

### **Part C - Decision Under Appeal**

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the ministry) dated May 15, 2024 that denied the appellant income assistance because as a full-time student she is not eligible for assistance for the period of February 1 to the last day of the month in which exams occur in her program which ends on September 27, 2024. The ministry based its decision on sections 1 and 16 of the Employment and Assistance Regulation (the Regulation).

### **Part D - Relevant Legislation**

Employment and Assistance Regulation (the Regulation) sections 1 and 16.

Canada Student Financial Assistance Regulations section 2(1).

These sections of the legislation can be found at the end of the decision.

**Part E – Summary of Facts**

The hearing took place on June 6, 2024 as a teleconference.

**Information before the Ministry at Reconsideration**

The appellant's monthly reports from November 2023 to May 2024:

- The appellant indicates that she is looking for work and that she is not attending/enrolled in school or training.

StudentAid BC Notice of Assessment (December 26, 2023):

- Funding made available to the appellant:
 

○ "2024-JAN-29	British Columbia Student Loan	1,282
○ 2024-Jan-29	Canada Student Grant – FT w/Dependents	1,098
○ 2024-Jan-29	Canada Student Loan	2,770
○ 2024-May-29	British Columbia Student Loan	11,481
○ 2024-May-29	Canada Student Grant- FT w/Dependents	1,099"
- At the hearing the ministry stated that "FT" stands for "full-time".

Letter from the private college the appellant attends (February 15, 2024)

- The appellant is enrolled in the Immigration Assistant program.
- The program started on January 29, 2024, and will be completed September 27, 2024.
- "Classes are Monday to Friday, 5:00pm to 9:00pm."

Request for Reconsideration. (May 2, 2024). The appellant notes:

- She is a single parent caring for a 2-year-old and faces unique challenges in balancing her responsibilities.
- Her decision to pursue full time education is rooted in her desire for a better future for her family.
- The income assistance she receives is essential for the survival of her family; without this assistance, her family would endure severe financial hardship.
- She has no other means of financial support; taking out a loan for school was a difficult decision and the only viable option.
- Balancing education and childcare is challenging; the appellant is committed to providing the best care for her child. Income assistance would allow her to balance both responsibilities without compromising either.

- The appellant's education is time limited and, once completed, she intends to enter the work force. Continuing income assistance during this period would facilitate her transition back into employment.

### **Reconsideration Decision (May 15, 2024)**

The ministry stated that:

- The appellant is a sole recipient of income assistance and has one dependent child under the age of 3.
- She does not have an employment plan.
- On March 11, 2024 the appellant advised the ministry she was attending school part time. The ministry contacted the college that confirmed that a student enrolled in the Immigration Assistance program is considered a full-time student.
- The ministry determined that the StudentAid BC Notice of Assessment confirms she received student loans to attend the college full-time from January 29, 2024, to September 27, 2024.

### **Additional Information Submitted after Reconsideration**

In her Notice of Appeal (May 17, 2024) the appellant writes:

- She is a single mother looking for work.
- She started evening classes. The only reasons why she took the evening classes from 5-8pm was so that she could find work in the morning.
- She needs a job because she has no other income and needs to pay her rent.

At the hearing the appellant reported:

- She has not found a suitable job yet and is still looking. Once she talked with a potential employer but the timing of this job (8am to 6pm) did not work for her.
- She enrolled in the college because it was the only place that did not have a long waiting list and she could start right away. It is more expensive than other colleges. She found out about this college through her friend. She wants to start working in her chosen field as soon as possible. The course is on-line.
- When classes started, she was told by the college that class hours were Monday to Thursday from 5-8pm, not Monday to Friday from 5-9pm. No one questioned this.
- Monday to Thursday 8-9pm students were expected to work on their own. In addition, she spends around 3 hours each weekend to do her assignments.
- She has talked to the ministry about options but the jobs that were suggested to her were not suitable because her child is too young.

- She cares for her 19 month old child at home, cooks its meals and feeds the child breakfast, lunch and dinner. She takes her child out in the mornings in the stroller to do her shopping, errands and work search. After lunch she gives her child a nap and later dinner. She looks for work 5-6 hours/week.
- She made a mistake in her monthly reports when she indicated that she was not in school.

The ministry clarified:

- In the StudentAid BC Notice of Assessment "FT" stands for "full-time".
- There is no obligation for a parent with a child under 3 years old to seek or pursue employment in order to qualify for assistance.
- There are ministry programs for schooling and childcare which the ministry may approve.

#### Admissibility of New Information

The ministry did not object to the admissibility of the new information provided by the appellant.

