

Part C - Decision Under Appeal

The decision under appeal is the Ministry of Social Development and Poverty Reduction's ("ministry") reconsideration decision dated November 2, 2023, in which the ministry found the appellant is not eligible for income assistance under sections 1 and 16 of the Employment and Assistance Regulation ("the Regulation") because she is a full-time student in a funded program of studies.

Part D - Relevant Legislation

The ministry based the reconsideration decision on the following legislation:

Employment and Assistance Regulation - sections 1 and 16

Canada Student Financial Assistance Regulations - section 2(1)

The full text of the legislation is in the Appendix at the end of the decision.

Part E – Summary of Facts

The evidence and documentation at the reconsideration consisted of:

1. Information from the ministry's record of decision indicating that:

- On September 21, 2023, the ministry received information from the *Student Financial Assistance System* confirming that the appellant is enrolled at a post-secondary school ("College X") as a "full-time student with a 100% course load" in a 2-year program.
- On September 22, 2023, the ministry contacted the appellant for more information. The appellant said she is attending school for a specific program ("Program Y") and was unsure if she was considered a full-time student because she was studying on-line and taking night classes. The appellant said that she was never told she could not attend school while receiving income assistance. The ministry requested documents from the school to confirm the appellant's status and period of enrolment.
- On September 22, 2023, the appellant submitted a letter from College X confirming her enrolment in Program Y. The program began on August 28, 2023, and ends on October 18, 2024.
- On September 25, 2023, the ministry sent a message to the appellant through *My Self Serve*, requesting further documentation because the letter from College X did not confirm student status.
- On September 27, 2023, the appellant submitted an updated letter from College X, indicating that the appellant is enrolled in a "full-time program."
- On September 28, 2023, the ministry determined that the appellant was no longer eligible for income assistance due to enrolment in a "full-time program of studies."
- On October 4, 2023, the ministry sent a letter through *My Self Serve*, advising that assistance is discontinued due to the appellant's status as a "full-time student." The appellant explained her limited finances from student loans (which only paid for school, not living expenses). The appellant said she was unaware that she could receive training and education through *WorkBC*.
- On October 15, 2023, the appellant submitted a *Request for Reconsideration* with a written submission and a monthly report declaring that she is enrolled in school. The appellant indicated that she never had an employment plan with the ministry; that she is a single parent of a young child; that she is requesting assistance for rent, bills, and food; and that she enrolled in school to create a stable future for her family.

2. The *Request for Reconsideration*, signed by the appellant on October 15, 2023, in which she detailed her enrolment in school to better her situation as a victim of domestic violence. The appellant affirmed that she did not know that attending school would make her ineligible for assistance.
3. A black screenshot from the *Student Financial Assistance System* dated September 21, 2023, confirming the appellant's enrollment at College X from August 2023 – July 2024. The length of Program Y is two years, and the course load is "100."
4. A letter from College X ("letter A") submitted to the ministry on September 22, 2023, indicating the start date and end date for Program Y.
5. A letter from College X ("letter B") submitted to the ministry on September 27, 2023, indicating the start date and end date for Program Y, **and** stating that Program Y is a "full-time program."

Additional information

The appeal was conducted as a written hearing. Following the reconsideration decision the appellant filed her *Notice of Appeal*, received by the Tribunal on November 8, 2023. In the *Reasons for Appeal*, the appellant provided her argument and stated that the ministry did not inform her of any impact on assistance when she signed up for school or applied for a student loan.

The appellant provided a typed one-page submission received by the Tribunal on December 15, 2023. The appellant confirmed that she is attending school and explained that when she applied for income assistance, the ministry did not mention that she "could not go to school...or that I had to go through *WorkBC* to get funding to do so."

The appellant explained that she did not add her child to her income assistance file due to threats and abuse from the child's father. The appellant said that it has been very difficult to look for work and juggle childcare, and the ministry never contacted her to put an employment plan in place (with Program Y as part of the plan).

The appellant said that most of the ministry workers she spoke to, told her that she would have to drop out of school to receive income assistance. The appellant said that one worker told her that if she had gone through *WorkBC* she would have been funded for school and childcare while still receiving income assistance.

The appellant said that the ministry questioned why she enrolled in school without advising them. The appellant explained that she did not inform the ministry because she was not seeking ministry funding for Program Y. Instead, she took out a student loan so that she could pay for school and continue to achieve good grades in her program.

The appellant explained that the student loan covered only the tuition. The appellant explained that she did not request additional funds for living expenses because she was using her income assistance money for that purpose.

Admissibility of additional evidence

The panel finds that the appellant's submissions corroborate the information in the ministry record (the appellant is attending school and did not inform the ministry before she enrolled). The appeal submissions add clarity and detail around the appellant's enrolment at College X.

The ministry did not object to the additional information from the appellant. The panel finds the submission admissible under section 22(4) of the *Employment and Assistance Act* as evidence that is reasonably required for a full and fair disclosure of all matters related to the decision under appeal.

The ministry did not submit any new evidence. In an email to the Tribunal the ministry said that its submission on appeal is the *Reconsideration summary*. The panel will consider the arguments of both parties in Part F-Reasons.

Part F – Reasons for Panel Decision

The issue on appeal is whether the ministry's determination that the appellant is not eligible for income assistance under sections 1 and 16 of the Employment and Assistance Regulation, is reasonably supported by the evidence or a reasonable application of the legislation in the circumstances of the appellant. Was the ministry reasonable in finding that the appellant is ineligible for assistance because she is a full-time student in a funded program of studies?

