

Part C – Decision Under Appeal

The decision under appeal is the Reconsideration Decision of the Ministry of Social Development and Poverty Reduction (“Ministry”) dated December 12, 2023, in which the Ministry determined that the Appellant was no longer eligible for income assistance because they were a full-time student.

This was determined under Section 16 (1) and (2) of the Employment and Assistance Regulation.

Part D – Relevant Legislation

Employment and Assistance Regulation

- Section 16, subsections 1 and 2

Canada Student Financial Assistance Regulations (Canada) definitions

Part E – Summary of Facts

Evidence Before the Ministry at Reconsideration:

The Appellant is a sole recipient of income assistance. They reported that they were enrolled in and attending school. The Ministry responded, requesting additional information both to verify the enrollment, and to explain details of the program the Appellant would be attending.

The Appellant responded on August 25th, 2023, providing additional details about the program, and advising that they had been approved for student funding of \$3607 for the period of study between September 6 and December 20, 2023. The Appellant again contacted the Ministry on August 31st, advising that the program began September 3rd and would be 10 months in duration. On September 15th, the Appellant contacted the Ministry to advise that they would submit their student loan information on September 18th.

On October 10th, the Ministry determined that the Appellant was no longer eligible for income assistance due to their enrollment in a full-time program of study.

On November 24th, the Appellant submitted a Request for Reconsideration, stating that:

- The person (Ministry representative) who denied the income assistance made “a few mistakes”;
- The Ministry representative indicated that the Appellant had said in their report that they had stopped working, which the Appellant said was not true;
- The Appellant is unable to work more than they currently do due to their disabilities;
- The Ministry representative indicated that the Appellant was denied funding because they are in full-time college, and the Appellant brought their college schedule to the Ministry office to show that they are in part-time, not full-time, studies, an 11 hour per week schedule; and
- The Appellant is having a hard time making ends meet due to their disabilities and the medications required to control them.

Additional Evidence

Together with her Notice of Appeal, the Appellant has provided a letter from [REDACTED] (“College”) where the program is being offered, dated December 14th, 2023. The said letter, provided as a verification of enrolment, states that the Appellant is currently

enrolled in a program on a part-time basis. The letter does not define the hours or percentage of a full- time course load.

Furthermore, the Appellant stated at the hearing that the College determined that the Appellant is not eligible for the student loan they were granted in September, and the Appellant is required to return it. The Appellant further explained that part of what had been deemed a student loan is actually a grant, so only the loan part has to be repaid. On being questioned about the documentation provided, the Appellant indicated that they could provide confirmation of the student loan payback requirement.

The Ministry stated that if the letter from the College had confirmed the Appellant's part-time attendance, this would likely have prompted them to make further investigation into the Appellant's situation.

Admissibility of Additional Evidence

Neither party objected to the admissibility of any of the additional evidence.

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 is admissible under section 22(4) of the Employment and Assistance Act.

Part F – Reasons for Panel Decision

Appellant's Position:

The Appellant stated that they disagree with the Ministry's decision because they provided information in the form of their class schedule from the College, in person, to the Ministry.

To confirm that the program of study is part-time, the Appellant requested the letter from the College where the program is being offered. The letter was provided, and it states that the program the Appellant is taking is part-time studies. No definition of the number of hours or percentage of a full-time course load was included. The Ministry received this letter after it was sent to the Tribunal on December 15th, which was after the Reconsideration Decision was made.

The Appellant's position is that they are a part-time student as confirmed by this letter from the College, and therefore they are eligible for income assistance.

Ministry's Position:

The Ministry stated that their position at reconsideration was that the Appellant was a full-time student in a funded program of studies, and therefore was not eligible for income assistance. On appeal, the Ministry's position was that the new information was not sufficiently detailed to show that the Appellant was not a full-time student in a program for which funding was provided by the College.

The Ministry explained that the Appellant's letter from the College indicating that the program they are enrolled in is part time was received after the Reconsideration Decision was made, and had it been received before, it would likely have prompted the Ministry to make further investigation. The letter also lacks some details required, such as the number of courses/credits the Appellant is taking, and the percentage of a full-time program they are taking. The ineligibility was also determined because the Appellant was issued a student loan, and the Ministry was not aware that the loan now has to be repaid. The Ministry suggested that if full documentation is provided, the Appellant may reapply, and may be able to have the income assistance reinstated.

Panel Decision:

The issue under appeal is whether the Ministry's Reconsideration Decision denying the Appellant income assistance from September 2023 was reasonably supported by the evidence or is a reasonable application of the legislation. The Panel accepted as admissible the information provided by both the Appellant and the Ministry at the hearing.

The Regulation provides that, under s16(1), full time students in a funded program, or an unfunded program without the prior approval of the Minister, are not eligible for income assistance.

The Ministry did not have either the information on the Appellant's program being part time, nor that the student loan had to be repaid, when they made the Reconsideration Decision. Applying the criteria as stated above to the Appellant's situation, the Panel concurred with the Ministry that the Appellant did not meet the requirements for income assistance. Based on the information that the Ministry had before them at Reconsideration, along with the new information provided at the hearing, the Panel determined that the Ministry's decision to deny income assistance was reasonable. The letter from the College does not quantify the hours that constitute full versus part time, nor does it include the percentage of a full-time program that part-time makes up. The Panel cannot reasonably determine whether or not the Appellant's program should be considered full or part time, from the information presented.

Conclusion:

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

The Panel confirms the Ministry's reconsideration decision. The Appellant is not successful in their appeal.

Schedule of Legislation

EMPLOYMENT AND ASSISTANCE 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;

"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.

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]

Canada Student Financial Assistance Regulations (Canada)

full-time student means a person

- (a) who, during a confirmed period within a period of studies, is enrolled in courses that constitute
 - (i) at least 40 per cent and less than 60 per cent of a course load recognized by the designated educational institution as constituting a full course load, in the case of a person who has a permanent disability and elects to be considered as a full-time student, or

- (ii) at least 60 per cent of a course load recognized by the designated educational institution as constituting a full-time course load, in any other case,
- (b) whose primary occupation during the confirmed periods within that period of studies 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.
(étudiant à temps plein)

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 Regulation - Section 16, Subsections 1 and 2
Canada Student Financial Assistance Regulations (Canada) definitions

Part H – Signatures

Print Name
 Carla Gail Tibbo

Signature of Chair

Date (Year/Month/Day)
 2024/01/07

Print Name
 Mary Chell

Signature of Member

Date (Year/Month/Day)
 2024/01/09

Print Name
 Iris Sucu

Signature of Member

Date (Year/Month/Day)
 2023/01/08