

Part C – Decision Under Appeal

The decision under appeal is the Ministry of Social Development and Poverty Reduction (“Ministry”) decision of March 1, 2024 that the Appellant is not eligible for income assistance because he is a full-time student.

The Ministry determined that, as a full-time student in a funded program of studies, the Appellant is not eligible for income assistance in accordance with Section 16 of the Employment and Assistance Regulation (“the Regulation.”) The period of ineligibility lasts from March 1, 2024 (the first day of the month after the month in which his classes began) until the last day of the month in which exams occur.

Part D – Relevant Legislation

Employment and Assistance Regulation Section 1 and 16 (“the Regulation”)

Canada Student Financial Assistance Regulations Section 2 (1)

Applicable legislation is found in Appendix A.

Part E – Summary of Facts

The appeal hearing was held on April 19, 2024 via video conference. The Appellant attended the hearing as did a Ministry representative. There were no witnesses or advocates in attendance.

From the Ministry files

The Appellant has an open income assistance case. He is the sole member of his family unit and last received income assistance for the month of February 2024.

The Appellant had reapplied for income assistance in June 2023 and was found eligible for income assistance on June 29, 2023. At the time he was approved, the Ministry waived its requirement for an employment plan due to a medical condition the Appellant was awaiting surgery for.

On February 4, 2024, the Appellant submitted a monthly report (stub) in which he stated that he had enrolled in schooling at “x” educational institution.

On February 8, 2024, the Ministry requested additional information from the Appellant to verify the nature of his schooling and to verify his student status.

On February 8, 2024, the Appellant provided a copy of a notice of assessment from Student Aid BC confirming he had been found eligible for student financial assistance for the period of February 19, 2024, to November 22, 2024. The Ministry noted that the Appellant’s assessment was completed as a full-time student with dependents however, the Appellant has not declared any dependents on his file. Additionally, the Appellant provided a letter from “x” educational institution confirming his admission to the “x” program commencing February 19, 2024.

On February 8, 2024, the Ministry determined that the Appellant is not eligible for income assistance because he is a full-time student in a funded program of studies.

On February 16, 2024, the Appellant submitted a Request for Reconsideration in which he explained:

He applied for income assistance in June 2023 and received approval for a medical exemption from seeking employment due to medical treatment and awaiting surgery.

After his surgery and recovery in September 2023, the Appellant voluntarily applied to WorkBC without requirement to have a “work plan.” The Appellant stated that although he requested a “work plan,” to date, he does not have one. The Appellant explained that the employment advisor at WorkBC did not assist him in seeking employment.

The Appellant explained that he is unable to engage in manual labor and due to his physical condition, age and education, realized he would need to retrain. The Appellant found a program to suit his needs through “x” educational institution. He can complete the program online and once completed will have two certifications. The program is nine months with a one-month practicum for a total of ten months.

The Appellant stated he proactively applied to see if he would be accepted into the program at the educational institution and if he was eligible for a student loan. The Appellant explained he was assigned a new employment advisor through WorkBC who advised that he could have been eligible to receive funding through WorkBC but because he had initiated the process on his own, WorkBC could no longer assist him.

On February 4, 2024, the Appellant submitted his monthly report to advise the Ministry he would be attending school.

On February 8, 2024, the Ministry requested additional information which the Appellant submitted; he was then advised by the Ministry that he is not eligible for income assistance due to his student status.

The Appellant pointed out that on February 12, 2024, Employment and Social Development Canada released an article called “Government of Canada launches campaign to help Canadians upgrade their professional skills and succeed in their careers.” The Appellant noted that the article specifically referenced his age group and purpose, and stated that if he no longer qualifies for income assistance, he will be forced to return his loan and reapply for Assistance. The Appellant stated that he is unable to afford to live otherwise and will suffer hardship.

In its Reconsideration Decision, the Ministry wrote that the Appellant had submitted a Student Aid BC Notice of Assessment that confirms the program he is currently enrolled in began February 19, 2024 and that he has received Canada student grants as a full-time student with dependents to attend the educational program. The Ministry noted that the Appellant does not have any dependents on his file and is unaware of the

reason for this discrepancy however, based on the information provided by the Appellant, the Ministry is satisfied that he is a full-time student.

