but barely got by.

The Appellant also said that the challenges she faced in trying to cover the cost of living for her and her child affected her mental health, and she also had physical health problems as described in the notice of appeal. She considered applying for a person with disabilities designation but was told that a disability had to be permanent and that the application process would take six months.

The Appellant explained that she had a bachelor's degree in her previous Country and had worked there as a teacher, but was unable to work as a teacher in Canada because her foreign degree was not recognized here. She has had no responses to any of her job applications and her mental health had further suffered as a result. She then approached some of the new friends she had met in Canada and was able to borrow money from some of them so she could live without any other source of income for a couple of months.

The Appellant said she also approached StudentAid BC and asked for help. She told them she was on welfare and didn't have a job. She was told by StudentAid BC that her status in Canada would still qualify her for financial aid to attend school. She explained that no one told her that she would not qualify for income assistance while studying, and she was shocked when the Ministry told her that she was no longer eligible for income assistance. She said she didn't want to do anything bad or illegal, but no one had told her she would have to talk to the Ministry, have an approved employment plan, and get pre-approved for her months of full-time study in order to continue to qualify for income assistance.

In response to a question from the Ministry, the Appellant said she had not asked the School about the student loan rules when she applied for enrolment. She said she was told not to worry and that she would be able to get a student loan. She explained that everything was done on a computer with someone in the School's admissions office. She gave the information required verbally and the administrator keyed it in electronically on their computer. She said it all happened very quickly without her having the opportunity to ask any questions.

In response to another question from the Ministry, the Appellant said that she hadn't contacted the Ministry directly before enrolling to find out whether she would continue to

qualify for income assistance if she was a full-time student because no one told her she would lose the benefit. She said she did speak to a Ministry employment worker after she was cut off from income assistance. She also said she considered attending the School on a part-time basis but it takes longer and she wanted to get her degree as soon as possible. She confirmed that her period of study under the School's full-time program began in July 2023 and ends in April 2024.

The Ministry relied on the Decision. The Appellant asked the Ministry why the Government didn't approve funding for the living allowance amount if someone in her position has to have the prior approval of the Ministry to continue receiving income assistance as a full-time student. The Ministry said that she would have to ask StudentAid BC why they wouldn't cover her living costs. The Appellant said she had asked StudentAid BC about a living allowance and was told she wouldn't qualify for the cost of living portion because she was receiving income assistance.

In response to a question from the Panel, the Ministry said the Appellant would not be able to ask the Ministry to approve her enrollment at the School so that her income assistance could be reinstated now because the legislation says that Ministry approval of a full-time study program has to occur before the study period starts.

The Ministry also said that it was able to provide income assistance upon the Appellant's initial application for assistance without her having to develop a work plan because the work plan requirement is temporarily waived for income assistance applicants while they wait for a work permit. The Appellant confirmed that she had received a work permit in February 2023, but she had not let the Ministry know until August 2023 because she didn't know she had to tell the Ministry she had been issued a work permit. She said it wasn't until she told the Ministry she had a valid work permit in August that an employment worker was assigned to her.

In response to another question from the Panel, the Ministry said there is a review process to ensure that clients are aware of requirements for continued assistance and other Ministry programs for which they might qualify, but that those reviews only occur once every few months. When asked by the Panel if there might be any other Ministry programs for which the Appellant might qualify, the Ministry said the Appellant should talk to someone on the Ministry's toll-free phone line, but she might be able to qualify for the Ministry's the persons with persistent multiple barriers (PPMB) to employment program.

Admissibility of Additional Evidence

Section 22(4) of the *Employment and Assistance Act* says that a panel can consider evidence that is not part of the record when the Ministry made its decision. But first the panel must consider if the new information is relevant to the decision. If a panel determines that any

new evidence can be admitted, it must decide if the decision was reasonable considering the new information.

New information provided by the Appellant at the hearing includes:

- Details of her work qualifications and training in her previous home Country;
- How she had partially met the challenge of not having any income by arranging for loans from friends; and,
- Some of the challenges she has faced in getting a detailed understanding of how student loan programs and income assistance eligibility requirements for students work in Canada.

The Panel does not admit any of this new information as it is not taken into account in determining eligibility under the legislation and is therefore not required for a full understanding of issues relating the issue under appeal.

Part F – Reasons for Panel Decision

The issue on appeal is whether the Decision, in which the Ministry determined the Appellant was not eligible for income assistance because she is enrolled as a full-time student, was reasonably supported by the evidence, or a reasonable application of the legislation in the Appellant's circumstances.

Appellant's Position

The Appellant's position is that she didn't know that she had to have an employment plan and get her funded program of studies approved by the Ministry in advance. She has only been living in Canada for a year, has no other source of income, and thinks it's unfair that her income assistance was cut off.

Ministry's Position

The Ministry's position is that the Appellant is not eligible to receive income assistance while she is a full-time student because she did not receive prior approval to enroll in the full-time study program as a component of an approved employment plan.

Panel Decision

The Appellant's eligibility requirements for income assistance as a full-time student are provided in section 16 of the *Act*. Section 16 says that a family unit is not eligible for income assistance from the first day of the month after the month classes start through the last day of the month when exams are held if a recipient is enrolled as a full-time student in a funded program of studies unless the recipient has the prior approval of the Ministry.

The definition of "*full-time student*" is set out in the *Act* as the definition that appears in the Canada Student Financial Assistance Regulations. The definition in the Canada Student Financial Assistance Regulations is someone "*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, (and) whose primary occupation during that period is the pursuit of studies in those courses*".

The period of studies in this case is July 31, 2023 through April 5, 2024, as indicated in the Notice of Assessment, which neither party has disputed. In the Decision, the Ministry determined that the Appellant is enrolled as a full-time student in a funded program of studies offered by a designated educational institution, which the Appellant does not dispute.

The Panel also notes that no evidence has been presented to suggest that the Appellant received the prior approval of the Ministry to attend the School, as required under section 16 of the *Act*.

Based on all of the available evidence, the Panel finds that the Appellant is not entitled to income assistance during the period of her studies given the requirements set out in section 16 of the *Act*.

Conclusion

The Panel finds that the Decision, which determined the Appellant was not eligible for income assistance because she is enrolled as a full-time student in a funded program of studies without the prior approval of the Ministry, was a reasonable interpretation of the legislation in the Appellant's circumstances.

The Decision is confirmed and the Appellant's appeal is not successful.

* * * *

The Panel sympathizes with the Appellant in this appeal. It is very unfortunate that she was not provided with a clear and complete understanding of her income assistance eligibility requirements in her circumstances. The Panel notes that neither the Ministry nor the Employment Assistance Appeal Tribunal have the authority to make a decision that does not comply with the requirements set out in the legislation.

Schedule of Legislation

EMPLOYMENT AND ASSISTANCE ACT

Eligibility of family unit

- 2** For the purposes of this Act, a family unit is eligible, in relation to income assistance, ... if
- (a) each person in the family unit on whose account the income assistance ... is provided satisfies the initial and continuing conditions of eligibility established under this Act, and
 - (b) the family unit has not been declared ineligible for the income assistance ... under this Act.

Panels of the tribunal to conduct appeals

- 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.

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* ...

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 ... a recipient is enrolled as a full-time student

(a) in a funded program of studies ...

(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 ... during the period described in subsection (2) ...

(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

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 ...

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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

Simon Clews

Signature of Chair

Date (Year/Month/Day)

2023/10/15

Print Name

Mary Chell

Signature of Member

Date (Year/Month/Day)

2023/10/15

Print Name

Robert Kelly

Signature of Member

Date (Year/Month/Day)

2023/10/15