

PART C – Decision under Appeal

The decision under appeal is the ministry's reconsideration decision of November 29th, 2011, which denied further income assistance to the appellant. The ministry maintains that the appellant did not make a reasonable effort to participate in the program, nor did she demonstrate having a medical condition that prevented her from attending the appointments or participating in the program; therefore, the appellant was not eligible for further income assistance, per Section 9 of the Employment and Assistance Act.

PART D – Relevant Legislation

Employment and Assistance Act (EAA) – Section 9

PART E – Summary of Facts

The evidence before the panel was provided in part in the appeal record and in part through oral evidence submitted at the hearing. In the appeal record, as part of the evidence, were copies of the following documents:

- 1) The Employment Plan (EP) signed by the appellant and dated September 27th 2011. The terms of the contract required the appellant to (1) make appointment with the contractor for an intake assessment visit; (2) attend intake assessment with contractor; (3) complete all tasks assigned by the BC Employment Program in accordance with the appellant's responsibilities as established with the contractor and/or in her participant plan; (4) work with the contractor to address issues that may be impacting her ability to secure and sustain employment; (5) declare all income and report any changes to her ministry caseworker; (6) attend all review appointments as required.
- 2) The appellant's Request for Reconsideration dated December 09th, 2011 with a statement she provided in which she acknowledges having missed four appointments with the service provider for which she apologizes; that saying she "did not feel like going" was no excuse to stop complying with the program; that she is still actively looking for jobs via the internet; that she is in need of the ministry's financial help and its support, since she is a young person and has no one to rely on but the ministry; that she understands that the service provider will help her to acquire the skills she needs to achieve financial independence.
- 3) The appellant's Notice of Appeal, dated January 04th, 2012 with a statement she provided in which she restated being in great need of financial support; that she deserves a second chance from the ministry to keep receiving the Income Assistance benefit and that she is going to do her best to comply with the EP's conditions.

At the hearing, the Appellant presented an oral submission that covered the following points:

- She knows she should have attended all the appointments with the service provider, but she did not because she was not feeling motivate to do so; that she attended the intake appointment and a few more, but then she could not attend anymore.
- Last year she was hospitalized and at the hospital she was diagnosed with mild schizophrenia; she also suffers from anxiety and social phobia and has a problem with alcohol addiction.
- She takes Lorazepam and sleeping pills.
- Most of the time she has no motivation and just wants to be in bed sleeping.
- Her parents left her in Vancouver when she was 5 years old and moved back to Montreal; that she has been taken care of by the ministry her whole life.
- During the time she was enrolled in the program she was feeling very anxious, with difficulties to leave the house, to take public transportation, but that she didn't tell the ministry's worker anything about the reasons why she could not attend the appointments; that she does not speak about her mental problems with anybody; that she denies suffering from mental impairment; that she has trouble asking for help.
- Recently, she has been seeing a counselor and expects she will be able to better deal with her mental health problems in the future.

The Ministry restated the position as it is set out in the reconsideration decision, reaffirming the appellant has not made a reasonable effort to comply with the conditions of her EP; that at the moment she signed the EP, the appellant affirmed that she had read, understood and agreed to follow the terms and conditions of the Plan and that she had clearly understood the consequences of not doing so; that in spite of this, she did not attend many appointments scheduled for her by the service provider (November 2, 3, 4, and 8, 2011); that on December 1st, 2011 the appellant informed the ministry worker that she did not feel like participating in the program and did not provide any medical reason to preclude her from attending the program. Finally, the ministry pointed out that because the appellant had not demonstrated reasonable efforts to comply with her EP, nor did she appear to have a medical condition that would have prevented her from participating in her plan, the ministry found her ineligible for assistance, per Section 9 of the Employment and Assistance Act (EAA).