The panel finds that the information provided by the appellant and the ministry at the hearing is reasonably required for a full and fair disclosure of all matters related to the decision under appeal; this new information relates to the appellant's studies and her request for income assistance, as well as the ministry's interpretation of the appellant's StudentAid BC Notice of Assessment. The panel therefore admits this information as evidence pursuant to section 22(4) of the Employment and Assistance Act.

**Part F – Reasons for Panel Decision**

The issue in this appeal is whether the ministry decision that denied the appellant income assistance because she was a full-time student as defined in section 1 of the Regulation is reasonably supported by the evidence or a reasonable application of the legislation.

The appellant argues that she should be eligible for income assistance because she has no other means of financial support, and without assistance her family will endure severe financial hardship. She does not want to delay her education but wants to find work in her chosen field as soon as possible. She is taking evening classes so that she can look for work in the mornings.

The ministry determined that the appellant is not eligible for income assistance because she is a full-time student.

**Panel Decision:**

The panel finds that the ministry decision that denied the appellant income assistance because she is a full-time student is neither reasonably supported by the evidence nor a reasonable application of the legislation in the circumstances of the appellant.

Section 1 of the Regulation defines a full-time student as having the same meaning as in the Canada Student Financial Assistance Regulations. Under Section 16 (1) of the Regulation, a family unit is not eligible for income assistance if an applicant is enrolled as a full-time student in a funded program of studies or an unfunded program of studies without the prior approval of the minister.

The ministry stated they based their decision on the definition of “full-time student” of section 1 of the Regulation, which sets out that “full-time student” has the same meaning as in the Canada Student Financial Assistance Regulations. Section 2(1) (a) of the Canada Student Financial Assistance Regulations defines a full-time student as a person who must meet several criteria:

***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** [emphasis added]

(iii) meets the requirements of subsection 5(1) or 7(1) or section 33, as the case may be; or (b) who elects to be considered as a full-time student under section 2.1 (etudiant a temps plein)

The panel notes that the conjunction “and” signifies that the definition of “full-time student” consists of a combination of criteria, all of which must be met.

The panel finds that the ministry did not consider all required criteria set out in section 2(1) of the Canada Student Financial Assistance Regulations for the definition of a full-time student. While the ministry considered the college’s view on what constitutes full-time studies, the ministry failed to consider the student’s primary occupation in accordance with the requirements provided under the same section.

The panel finds that the ministry consequently was unreasonable in their determination that the appellant is a full-time student and therefore not eligible for income assistance. The panel finds that there is insufficient evidence the appellant is a full-time student.

While it is unclear how the courseload of this private college compares to government-funded educational institutions, the panel finds that there is enough evidence that the appellant partially meets the requirements of the Canada Student Financial Assistance Regulations for courseload requirements. In response to a request for information by the ministry, the college answered that the appellant’s program is considered full-time. The panel notes, however, that according to the appellant’s testimony her class schedule differs from the information provided by the college. Instead of Monday to Friday from 5-9pm, the appellant reported that her classes were only from Monday to Thursday from 5-8pm.

However, the panel finds that there is not enough evidence that the appellant meets the primary occupation requirement of a full-time student defined under section 2(1) of the Canada Student Financial Assistance Regulations, i.e. that studying is her primary occupation. The Merriam-Webster Dictionary defines “occupation” as “an activity in which one engages”. The appellant reports she cares for her young child from morning till evening every day. In addition, she spends only 19 hours per week (12 hours class time and 7 hours additional study time) on her studies, and 5-6 hours per week looking for work. This evidence shows that while the appellant spends some amount of time studying, most of her time, i.e. her primary occupation, is providing care for her child and performing other associated living activities.

As pointed out previously, the panel finds that the appellant only fulfills part of the legislative definition of a full-time student (the courseload requirement) and not the primary occupation requirement. As such, the panel finds the ministry's finding that the appellant is a full-time student and thus ineligible for social assistance unreasonable.

### **Conclusion**

The panel finds that the ministry's decision that denied the appellant income assistance because she is a full-time student is not reasonably supported by the evidence, nor is it a reasonable application of the legislation. The ministry's decision is rescinded, and the appellant is successful in her appeal.

## Canada Student Financial Assistance Regulations

### Interpretation

**2 (1)** In the Act and these Regulations, ...

***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 33, as the case may be; or  
(b) who elects to be considered as a full-time student under section 2.1 (etudiant a temps plein)

### 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); ...

#### 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 ...



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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

Inge Morrissey

Signature of Chair

Date (Year/Month/Day)

2024/06/10

Print Name

Bob Fenske

Signature of Member

Date (Year/Month/Day)

2024/06/10

Print Name

Glenn Prior

Signature of Member

Date (Year/Month/Day)

2024/06/10