The Student Aid BC Notification of Assessment document provided by the Appellant further established that he is eligible to receive student financial assistance totaling \$16,847 to attend his program from February 19, 2024, until November 22, 2024, therefore, the Ministry is satisfied that the Appellant is enrolled in a funded program of studies.

The Ministry explained in its Reconsideration Decision that as a full-time student in a funded program of studies, the Appellant is not eligible for income assistance in accordance with Section 16 of the Regulation. The period of ineligibility lasts from March 1, 2024 (the first day of the month after the month in which his classes began) until the last day of the month in which exams occur. The legislation does not allow for discretion when considering the effect of being a full-time student with regard to eligibility for income assistance.

Additional Information Submitted after Reconsideration

Notice of Appeal

In his Notice of Appeal, the Appellant wrote the following in the Reasons for Appeal section: "I believe that I do meet the eligibility criteria to receiving [sic] income assistance and be a full-time student."

Hearing

During the hearing, the Appellant stated that he is trying to get off of income assistance by going to school for retraining. He stated that WorkBC told him they would not give him an employment plan until he joined a support program for people who used to have a substance abuse problem. The Appellant also said that WorkBC was going to require him to take some of their educational programs before he would be eligible for an employment plan.

The Appellant expressed his frustration at the control exerted by the Ministry and WorkBC, as well as the lack of communication between these two organizations regarding his file.

A Panel member asked the Appellant to clarify his statement in the Reasons for Appeal section of the Notice of Appeal about his belief that he meets the eligibility criteria to receive income assistance and be a full-time student. The Appellant asked how he was

supposed to live without income assistance when his student loan funds had been applied to his program tuition. The Appellant stated that the Ministry should change its name if it is not going to “assist” people who need their help.

The Appellant also expressed his annoyance with the Ministry’s requirement for pre-approval of actions that he needs to take and noted the Ministry had “slapped his hand” some time ago for not seeking pre-approval before he purchased dentures that he needed.

A Panel Member asked the Appellant if he could clarify the conflicting information about whether or not he has dependents. The Appellant explained that he had been in a live-in relationship with a woman who has children and he is no longer in this relationship (although they are still living under the same roof.)

A Panel Member asked the Appellant if he had any new evidence that he would like to present. The Appellant said the only new information he has is that he may need another surgery at some point. A Panel Member asked if this potential surgery is expected to require a lengthy recovery time that may mean the Appellant has to de-register from his current full-time studies. The Appellant explained that the recovery time likely would be short and that he should be able to work around it because his schooling is online which gives him some flexibility.

During the hearing, the Ministry representative relied on the Ministry’s Reconsideration Decision. A Panel Member asked why the Ministry had not followed up with the Appellant to see if he was ready for an employment plan to be created. The Ministry Representative explained that the Appellant had received a waiver for an employment plan until his surgery was done. This waiver was open ended as the surgery date and recovery time was not known when the Appellant reapplied for income assistance in June 2023.

In response to follow up questions from Panel Members, the Ministry Representative explained that the Appellant’s Ministry file did not include any notes to indicate the Appellant had contacted its office to advise that his surgery had taken place and that he had recovered. There also are no notes on his Ministry file to indicate the Appellant had told the Ministry about “self-reporting” to WorkBC seeking an employment plan. The Ministry representative also explained that the Ministry does not have computer access to WorkBC client files. The Ministry flagged the Appellant’s February 2024 report for follow-up when the report showed that he was attending school. Through this enquiry, the Ministry learned the Appellant had enrolled in a full-time funded educational program.

A Panel Member asked the Ministry Representative if she could explain why the legislation does not permit a full-time student in a funded program to receive income assistance also. The Ministry Representative explained that she did not know what the law makers' thinking was when this regulation was put in place, but she assumed it was because a student loan can be approved for both tuition and living expenses while studying in a full-time educational program.

Admissibility of New Evidence

The Panel admits the Appellant's statement under the Reasons for Appeal section of their Notice of Appeal application as evidence that is reasonably required for a full and fair disclosure of all matters related to the decision under appeal, and the Panel has weighed that evidence in making its decision as provided under 22 (4) of the *Employment and Assistance Act*.

