

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (ministry) reconsideration decision of September 4, 2013, wherein the ministry determined the appellant was ineligible for income assistance for failing to comply with the conditions of her employment plan as per Section 9 of the Employment and Assistance Act (EAA).

The ministry found that the appellant had not demonstrated that she had made a reasonable effort to comply with the conditions of the employment plan, or that there was any reasonable circumstance preventing her from complying with the conditions of the employment plan which had been agreed upon on April 30, 2013.

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 reconsideration:

- Employment plan signed by appellant on April 30, 2013
- Employment Centre action plan signed by appellant on May 17, 2013 outlining goals, objectives and activities to help achieve employment goals
- Employment Program of BC Action Plan signed by appellant on May 17, 2013
- Employment Centre list of workshop dates and attendance by appellant
- Request for Reconsideration (RFR) dated August 26, 2013 with the appellant's handwritten letter in which the appellant apologized for missing her appointments, apologized for any "mistakes done by me but I am helpless right now."

In the Notice of Appeal dated September 7, 2013, the appellant noted in her Reasons for Appeal that she was trying so hard to get a job and was in need of money to support her and her daughter.

At the hearing, the appellant stated that she couldn't attend the scheduled sessions sometimes as she had very bad headaches and was taking Tylenol two or more times per day. However, no doctor's note was obtained during the reconsideration period, April 30 to August 8, 2013. She also noted that childcare was an issue during this time as she had no babysitter when school was not in session.

The ministry did not submit any new information at the hearing.

The Ministry's evidence is that the appellant confirmed that she read, understood and agreed to the conditions of the employment plan by signing it, and that she was advised several times of the consequences of failing to comply with the conditions of the plan. The ministry finds that the appellant has not demonstrated that she made a reasonable effort to comply with the conditions of the plan. The ministry identified several missed appointments in their reconsideration decision:

- May 1, 2013 due to illness of the appellant's child
- May 30, 2013 as childcare had not been arranged despite having been advised on May 7 to arrange this
- May 31, 2013 as childcare was still not arranged
- July 9, 2013 due to the appellant's illness, and rescheduled for July 10, 2013
- July 24, 2013 when the appellant got her appointment dates mixed up

The appellant failed to submit her job search record on July 10 and August 1 as requested, and the only job search record submitted to the employment centre on July 16, was for July 8 and 9, 2013, dates which the appellant stated she was ill.

The panel makes the following finding of fact:

1. The appellant signed an employment plan agreeing to participate in employment programming through the Employment Program of BC.
2. The appellant was informed of the appointments and workshops that she was required to attend at the Employment Centre and submit a job search.
3. The appellant did not attend the appointments on May 1 and July 24, 2013 or the workshops on May 30 and 31, 2013.
4. The appellant submitted a job search on July 16, 2013 indicating that she had applied for jobs on July 8 and 9, 2013.

PART F – Reasons for Panel Decision

The issue under appeal is the reasonableness of the ministry's reconsideration decision of September 4, 2013 wherein the ministry determined the appellant was ineligible for income assistance because she had not demonstrated that she had made a reasonable effort to comply with the conditions of her employment plan, or that she had any mitigating circumstance that prevented her from complying with the conditions of her employment plan, and whether this is reasonably supported by the evidence and by EAA section 9.

Legislation considered: EAA

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 is a single employable recipient of income assistance with one dependent school aged child. Her position is that although she understands that it was her mistake for missing her appointments and workshops, she attended the ones that she could and due to inability to obtain child care, and health issues such as colds and headaches, she was unable to attend other scheduled appointments. The appellant's position is that she understands that she must meet the requirements of her employment plan, and is doing so now, she "is helpless now" and needs the money. She is trying so hard to find a job, and will have a babysitter from September so won't have to worry about attending workshops or working full time. She needs money to support herself and her daughter and promises to attend all workshops and never have any mistakes from her side.

The ministry's position, as set out in the reconsideration decision, is that the appellant did not demonstrate a reasonable effort to participate in her employment programme as required by her employment plan. The first scheduled appointment on May 1 was missed due to an illness with the appellant's child. On May 7, the appointment was attended and the appellant advised to apply for a childcare subsidy and arrange childcare. May 17, the action plan was signed with an Employment Centre. On May 28, the ministry advised the appellant of the importance of complying with the employment plan and the consequences of failure to comply. On May 30 and 31, the appellant missed the workshop at the employment centre as childcare had not been arranged.

On June 5, the ministry advised of the consequences for failure to comply with the conditions of the employment plan, but the appellant explained that because her child did not want to go to a sitter, she could only attend appointments on Tuesdays. She requested that she be excused from looking for work or attending an employment plan until August when the appellant was to move next door to a relative who could babysit for her.

An appointment scheduled with the employment centre for July 9 was rescheduled to July 10 due to illness and the ministry requested a doctor's note for confirmation. On July 10, the employment centre confirmed the appointment, but the requested job search record was not submitted nor had a childcare subsidy been applied for. On July 16 a job search record was submitted showing the appellant had applied for jobs on July 8 and 9. A July 24 scheduled appointment was missed due to an inoperative telephone.

The appellant rescheduled the appointment for August 1, which she attended but failed to submit her job search record. On August 8, the appellant advised the ministry that she had missed her July 24 appointment because she had her dates mixed up. She also stated that she had not submitted the requested doctor's note because it would take too long to get an appointment with the doctor so she chose not to go.

PANEL DECISION:

The appellant admitted that she did not attend several appointments and workshops but her position is that her reasons for failing to attend were reasonable because they were related to her headaches and inability to obtain childcare. However, the panel notes that the reasons given by the appellant for her missed appointments are not consistent. For example, in the RFR the appellant states that she missed one appointment due to her daughter's illness and she missed a scheduled telephone call because she had not paid her phone bill and her phone was not working. At the hearing however, the appellant stated that she missed appointments and workshops mainly because of significant headaches and inability to obtain childcare. The panel notes that the appellant did not provide any note from her doctor at any time to confirm that she was suffering from headaches or that she or her daughter had an illness that prevented her from attending the scheduled appointment or workshops. The panel also notes that the appellant's Job Search indicates that the appellant only applied for jobs on two days, July 8 and 9, 2013.

The panel finds that the ministry reasonably determined that the appellant did not make reasonable efforts to comply with the employment plan as required and was reasonable in determining that she was not eligible for assistance as per AA section 9.

Therefore the panel confirms the ministry's reconsideration decision in favour of the ministry pursuant to section 24(1)(a) and section 24(2)(a) EAA.