

**PART C – Decision under Appeal**

The decision under appeal is the ministry's Reconsideration Decision dated January 12, 2012 whereby the appellant was found to be ineligible for income assistance pursuant to Section 9 of the Employment and Assistance Act (EAA) for not complying with the conditions of his Employment Plan (EP), due to his failure to make reasonable efforts to participate in an employment-related program and with no medical reason for his non-participation.

**PART D – Relevant Legislation**

Employment and Assistance Act (EAA), Section 9

## PART E – Summary of Facts

The evidence before the ministry at the time of the reconsideration decision consisted of:

- 1) Employment Plan (EP) signed by the appellant dated November 24, 2011. The terms of the EP include provisions requiring the appellant to: participate in the employment programming with the contractor specified by the ministry to be eligible for income assistance, to fully participate as directed by the contractor and to advise the contractor any time he is unable to attend, to attend an assessment meeting on November 29, 2011 at 9:30, and to participate in the new EP of B.C. beginning April 2, 2012;
- 2) Service Provider's Client Notes for the period November 28, 2011 through December 19, 2011, which state in part that the appellant did not attend the assessment meeting at 9:30 on November 29, 2011, but attended later in the day on November 29, 2011 when the appellant received a schedule for upcoming workshops for December 1 and December 5-9, and December 12, 2011; on December 1, 2011, the appellant contacted the service provider and stated he is in another community to check out a job and will not be able to attend and will keep the service provider updated, and that he will attend December 8, 2011; the appellant did not attend on December 8, 2011; on December 15, 2011, the service provider called the appellant to confirm the appointment and there was no answer; December 19, 2011, the appellant's file was returned to the ministry for non-participation; and,
- 3) Request for Reconsideration- Reasons.

At the hearing, the appellant stated that he went to look for work and had talked to the service provider about doing so. The appellant stated that the service provider suggested that he was taking a risk to look at jobs in another community but he thought he would go there and come back and it would work out. The appellant stated that the moving job was listed on Craig's List but when he arrived at the other community the person did not show up and there was no job available. The appellant explained that since he was already in the other community he decided to stay and to check out other job openings that he heard about, but many were looking for more experience and nothing came through. The appellant stated that he was a day late and the service provider returned his file to the ministry. The appellant explained that he talked to the service provider after his file was returned to the ministry but they told him they would take him back if he talked to the ministry, and he has every intention of getting help from the service provider. The appellant stated that he did not get a letter from the service provider advising of the re-scheduled appointment for December 15, 2011. The appellant stated that he cannot remember the dates now of when he came back from the other community, and he stated that he was having problems with his phone, that he sometimes cannot accept calls because the phone has run out of time. The appellant stated that he told the ministry that he did not have the contact information for the job lead on hand because it was off of Craig's list and he could not remember it.

In his Request for Reconsideration, the appellant states that he was looking for work and he forgot to get a hold of his worker and he will not let it happen again. In his Notice of Appeal, the appellant adds that he went to another community for a possible job but it did not pan out. The appellant states that he called the service provider and that he forgot to call the ministry. The appellant acknowledges that he missed his appointment with the service provider and they sent his file back to the ministry. The appellant states that he will go to the program, that he is not a druggie or a drinker, and he asks for a second chance.

The ministry's evidence included that the appellant is a single employable person and he signed an Employment Plan (EP) on November 24, 2011 agreeing to the conditions as set out, and he was referred by the ministry into an employment-related program with a service provider. The terms of the EP included provisions requiring the appellant to: participate in the employment programming with the contractor specified by the ministry to be eligible for income assistance, to fully participate as directed by the contractor and to advise the contractor any time he is unable to attend, to attend an assessment meeting on November 29, 2011 at 9:30, and to participate in the new EP of B.C. beginning April 2, 2012. The ministry states that by signing the EP, the appellant indicated that he had read, understood and agreed to the requirements of attendance and compliance with the program and the consequences for non-compliance.