Part F – Reasons for Panel Decision

The Panel is required to determine if the Ministry's Reconsideration Decision was a) reasonably supported by the evidence, or b) a reasonable application of the applicable enactment.

The Appellant's Position

The Appellant's position is that he is trying to get off of income assistance by taking the initiative to enroll in full-time studies and be retrained for a different occupation. His student loan was used to pay his tuition fees and he does not have money to support himself while he is going to school. The Ministry should provide him with income assistance so that he can support himself while going to school.

The Ministry's Position

The Ministry's position is that the Appellant is not eligible for income assistance while he is enrolled in full-time studies in a funded program, as outlined in Section 16 of the Regulation. The Ministry does not have discretion to disregard legislative requirements.

Panel's Decision

The Panel is required to determine if the Ministry's Reconsideration Decision was supported by the evidence or is a reasonable application of the applicable enactment in the circumstances of the Appellant. The panel does not have any discretion to make a decision that would contradict the applicable legislation.

LegislationEligibility for Income Assistance

Section 16 (1) of the Regulation states that 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 in (a) a funded program of studies, or (b) an unfunded program of studies without the prior approval of the Minister.

The Appellant is a full-time student in a funded program of studies as defined in Section 1 (1) of the Regulations and Section 2 (1) of the Canada Student Financial Assistance Regulations. This is not disputed by either party.

Pre-Approval

Section 16 (1.1) of the Regulation states that 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).

The Appellant did not seek prior approval of the Minister for enrollment in a funded program of studies. This is not disputed by either party.

Minister's Ability to Provide Approval under Certain Circumstances

Section 16 (1.2) of the Regulation states that the Minister may approve a person to enroll in a funded program of studies if all three conditions are met, namely the individual (a) is a recipient of income assistance, (b) is required to enroll in the program of studies as a condition of the employment plan, and (c) was receiving income assistance, hardship assistance or disability assistance in each of the immediately preceding three calendar months.

The Appellant meets two of three conditions; he is a recipient of income assistance and he was receiving income assistance in each of the immediately preceding three calendar months.

The Appellant does not meet one of the required conditions, that he is required to enroll in the program of studies as a condition of his employment plan.

In June 2023, the Ministry had waived the requirement for the Appellant to have an employment plan until after his surgery was completed. The Ministry did not stipulate a date by which the Appellant would need to complete an employment plan because it was not known when he would be booked to have the surgery.

The Appellant had the surgery in September 2023, recovered from the surgery, and then self-reported to WorkBC directly to request an employment plan be completed. WorkBC did not develop an employment plan for the Appellant because, according to the Appellant, WorkBC wanted him to join a support program for people who used to have substance abuse problems and to complete some of their courses first to better prepare him for retraining and a change of occupations.

The Appellant did not have an employment plan and was not required to enroll in an educational program. This is not disputed by either party.

Panel Decision

The Panel finds that the Ministry's decision was a reasonable application of the applicable enactment in the circumstances of the Appellant as he did not seek prior approval before enrolling in full-time studies, and he was not required to enroll in this educational program as a condition of his employment plan. The Ministry is required to follow legislation as is the Panel.

Conclusion

The Panel confirms the Ministry's Reconsideration Decision. The Appellant currently is a full-time student in a funded program and was not required to take this program as a condition of his employment plan. Under Section 16 of the Regulation, the Appellant is not eligible for income assistance while he is a full-time student in a funded program.

The Appellant is not successful in his appeal.

Appendix A Applicable Legislation

Employment and Assistance Regulation

Section 1 (1)

"full-time student" has the same meaning as in the Canada Student Financial Assistance Regulations;

"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

Section 2 (1)

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)

APPEAL NUMBER 2024-0087

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

Melissa McLean

Signature of Chair

Date (Year/Month/Day)

2024/04/26

Print Name

Glenn Prior

Signature of Member

Date (Year/Month/Day)

2024/04/26

Print Name

Gordon Thompson

Signature of Member

Date (Year/Month/Day)

2024/04/26