

Part C - Decision Under Appeal

The decision under appeal is the Ministry of Social Development and Poverty Reduction's (the "Ministry") Reconsideration Decision of January 10, 2024. In the Reconsideration Decision the Ministry determined that the Appellant was not eligible for income assistance because she is a full-time student attending a funded program of studies.

Part D - Relevant Legislation

Employment and Assistance Regulation (the "Regulation"), Sections 1 and 16.

Canada Student Financial Assistance Regulations, Section 2(1) Definition of Full-time student, and Section 2.1 Election

Part E – Summary of Facts

The information before the Ministry at the time of reconsideration included the following:

- Timeline:
 - The Appellant is a recipient of income assistance and qualifies as a Person with Persistent Multiple Barriers to employment (PPMB).
 - On August 31, 2023 the Appellant contacted the Ministry and asked about schooling as she was considering attending school at the end of September.
 - On September 26, 2023 the Appellant submitted a monthly report declaring that she was attending an educational institution full-time. She also provided a letter confirming enrollment in a full-time program. The Ministry turned off cheque production to prevent an overpayment.
 - On September 28, 2023 the Appellant submitted a Notice of Assessment from StudentAid BC indicating she was receiving student funding for full-time studies.
 - On October 4, 2023
 - The Appellant submitted a loan disbursement summary from the educational institution indicating she was going to school full-time.
 - The Ministry worker asked if attendance was through Work BC, ISETS, or SPEI. The Appellant indicated she thought she was eligible as a PPMB.
 - On October 6, 2023 the Ministry worker sent an email for a supervisor review to see if the Appellant was eligible under Work BC Referral Exception criteria,
 - On November 10, 2023, a Work BC Referral Exception was submitted. At the Ministry's request, the Appellant submitted her school enrollment letter from the educational institution.
 - On December 7, 2023, Employment and Labour Market Services Division denied the request for an exception because of the duration and cost of the training program.
- Revised Notification of Assessment, from Ministry of Post-Secondary Education and Future Skills, dated September 8, 2023.
- Letter from the educational institution, dated September 11, 2023, including:
 - Confirmation of Enrolment,
 - Student Loan Payment Plan, and
 - Student Loan Acknowledgement.
- Reasons for Request for Reconsideration, dated December 19, 2023 in which the Appellant summarizes:
 - The confusion she experienced dealing with the various branches of government agencies regarding the coordination of assistance and educational funding for someone who qualifies for PPMB,
 - Her confusion with the definition of a “full-time” student, and
 - Her family and financial situation.

Part F – Reasons for Panel Decision

The issue before the panel is whether the Ministry's decision that the Appellant was not eligible for income assistance because she is attending a full-time program of studies was reasonably supported by the evidence or a reasonable application of the legislation.

Section 16(1) of the Regulation says a person is not eligible for income assistance while they are enrolled as a full-time student in a funded program of studies, or in an unfunded program of studies without prior approval of the minister.

Sub-sections 16(1.1) and 16(1.2) allow a person receiving income assistance to retain eligibility while attending a full-time funded program of studies if the program is required as a condition of an employment plan.

Ministry Position

The Ministry is satisfied that the Appellant is a full-time student based on the letter from the educational institution and the Notice of Assessment. The letter also indicates the costs of the program will be funded by the student loan. Therefore, as a full-time student in a funded program, the Appellant is not eligible for income assistance during the term of her studies.

The Ministry attempted to obtain approval for the Appellant's program of studies through Work BC. The request was rejected because of the length and cost of the program of studies. The Ministry has no flexibility to provide income assistance in this case.

Appellant's Position

The Appellant stated that the process is very confusing. Even members of the different organizations involved do not seem to understand the details well. From the beginning, she has been straightforward about her desire to go to school while on PPMB assistance. From her own research, she understood she could attend school without penalty. When BC Student Loans approved her loan, it included the statement that living expenses were not eligible because they would be covered by disability assistance payments. These things, in no way, indicated to her that she was not able to go back to school and receive PPMB benefits. When she was told she would not be eligible for "income assistance", she misunderstood and thought she would still get her "disability assistance" under PPMB. Until December, she was not aware that there was no option that would allow her to do so.

Now she is stuck. She does not want to go into debt to the point she cannot afford to repay it and she cannot stop because she would have to start repaying the loan when she has no money. The denial of assistance is counter-productive to "helping" her get off government assistance. Instead of helping her complete this program and become a contributing member of our society, they are

suggesting she drop out of school so she can continue to get the monthly disability assistance. This doesn't make sense.