Arguments*Appellant*

The appellant's position is that the ministry's decision is unreasonable because enrolling in school is "not my error" as no one from the ministry told her she could not go to school and be on assistance. The appellant argues that she chose to go to school to create an "incredible future" for her family and not have to worry about being on assistance. The appellant is now worried about the future as she is facing homelessness. The appellant would like "to stay on ministry help so that I can keep a roof over our heads, food in our stomachs, and warmth, especially now that we are into the winter months."

Ministry

The ministry's position is that the appellant is not eligible for income assistance under the Regulation because she is a full-time student in a funded program of studies. The ministry argues that letter B from College X confirms that the appellant is a "full-time student" because it indicates enrolment in a "full-time program of studies, as defined by the educational institution you are attending." The ministry argues that the period of ineligibility "lasts from September 1, 2023 ("first day of the month after classes start") until the last day of the month in which exams occur.

The ministry expressed empathy toward the appellant's circumstances but argued that there was no ministry error in denying income assistance. The ministry said that its records confirm the appellant did not contact the ministry prior to enrolment in Program Y to inquire about how it would affect her eligibility for assistance.

Analysis and panel's decisionEmployment and Assistance Regulation section 1 – program type

The Regulation makes a distinction between a funded, and an unfunded program of studies. Under section 1(1) of the Regulation, a funded program of studies means a program for which funding is provided under the *Canada Student Financial Assistance Act*. Based on the appellant's evidence that she received a student loan to pay for her tuition, the ministry was reasonable in finding that the appellant's program at College X is a funded program of studies.

Employment and Assistance Regulation section 1 – definition of full-time student

"Full-time student" is defined in section 1(1) of the Regulation with reference to the Canada Student Financial Assistance Regulations. In relation to a student who does not have a disability, section 2(1) of the federal Regulation defines a full-time student as a person who is taking at least 60 per cent of the course load recognized by the school as a full-time course load during a confirmed period of studies.

The panel finds that the ministry reasonably determined that the appellant is a full-time student under this definition because:

- the appellant did not indicate any disability.
- the black screenshot from the *Student Financial Assistance System* shows a 100% course load, and
- letter B from the college states that Program Y is a "full-time program" of 2-years duration.

Employment and Assistance Regulation section 16 – eligibility for income assistance (full-time student)

A family unit is not eligible for income assistance under section 16(1) of the Regulation if the applicant is enrolled as a full-time student in a funded program of studies, or in an unfunded program of studies without the prior approval of the minister. As noted by the ministry, the period of ineligibility under section 16(2) of the Regulation "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."

The letters from College X state that the appellant's study period began on September 1, 2023, and ends on October 18, 2024. The letter therefore indicates that exams or a final assessment will take place in October 2024.

Exception

Sections 16(1.1) and 16(1.2) of the Regulation authorize an exception for students enrolled in a funded program of studies if specific criteria are met. The student can continue to receive income assistance while enrolled in school with the prior approval of the minister. The minister may “approve a person to enroll in a funded program of studies” if 3 requirements are met:

- the person is receiving income assistance.
- enrolment in the program of studies is a condition of an employment plan, and
- the person was receiving assistance for 3 consecutive months (unless there are exceptional circumstances).

The appellant was an income assistance recipient, but the exception does not apply in her case because she did not have an employment plan and get approval from the minister to study. The appellant said that the ministry never discussed an employment plan, and it is unclear from the record why the ministry did not set one up with the appellant.

The panel accepts that the appellant may have been able to continue on ministry assistance if her program at College X was a condition of an employment plan. However, the panel is unable to find the ministry’s decision unreasonable due to the appellant not having an employment plan because an employment plan is not mandatory under the legislation.

The panel appreciates that the ministry’s decision is unfortunate and frustrating for the appellant since the ministry appears to suggest that the appellant may have been eligible for assistance had her enrolment in a full-time program of studies been a condition of an approved employment plan. However, section 9 of the *Employment and Assistance Act* indicates that employment plans are at the discretion of the minister. The ministry may require a recipient to enter into an employment plan and comply with its conditions, but in the appellant’s circumstances the ministry did not require an employment plan as a condition of receiving assistance.

Conclusion

Based on the evidence before the minister at the reconsideration and the additional information on appeal, the panel finds that the ministry reasonably determined the appellant is not eligible for income assistance as of September 2023 because she is a full-time student in a funded program of study.

The panel further finds that the ministry's application of the legislation was reasonable because the employment plan exception, in section 16 (1.1 and 1.2) of the Regulation (allowing students to receive income assistance while studying), does not apply in the circumstances of the appellant. The ministry reasonably determined that the appellant was not required to enrol in full-time studies as a condition of an employment plan. The panel confirms the reconsideration decision. The appellant is not successful on appeal.

Appendix - 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
 - **(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 Act

Section 24(1)(a) or Section 24(1)(b)

Section 24(2)(a) or Section 24(2)(b)

Part H – Signatures

Print Name

Margaret Koren

Signature of Chair

Date (Year/Month/Day)

2023/12/28

Print Name

Daniel Chow

Signature of Member

Date (Year/Month/Day)

2023/12/28

Print Name

Vivienne Chin

Signature of Member

Date (Year/Month/Day)

2023/12/28