

**Part C – Decision Under Appeal**

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the "Ministry") reconsideration decision dated January 25, 2024, which denied the Appellant income assistance as he is a full-time student.

The Ministry determined the Appellant was not eligible for income assistance in accordance with Section 16 of the Employment and Assistance Regulation as the Appellant is enrolled as a full-time student in a funded program of studies.

**Part D – Relevant Legislation**

Employment and Assistance Regulation (the “Regulation”), sections 1 and 16

Canada Student Financial Assistance Regulation, section 2 (1)

Relevant sections of the legislation can be found in the Schedule of Legislation at the end of this decision.

**Part E – Summary of Facts**

An oral appeal hearing took place on February 23, 2024, at 2 PM. Parties in attendance included:

- Employment and Assistance Appeal Tribunal Panel
  - Charles Schellinck- Chair
  - Corrie Campbell- Member
  - Gordon Thompson- Member
- Ministry Representative
  - [REDACTED]
- Appellant
  - [REDACTED]

**Summary of key dates and evidence before the Ministry at the time of reconsideration:**

- **November 23, 2023**, the Appellant submitted to the Ministry the following forms:
  - A monthly report for January 2024 benefits. On the report the Appellant declared he is attending/enrolled in school.
  - A letter of enrollment form a Career College dated November 21, 2023, confirming the Appellant is in full-time studies which began on November 20, 2023, and will be completed on September 27, 2024.
  - A Notice of Assessment from Student Aid BC, dated November 13, 2023, indicating the Appellant is eligible to receive \$22,360 in student funding.
- **January 16, 2024**, the Ministry determined the Appellant was ineligible for income assistance as he is enrolled as a full-time student in a funded program of studies.
- **January 19, 2024**, the Appellant requested a reconsideration of the decision to deny income assistance.
- **January 22, 2024**, the Appellant submitted a Request for Reconsideration. In the request, the Appellant explained the following:
  - He recently discovered that enrolling in a full-time course has affected his social assistance noting they had sought clarification from the Ministry, but the information was insufficient.
  - He is facing challenges covering rent.
  - He is requesting assistance to ensure he receives support for the month as the lack of support could lead to significant difficulties.
- **January 23, 2024**, the Ministry noted the Appellant was provided \$1,040.00 as Benefits Under Appeal for the month of February 2024.

**At the hearing the Appellant stated:**

- He is a refugee to Canada.
- He has been looking for a job and that Work BC is aware of his case.
- He did not know that becoming a full-time student would end his income assistance.
- He had communicated through his monthly reports to the Ministry his intention to become a student and at that time had inquired as to whether his benefits in terms of income assistance would be affected.
- He had been communicating with the Ministry of Social Development and Poverty Reduction as well as Work BC.
- He does not have any written communication from the Ministry in reference to being a full-time student and the impact on his benefits.

**At the hearing the Ministry representative stated:**

- They had access to written notes in terms of the Appellant's communication.
- In the written notes, the Appellant first mentions attending school November 23, 2023. Other notations in the file refer to seeking employment.
- The Appellant is eligible to apply for a living allowance while he attends school.
- The Appellant's file is still open. Regarding future supplements, the Appellant should inquire at his local Ministry office.

**Admissibility of Evidence**

Neither party objected to the submission of new evidence submitted at the hearing. The panel finds that much of the oral testimony of the Appellant summarized evidence already before the Ministry at reconsideration. However, the panel finds that the new oral evidence presented by the Appellant about his contact with Work BC and the statement from the Ministry that there were no recorded notes in the Appellant's file in terms of affects of becoming a full-time student, was reasonably required for a full and fair disclosure of all matters related to the decision under appeal. Accordingly, the panel admits all the new information as evidence pursuant to section 22(4) of the *Employment and Assistance Act*.

The issue on appeal is whether the Ministry's decision that the Appellant was ineligible for income assistance was reasonably supported by the evidence or was a reasonable application of the legislation in the circumstances of the Appellant. That is, was the Ministry reasonable when determining that section 16 of the Regulation made the Appellant ineligible for income assistance because:

- The Appellant is enrolled as a full-time student;
- The Appellant is in a funded program of studies;
- The Appellant did not request prior approval to attend a program of studies; and
- The Appellant did not provide any information to indicate they are enrolled in a program of studies as a condition of an employment plan.

### **Appellant's Position**

The Appellant stated that even though he attempted to determine if becoming a full-time student would impact his income assistance, he was never clearly informed that it would.

### **Ministry's Position**

The Ministry has stated they have no record of communication from the Appellant in reference to full-time attendance as a student and its impact on the Appellant's income assistance. The Ministry relied on its reconsideration decision stating that the Appellant is ineligible for income assistance as the Appellant is a full-time student in a funded program, and that the Appellant was not able to seek prior approval as the enrolment in the program was not a condition of an employment plan.

### **Panel Decision**

Section 16 of the Regulation prescribes the effect of enrolling as a full-time student on income assistance and sets out certain requirements that must be met for the Ministry to continue to provide income assistance to a student in certain circumstances. The panel accepts the Appellant's submission that he was in contact with a government agent about enrolling in an education program, but it was unclear to the panel whether the government body was Work BC or the Ministry of Social Development and Poverty Reduction. In any event, whether the Appellant understood the affects of becoming a full-time student in terms of his income assistance is not a relevant factor for consideration in the legislation.

### Full-time Student

Section 16 (1) (a) of the Regulation states a family unit is not eligible for income assistance

if an applicant or a recipient is enrolled as a full-time student in a funded program of studies. As both the Ministry and the Appellant agree that the Appellant is enrolled as a full-time student in a funded program of studies, the panel finds the Ministry was reasonable when it determined the Appellant was not eligible for income assistance.

#### Prior Approval

Section 16 (1.1) of the Regulation subsection (1) (a) does not apply to a family unit that includes a recipient who is enrolled in a funded program of studies if they have the prior approval of the Minister and meet the conditions set out in section 1.2 of the Regulation. These conditions are that the Appellant is (a) 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 exceptional circumstances exist. The panel finds the Ministry was reasonable when it determined the Appellant was not eligible for income assistance under section 16 (1.2) as there was no evidence given to demonstrate the Appellant was required to enroll in the program of studies as a condition of an employment plan or that prior approval was sought by the Appellant.

The panel is sympathetic with the Appellant's situation and that there may have been some communication issues between him and Work BC or the Ministry. However, the legislative requirements are clearly laid out regarding full-time students in a funded program of studies. There are no exceptions that apply to the Appellant's current circumstances.

#### **Conclusion**

The panel finds the Ministry's reconsideration decision was reasonably supported by the evidence and confirms the Ministry's reconsideration decision. The Appellant is not successful in his appeal.

The panel wishes to draw to the Appellant's attention the Ministry's comment at the hearing that the Appellant may seek assistance at the local ministry office.

## Relevant Legislation

### Employment and Assistance Regulation

#### Part 1 Interpretation

##### Definitions

**"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.

## Canada Student Financial Assistance Regulations

**Interpretation****2 (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;



APPEAL NUMBER 2024-0041

**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  
Charles Schellinck

Signature of Chair

Date (Year/Month/Day)  
2024/02/25

Print Name  
Corrie Campbell

Signature of Member

Date (Year/Month/Day)  
2024/02/25

Print Name  
Gordon Thompson

Signature of Member

Date (Year/Month/Day)  
2024/02/25