

PART C – Decision under Appeal

The decision under appeal is the ministry's Reconsideration Decision dated April 2, 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

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 January 5, 2012. 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 January 13, 2012 at 9:00 a.m., and to participate in the new EP of B.C. beginning April 2, 2012;
- 2) Crown Counsel's Initial Sentencing Position provided to the appellant, as the accused, on January 3, 2012;
- 3) Notes of next court appearances on January 3, 2012 at 1:30 p.m. and January 16, 2012 at 9:30 a.m. with a handwritten note added: "also had court on February 14;"
- 4) Trial Notice for dates on January 31, 2012 at 1:30 p.m. and March 1, 2012 at 1:30 p.m.;
- 5) Official Prescription Receipts dated February 28, 2012 for the appellant's son; and,
- 6) Request for Reconsideration- Reasons.

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

In her Notice of Appeal, the appellant states that she is a single mother and she is now done with court and she is willing to enter into an EP. In her Request for Reconsideration, the appellant states that she is a single mother whose child has been sick. The appellant states that she has also been dealing with court dates and she thought the program was to help a person to find employment and "...not to make things harder." The appellant states that she does not have a land line telephone so she uses a cell phone that costs money that she does not have, "...transportation- none." The appellant states that she gets child care 3 days a week and "...it seems the program is on the days or at times" that she does not have child care. The appellant states that if she does not go to her court dates "she would end up with warrants" and asks who would care for her child. The appellant states that she was honest when she filled out the paper work to see if this program was right for her but it seems to her that she was "set up for failure."

The ministry's evidence included that the appellant had entered into an EP on December 8, 2011 and her file with the service provider was returned to the ministry for not attending the required intake assessment appointment. The ministry offered the appellant another opportunity to attend a program and the appellant signed an EP on January 5, 2012 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 January 13, 2012 at 9:00 a.m., and to participate in the new EP of B.C. beginning April 2, 2012. The appellant did not attend the assessment meeting on January 13, 2012. On January 24, 2011, the appellant attended an orientation session at the service provider and was accepted into the program but the appellant did not attend any further required appointments with the service provider and did not advise the service provider that she was unable to attend the program as required. The appellant did not attend appointments on January 26 and February 3, 2012, and she was reminded by the ministry on February 8, 2012 that if she continued to not participate in the program she would be denied assistance. The appellant then missed her appointment with the service provider for the week of February 13, 2012 and, on March 5, 2012, her file was returned to the ministry for non-compliance.

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 January 5, 2012, 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 January 13, 2012 and also did not attend appointments on January 26, February 3, and the week of February 13, 2012 and she did not provide any reason for not attending. The ministry points out that the appellant did not attend the service provider's program and, consequently, the appellant's file was closed on March 5, 2012.

The appellant argues that she is a single mother whose child has been sick. The appellant argues that she gets child care 3 days a week and it seems the program is on the days or at the times that she does not have child care. The appellant argues that she has also been dealing with court dates and she thought the program was to help a person to find employment and "...not to make things harder." The appellant argues that if she does not go to her court dates she would end up with warrants and there would be no one to care for her child. The appellant argues that she does not have a land line telephone so she uses a cell phone that costs money that she does not have.

The panel finds that the EP signed by the appellant dated January 5, 2012 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 it was not disputed that the appellant did not attend the assessment meeting on January 13, 2012, or the appointments scheduled with the service provider for January 26 and February 3, 2012 and the week of February 13, 2012. The appellant argues that she is a single mother whose child has been sick and she provided copies of prescription receipts for prescriptions filled February 28, 2012, which the panel finds is over two weeks after the missed appointments with the service provider in February 2012 and provides no detail of her child's age or the nature of his illness. The panel finds that the ministry reasonably determined that there was not sufficient evidence of a medical reason that prevented the appellant from participating in the program.

The appellant also argues that the appointments with the service provider seemed to fall on the days or at the times that she did not have child care or on days that she was required to be in court. The panel finds that the court dates as set out in the notes and notices provided are for January 3, January 16, January 31 and March 1, 2012, which dates do not conflict with the appointments missed with the service provider. The panel finds that it is also not disputed that the appellant did not advise the service provider that she was unable to attend the program as required, whether for court dates or due to a lack of child care. The appellant argues that she does not have a land line telephone and she has to pay for minutes on her cell phone and she cannot afford to call the service provider. The panel finds that the EP requires that the appellant advise the service provider

any time she is unable to attend the program and the panel finds that the ministry reasonably concluded that the appellant did not make reasonable efforts to comply with this requirement. 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.