On November 29, 2011, the appellant was scheduled to attend an intake assessment with the service provider at 9:30 a.m. and he did not attend as scheduled but he called later in the day and re-scheduled the appointment for the afternoon. The appellant attended the appointment in the afternoon, and he was accepted into the program. On November 29, 2011, the appellant was given a comprehensive schedule of appointments with the service provider that he was required to attend as well as bus tickets to assist him with transportation. On December 1, 2011, the appellant contacted the service provider and advised that he would be unable to attend the required appointments because he was in another community checking out a possible employment opportunity. The service provider scheduled a new appointment for December 8, 2011 and the appellant agreed that he would return from the other community and attend as required on December 8, 2011. On December 8, 2011, the appellant did not attend the appointment with the service provider and the service provider sent the appellant a letter rescheduling the appointment to December 15, 2011. On December 15, 2011, the appellant did not attend the appointment with the service provider. On December 18, 2011, the appellant's file was returned to the ministry by the service provider for non-compliance. On December 21, 2011, the appellant contacted the ministry and when the ministry asked for the contact information for the job lead in another community, the appellant did not know it. The appellant advised the ministry that he returned from the other community on December 7, 2011.

## PART F – Reasons for Panel Decision

The issue on appeal is whether the ministry reasonably concluded that the appellant did not make reasonable efforts to comply with the conditions of his EP, through non-attendance and failure to participate in the service provider's programs, with no medical reason for his absences and that, therefore, the appellant is not eligible for income assistance pursuant to Section 9 of the Employment and Assistance Act (EAA).

Section 9(1) of the EAA provides that, when the ministry requires, a person must enter into an EP and comply with the conditions in the EP in order to be eligible for income assistance. Under Section 9(3) of the EAA, the ministry has the authority to specify conditions in an EP, including a requirement that the person participate in an employment-related program. Pursuant to Section 9(4) of the EAA, if an EP includes a condition requiring a person to participate in a specific employment-related program, that condition is not met if the person fails to demonstrate reasonable efforts to participate in the program or if the person ceases, except for medical reasons, to participate in the program.

The ministry's position is that the appellant entered into an EP dated November 24, 2011, that he was referred to an employment-related program in which he was required to participate, and that he did not comply with the conditions of the EP as he did not demonstrate reasonable efforts to participate in the program. The ministry points out that when the appellant signed his EP, the appellant agreed to the requirements of attendance and compliance with the program as well as the consequences for non-compliance. The ministry points out that the appellant attended the required intake assessment appointment later in the day on November 29, 2011 and he was accepted into the program. The ministry argues that although the appellant contacted the service provider to advise that he would be unable to attend due to a possible employment opportunity in another community, he did not return as agreed to attend the re-scheduled appointment on December 8, 2011. The ministry points out that the appellant also did not attend the re-scheduled appointment with the service provider on December 15, 2011. The ministry argues that there was no evidence of a medical condition that would have prevented the appellant from participating in his EP.

The appellant argues that he was looking for work and he forgot to get a hold of his worker and he will not let it happen again. The appellant points out that he went to another community for a possible job but it did not pan out. The appellant argues that he called the service provider and that he forgot to call the ministry. The appellant acknowledges that he missed the December 8, 2011 appointment with the service provider, but he argues that he did not receive the letter about the December 15, 2011 appointment. The appellant argues that he will go to the program, that he is not a druggie or a drinker, and he asks for a second chance.

The panel finds that the EP signed by the appellant dated November 24, 2011 requires the appellant to fully participate in the program as directed by the service provider and to advise the service provider any time he is unable to attend. The panel finds that the appellant did not attend the appointment scheduled with the service provider for December 1, 2011 but advised the service provider on that day that he was in another community following up on a job opportunity. The panel finds that the service provider scheduled another appointment for the appellant for December 8, 2011 and the appellant agreed that he would return and attend the appointment as scheduled. The panel finds that it was not disputed that the appellant did not attend the appointment on December 8, 2011 although the appellant told the ministry later that he had returned to the area from the other community on December 7, 2011. The panel finds that the service provider sent the appellant a letter rescheduling the appointment to December 15, 2011 and the appellant also did not attend this appointment; although the appellant states that he did not receive the letter, he did not provide a reason that he was not receiving his mail. The panel finds that it is also not disputed that the appellant had not contacted the service provider or the ministry from December 1, 2011 to December 21, 2011 and no explanation is provided by the appellant for not contacting either the ministry or the service provider, besides a suggestion that he has had problems with his phone. The panel finds that there was no evidence of a medical reason for the appellant failing to participate in the program. The legislation requires that the appellant demonstrate reasonable efforts to participate in the program, or to provide a medical reason for ceasing to participate in the program, and the

panel finds that the ministry reasonably concluded, pursuant to Section 9 of the EAA, that the requirements have not been met in this case.

The panel finds that the ministry decision was a reasonable application of the applicable enactment in the circumstances of the appellant and confirms the decision.