Panel's Findings

Analysis

Section 16(1) asks two questions:

- Is the individual a full-time student? Initially, the Appellant disputed the decision that she was a full-time student because she was only attending for 4.5 hours/day. However, at the hearing, the Appellant indicated that she now understood that the classification was based on what the educational institution deemed a full-time course load, not on the number of hours. The program she enrolled in defined full-time as 4.5 hours per day. The classification of full-time student is no longer in dispute.
and
- Is it a funded program of studies? This is also not in dispute. The Regulation defines "funded program of studies" as a program of studies for which the student may receive a Canada Student Loan. The Revised Notification of Assessment shows that the Appellant was eligible to receive a student loan, and the Student Loan Payment Plan indicates the payment from the loan to the educational institution for program costs.

The Ministry has no discretion under the legislation. Section 16 directs that, if the answer to these two questions is yes, the individual is not eligible for income assistance.

Sub-sections 16(1.1) and 16(1.2) allow a person who is receiving income assistance to retain their eligibility if they are a full-time student in a funded program of studies if they have the prior approval of the Ministry and the program of studies is a required condition of an employment plan. The questions raised here are:

- Did the Appellant obtain prior approval from the Ministry before enrolling in the program of studies? While the Appellant was forthcoming with her intent to enroll in the program, the comments she made in the Request for Reconsideration indicate she enrolled based on her own research, which concluded, " Meaning, if I didn't work/had no income to report, then I did not have to apply or report at all." Prior approval was not solicited or obtained.
- Was the program a required condition of an employment plan? As a PPMB, the Appellant is not required to have an employment plan. Despite this, upon learning of her enrollment in the program, the Ministry requested an exception to have it accepted by Work BC, with retroactive approval. Because of the cost and duration of the program, the request was denied.

The question raised by the Appellant is: Is it fair and reasonable?

- The Panel concurs that the different parties involved do not have a clear understanding as to how the funding operates in different situations. Even the Ministry representative had difficulty explaining the interaction between disability assistance, income assistance for people who qualify as PPMB, student loans, Work BC, and the Employment and Labour Market Services Division of the Ministry. Part of the confusion also arose because it appears that StudentAid BC considered income assistance for a person who qualifies for PPMB to be “disability assistance” and assessed the Appellant’s eligibility for student loans accordingly.

While the Panel hopes the Ministry will take this feedback as an impetus to clarify funding criteria for everyone involved, the onus remains on the Appellant to ensure everything is understood before committing to a program of studies. Under the legislation, the Ministry does not have discretion to provide income assistance to a person who is enrolled as a full-time student if they do not have prior approval from the Ministry.

Conclusion

In summary, based on all the evidence and legislation, the Panel finds that the Ministry decision that the Appellant was a full-time student on a funded program of studies and, therefore, not eligible for income assistance was a reasonable application of the legislation. The Appellant has been found to be a full-time student on her own volition and not on a course that is part of an employment plan which would have granted her an exception to the rule. Despite the confusion from the various Ministry parties at play, there is no ambiguity surrounding her designation as a full-time student and no retroactive approval has been given for her studies. The Panel, therefore, confirms the Reconsideration Decision and the Appellant’s appeal is unsuccessful.

Appendix A – Relevant Legislation

Section 1 of the Employment and Assistance Act 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;

Section 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.

Canada Student Financial Assistance Regulations (Canada)

S2(1) *full-time student* means a person

- **(a)** who

- **(i)** 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,
 - **(ii)** has as their primary occupation during that confirmed period the pursuit of studies in those courses, and
 - **(iii)** meets the requirements of subsection 5(1) or 7(1) or section 7.01 or 33, as the case may be; or
- **(b)** who elects to be considered as a full-time student under section 2.1; (*étudiant à temps plein*)

Election

Person with a disability

2.1 A person who has either a permanent disability or a persistent or prolonged disability and who, during a confirmed period within a period of studies, is enrolled in courses that constitute at least 40 per cent but less than 60 per cent of a course load recognized by the designated educational institution as constituting a full course load, may elect to be considered as a full-time student.

* The panel notes that the definition of “Full-time Student” as set out in Appendix B of the Reconsideration Decision, Canada Student Financial Assistance Regulations is incomplete. The definition in (a)(1) should read, “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 **or a persistent or prolonged disability** and elects to be considered as a full-time student, or” – (emphasis added)

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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

Wes Nelson

Signature of Chair

Date (Year/Month/Day)

2024/02/09

Print Name

Susan Ferguson

Signature of Member

Date (Year/Month/Day)

2024/02/12

Print Name

Susanne Dahlin

Signature of Member

Date (Year/Month/Day)

2024/02/12