Concerning the appellant's oral statement, the panel reviewed the submitted testimony specifically with respect to the appellant's allegations that she suffers from mental health problems and it was held not to be in support of the information and records that were before the ministry when the reconsideration decision was made – at that time, the appellant did not provide to the minister any medical reasons that could have prevented her from attending the program. As a result, and in accordance with the Employment and Assistance Act, section 22(4), the panel did not admit the appellant's evidence that she suffers from mild schizophrenia, anxiety and social phobia and also that she has a problem with alcohol addiction and because of these conditions she could not attend the program.

PART F – Reasons for Panel Decision

The issue in this case is the reasonableness of the ministry's decision to deny the appellant income assistance because the appellant did not make reasonable efforts to comply with the conditions as set out in her EP, pursuant to Section 9 of the Employment and Assistance Act (EAA).

The Employment and Assistance Act, section 9, provides:

- (1) For a family unit to be eligible for income assistance or hardship assistance, each applicant or recipient in the family unit, when required to do so by the minister, must*
- (a) enter into an employment plan, and*
 - (b) comply with the conditions in the employment plan.*
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- (3) The ministry may specify the conditions in an employment plan including, without limitation, a condition requiring the applicant, recipient or dependent youth to participate in a specific employment-related program that, in the minister's opinion, will assist the applicant, recipient or dependent youth to*
- (a) Find a job*
 - (b) Become more employable*

- (4) If an employment plan includes a condition requiring an applicant, a recipient or a dependent youth to participate in a specific employment-related program, that condition is not met if the person*
- (a) fails to demonstrate reasonable efforts to participate in the program, or*
 - (b) ceases, except for medical reasons, to participate in the program*
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The ministry's position is that the appellant failed to comply with the EP she signed on September 27th 2011; that the consequences of non-compliance were explained to her, but in spite of that, she did not make reasonable efforts to comply with her EP. The ministry informed that the appellant failed to attend four appointments scheduled for November 2, 3, 4 and 8, 2011 with the service provider; that when asked to provide the mitigating circumstances for not attending the program, the appellant stated that she did not feel like attending and that she did not have any medical or other barriers to employment; that since the appellant was not complying with the terms of her EP her file was closed and the appellant considered ineligible for Income Assistance.

The appellant argued that although she did not attend four appointments with the service provider, she was still actively looking for work on the internet. The appellant apologised for not complying with the EP and acknowledged that "not feeling like going" to the appointments was not enough to excuse her from attending the program; that she needs the ministry's financial support since she is a young person and has no one to rely on but the ministry, and that she is going to do her best to comply with the EP's conditions.

The Employment and Assistance Act in Section 9 and sub-sections, as set out above, clearly gives the minister authority to prescribe conditions of an Employment Plan to maintain eligibility for income assistance. These conditions, acknowledged and agreed to by the appellant, include completing all tasks as assigned, making a series of appointments and attending them regularly, and, in case of not being able to do so, notifying the ministry's caseworker of any impediments.

The panel finds that the evidence demonstrates that the appellant was aware of the requirements of attending the appointments, participating and completing all tasks assigned by the program; that she was aware of the consequences of not doing so; that nevertheless, the appellant did not follow through on the EP's conditions. The panel finds that the evidence demonstrates that the appellant did not attend four appointments scheduled with the service provider (November 2, 3, 4, and 8, 2011). The evidence also demonstrates that the appellant did not make any attempt to inform the ministry or the service provider about having any obstacle or barrier that was preventing her from attending the program.

The applicable 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. As such, the panel is satisfied that the evidence demonstrated that the appellant did not make a reasonable effort to participate in the program, nor did she demonstrate having a medical condition or any other obstacle that prevented her from attending the appointments or participating in the program. Given that the consequence of not complying with the conditions of the EP is ineligibility for income assistance, the panel finds that the ministry reasonable concluded that the requirements, as prescribed in Section 9 of the EAA, were not met.

Therefore, the panel finds that the ministry's decision to deny income assistance to the appellant was reasonably supported by the evidence and, therefore, confirms the decision of the ministry under Section 24(1)(a)(b) and 24(2)(a) of the Employment and Assistance Act.