

PART C – Decision under Appeal

The decision under appeal is the ministry's reconsideration decision dated August 26, 2013 to deny the appellant income assistance because he failed to comply with his Employment Plan (EP) as required under Section 9 of the Employment and Assistance Act. The ministry determined that the appellant failed to submit his first job search due on August 5, 2013.

PART D – Relevant Legislation

Employment and Assistance Act (EAA), section 9

PART E – Summary of Facts

The evidence before the minister at reconsideration consists of the following:

1. The appellant is a 28 year old single employable recipient with no dependants.
2. May 31, 2013 the appellant signed his EP agreeing to the following conditions:
 - update and distribute his resume to all potential employers
 - seek out and pursue all available employment opportunities
 - record his monthly work search activities on the ministry's form and provide these to the ministry upon request
 - utilize all personal contacts to assist his work search
 - spends 25 hours minimum per week on work search activities as per the expectations of the ministry
 - submit his work search record by the 5th of every month showing 5 activities per day, 5 days per week
 - contact the Employment Program of BC for self-served services to determine if their resources could assist him to achieve his work search goals
 - advise the ministry if there are any medical reasons he is unable to participate in his EP
3. June 13, 2013 the appellant visited the ministry's office, and explained that he was in the process of moving. He requested an extension on the due date of his first activity which was due on July 5, 2013. He was granted an extension to August 5, 2013 to submit his first monthly report
4. August 9, 2013 the appellant visited the ministry's office and was advised that his work search activity report was overdue by 4 business days. The ministry explained that the appellant did not provide any reason for not complying with the terms and conditions of his EP. The ministry further stated that the appellant had no medical reports on file to confirm that he has a medical condition that would seriously impact or prevent him from completing a work search. The ministry informed the appellant that he was no longer eligible for income assistance because he did not comply with the terms and conditions of his EP as required under section 9 of the EAA.
5. August 15, 2013 the appellant in his Employment and Assistance Request for Reconsideration (EARR) stated that he has "Renewed Employment Plan. Have Records to indicate Job Searching Activity."

In his Notice of Appeal (NOA) dated September 6, 2013 the appellant disagrees with the ministry's reconsideration decision and states that he "was looking for work/as well have struggles with addiction."

At the hearing, the panel asked the appellant if he has copies of the documents he mentioned in his EARR of August 15, 2013 and he told the panel that he does not have them. The appellant claimed that he did not review his EP and should have entered into a different type of EP because he could not fulfill the terms and conditions of his present EP. The appellant had entered into EPs in the past. The appellant explained that he recently came out of recovery but he still struggles with addiction; he

moved from one town to another but he is still unstable. He claimed that the ministry was aware he went into a 10-day recovery for addiction. He did not look for work because he was unstable. He signed his EP just prior to recovery.

The ministry explained that the appellant was given continued financial support during the appeal process. The ministry reviewed the conditions of the EP with the appellant. The ministry was aware that the appellant was attending alcoholics anonymous and counseling and that such activities are considered search activities. The ministry stood by the record.

In the NOA dated September 6, 2013 the appellant writes that he disagrees with the ministry's reconsideration decision because he has been struggling with addiction. The panel finds that this is additional evidence that was not before the ministry at the time of the reconsideration. However, it is in support of the evidence that was before the ministry at the time of reconsideration. The appellant suggests that his addiction was a reason that he could not fulfill his obligations of his EP. This evidence was admitted under section 22(4) of the EAA.

The panel makes the following findings of fact from the evidence presented:

- The appellant is a 28 year old single employable recipient with no dependants
- The appellant signed an EP on May 31, 2013 agreeing to the following conditions:
 - a) update and distribute his resume to all potential employers
 - b) seek out and pursue all available employment opportunities
 - c) record his monthly work search activities on the ministry's form and provide these to the ministry upon request
 - d) utilize all personal contacts to assist his work search
 - e) spend 25 hours minimum per week on work search activities
 - f) submit his work search record by the 5th of every month showing 5 activities per day, 5 days per week
 - g) contact the Employment Program of BC for self-served services to determine if their resources could assist him to achieve his work search goals
 - h) advise the ministry if there are any medical reasons he is unable to follow through with the conditions of his EP
- The ministry granted the appellant a 1 month extension from July 5, 2013 to August 5, 2013 to submit his first monthly report
- The appellant did not provide any proof of medical reasons or any other reasons for not complying with the terms and conditions of his EP as prescribed under section 9 of the EAA.
- The appellant did not submit any work search activity forms to the ministry from May 31 to August 5, 2013

PART F – Reasons for Panel Decision

The issue is whether the ministry's decision to deny the appellant income assistance because he failed to comply with his Employment Plan (EP) as required under section 9 of EAA is reasonably supported by the evidence or a reasonable application of the applicable legislation in the circumstances of the applicant.

Legislation considered:

Employment plan

- 9** (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.
- (2) A dependent youth, 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.
- (3) The minister 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 employment, or
 - (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.
- (5) If a dependent youth fails to comply with subsection (2), the minister may reduce the amount of income assistance or hardship assistance provided to or for the family unit by the prescribed amount for the prescribed period.
- (6) The minister may amend, suspend or cancel an employment plan.
- (7) A decision under this section

- (a) requiring a person to enter into an employment plan,
- (b) amending, suspending or cancelling an employment plan, or
- (c) specifying the conditions of an employment plan

is final and conclusive and is not open to review by a court on any ground or to appeal under section 17 (3) [*reconsideration and appeal rights*].

The appellant's position is that he was looking for work and that he was struggling with addiction. He claimed that he could not fulfill the conditions of his EP because he had only recently come out of addiction recovery when he had signed his EP.

The ministry's position is that they explained to the appellant when he signed his EP on May 31, 2013 the consequences of not complying with the conditions of his EP. The ministry noted that the appellant was granted one month extension from July 5, 2013 to August 5, 2013 to comply with the terms and conditions of his EP. The appellant did not submit his work search record by August 5, 2013 and he did not provide any medical or other reasons for not submitting his record.

The panel finds that the ministry explained to the appellant the terms and conditions of his EP and the consequences of not complying with the terms and conditions of his EP. The panel also noted that the appellant was granted a month's extension and he did not make an effort to submit his work search record; it was the appellant's obligation to comply with the conditions of his EP as required under section 9 of the EAA. The panel finds that the appellant was provided ample opportunity to explain why he did not submit his work search record to the ministry, but has not provided any medical reasons for failing to comply with his EP as prescribed under section 9 of the EAA. Therefore, the panel finds the ministry reasonably determined the appellant was not eligible for income assistance under section 9 of the EAA for failing to comply with the terms and conditions of his EP.

The panel considered the appellant's struggle with addiction and the impact this struggle would have on his ability to fulfill his obligations of his EP. The panel reviewed the conditions of the EP including the obligation to advise the ministry if he was unable to follow through. The panel also noted the opportunities the appellant had to discuss with the ministry how his addiction struggle was making it difficult for him to fulfill his work search requirements. The appellant spoke to the ministry on June 13 and August 9, 2013 and did not provide any supporting documents that he is struggling with addiction. Considering all of the evidence including the new evidence of his struggle with addiction the panel finds the ministry is reasonable in finding that the appellant did not meet the conditions of his EP.

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