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PART C – Decision under Appeal

The decision under appeal is the ministry's Reconsideration Decision dated February 10, 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 her Employment Plan (EP), due to her failure to make reasonable efforts to participate in an employment-related program and with no medical reason for her non-participation.

PART D – Relevant Legislation

Employment and Assistance Act (EAA), Section 9

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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 December 15, 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 she is unable to attend, to attend an assessment meeting on December 21, 2011 at 9:45 a.m., and to participate in the new EP of B.C. beginning April 2, 2012; and,
2) Letter from the appellant dated February 1, 2012 'To Whom It May Concern' which states in part that she was unaware that the ministry would cut her off from benefits if she did not attend the program on a full-time basis and understands she must follow her EP. The appellant believed that her medical condition and daughter's activities were valid reasons to attend the program on a part-time basis. The appellant now understands the severity of the situation as she is unable to pay this month's rent and is afraid she and her daughter will be evicted. She is prepared to attend the program on a full-time basis; she requests that she leaves at 2:00 p.m. one day per week to attend a doctor's appointment but she will not attend if denied by the ministry.

The ministry did not attend the hearing. After confirming that the ministry was notified, the hearing proceeded under Section 86(b) of the Employment and Assistance Regulation.

At the hearing, the appellant stated that she did not read all of the EP but that the general idea was explained to her before she signed it. The appellant stated that on December 21, 2011 she had difficulty finding the office for the service provider and she was late for her intake assessment meeting. The appellant stated that the service provider asked her if she was attending the program part-time or full-time and she told them she would prefer to attend part-time because she needed to take her daughter to her activities two times per week and she has an appointment with her doctor every other week. In response to a question, the appellant stated that she was told the full-time program would run from 8:00 a.m. to 4:00 p.m. each day and that she did not ask what the expectation would be for part-time hours. The appellant explained that the service provider told her that she would need to talk to the ministry about attending part-time. The appellant stated that she went to the ministry office that same day and she was told that she could not attend the program part-time, that she would have to attend full-time, and she was given the contact information for a manager. The appellant explained that she then consulted with a case worker at a resource centre to see what her options were, and he sent her to talk to her MLA. The appellant stated that her MLA made several calls to the ministry but nothing could be done until this appeal is concluded. The appellant stated that she did not attend the program with the service provider and she has been waiting for the process to be completed. The appellant stated that she is trying to improve her language skills, that she has finished grade 9 but still needs time to finish grade 10. The appellant stated that she has distributed her resume to many places but it is very difficult when she has to care for her daughter alone, that children are often sick, and she is not available for shift work. In her Notice of Appeal, the appellant adds that she believed the medical condition and her child's activity were excepted (sic).

The ministry's evidence included that the appellant has been in continuous receipt of income assistance as a single employable parent since October 2009. The appellant signed an Employment Plan (EP) on December 15, 2011 agreeing to the conditions as set out, and she 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 she is unable to attend, to attend an assessment meeting on December 21, 2011 at 9:45 a.m. The appellant did not provide a reason for not attending the assessment appointment with the service provider at 9:45 a.m. The appellant attended the ministry office on December 21, 2011 at 11:00 a.m. The appellant stated that she had paid for after-school activities for her daughter and requested approval to attend the program part-time so that

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she could take her daughter to the activities. The appellant's request was denied, and she was reminded that attendance and participation in the program is mandatory in order to maintain eligibility for income assistance. On January 12, 2012, the service provider reported the appellant's file had been closed due to non-attendance at the program. The appellant stated that she did not understand that she would not be eligible of income assistance if she did not attend the program.

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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 her EP, through non-attendance and failure to participate in the service provider's program, with no medical reason for her absence 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 December 15, 2011, that she was referred to an employment-related program in which she was required to participate, and that she did not comply with the conditions of the EP as she did not demonstrate reasonable efforts to participate in the program. The ministry points out that when the appellant signed her EP, she 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 did not attend the required intake assessment appointment on December 21, 2011 and she did not have any reason for not attending. The ministry points out that the appellant also did not attend the service provider's program and, consequently, the appellant's file was closed on January 12, 2012.

The appellant argues that she was late for her intake assessment meeting because she had difficulty finding the service provider's office, but she spoke with the service provider about attending the program part-time since she needed to take her daughter to her activities two times per week and she has an appointment with her doctor every other week. The appellant argues that she went to the ministry office that same day and she was told that she would have to attend the program full-time, and she wanted to see what her options were. The appellant points out that she met with her MLA and she did not attend the service provider's program because she has been waiting for her MLA to provide another solution to her problem. The appellant also argues that she believed the medical condition and her child's activity were excepted (sic).

The panel finds that the EP signed by the appellant dated December 15, 2011 requires the appellant to fully participate in the program as directed by the service provider and to advise the service provider any time she is unable to attend. The panel finds that the appellant attended at the service provider's office on December 21, 2011 but that she was late for the 9:45 a.m. intake assessment appointment because she had difficulty locating the office. Although the appellant argues that she explained to the ministry that she needed to attend the program part-time to accommodate her daughter's activities twice per week and her doctor appointments every other week, the panel finds that the appellant also admitted that the ministry had denied her request to attend part-time and had advised her that she was required to attend the program on a full-time basis. The panel finds that it was not disputed that the appellant did not attend the service provider's program and that her file was closed for non-attendance on January 12, 2012. The panel finds that there was no evidence of a medical reason for the appellant failing to participate in the program and, rather, the appellant stated that she was waiting for her MLA to provide another solution to her problem. 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.