

### PART C – Decision under Appeal

The decision under appeal is the ministry's reconsideration decision dated September 11, 2013 to deny the appellant income assistance because he failed to comply with the conditions of his Employment Plan (EP) as required under Section 9 of the Employment and Assistance Act (EAA). The ministry determined that the appellant did not meet the minimum work search requirements of his EP and did not make any effort to connect with WorkBC for self-serve services.

### 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 has a spouse and 4 children.
2. September 21, 2011 the appellant signed an EP. He advised that he had no barriers to employment and that he had many skills and employment experience such as roofing, retail, and shipping/receiving. The appellant was referred to WorkBC. His first appointment was booked for September 27, 2011 at 9:15 am.
3. October 21, 2011 the appellant submitted his November stub to the ministry. The stub indicated that he was seeking employment but his doctor had given him a note stating that he should not work as yet. The ministry reviewed his file and noted that the appellant failed to attend his appointment and his file was closed on October 11, 2011 as a "no show." The ministry noted that the appellant did not comply with his EP and his check was held in order to review his doctor's note once received.
4. October 26, 2011 the appellant's spouse visited the ministry's office and submitted a Medical Note which was reviewed with her. It did not indicate that the appellant had been unable to seek employment or attend an employment program. There was no diagnosis or restrictions provided. The ministry requested a medical report to be completed in full, including any restrictions to employment that the appellant may have. The ministry advised a decision on the appellant's eligibility and compliance could not be made until he provided the full medical information. The appellant's spouse advised that the appellant was having trouble with his knees and back. The ministry called the doctor's office and they stated that they were unable to confirm prior medical conditions as they had only seen the appellant one time. The ministry advised the appellant's spouse that he needed to confirm his medical issues and restrictions in order for his eligibility to be determined. His spouse indicated that she would discuss this with him.
5. October 27, 2011 the appellant submitted a Medical Report. It stated that the appellant had osteoarthritis since January 2005 and a left knee injury since May 2011. The doctor noted his medical conditions as moderate with a duration of 1-3 months. The appellant's restrictions were listed as currently unable to lift and difficulty standing and sitting for prolonged periods of time. The ministry completed a medical EP with the appellant. The appellant was required to submit updated medical information by January 13, 2012 and be assessed for a new EP at that time.
6. March 9, 2012 the appellant submitted an updated Medical Report. It stated that the appellant had lumbar spine injury, bone spurs in his right foot and chronic disease. The doctor noted his medical conditions were moderate, and are expected to last for more than 2 years. The appellant's restrictions were listed as unable to walk or sit for long periods of time with no heavy lifting. The doctor indicated that she had not reviewed previous medical records and that the appellant had been her patient for less than 6 months.
7. March 22, 2012 the ministry reviewed the appellant's medical report. A medical EP was

completed with the appellant.

8. December 18, 2012 the ministry reviewed the appellant's EP. Updated medical information was required. The ministry mailed the appellant a 3069 Medical Report form.
9. January 2, 2013 the appellant submitted a Medical Report. The ministry noted that the appellant had multiple issues. A medical EP was completed for the appellant and mailed to him. The ministry also mailed the appellant a Persons with Persistent Multiple Barriers (PPMB) medical report form should he decide to apply for that program.
10. January 22, 2013 the appellant returned the signed medical EP.
11. March 14, 2013 the appellant visited the ministry's office and indicated that he did not wish to proceed with a PPMB application. He stated that he was ready to seek employment and deal with any barriers to employment he may have. He requested an EP for work search and a referral to an employment program. He signed his EP 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) record all he does that help make him more employable, understanding that that these activities fall within his work search requirements
  - e) utilize all personal contacts to assist his work search
  - f) spend 25 hours minimum per week on work search activities as per the expectations of the ministry
  - g) submit his work search record by the 5<sup>th</sup> of every month showing 5 activities per day, 5 days per week
  - h) contact WorkBC for self-served services to determine if their resources could assist him to achieve his work search goals
  - i) access services from a WorkBC location closest to his residence
  - j) advise the ministry if unable to follow through

The ministry reviewed all of the EP conditions, expectations and the consequences of non-compliance with the appellant. The ministry also provided the appellant with the contact information to access a WorkBC office.

12. June 06, 2013 the ministry reviewed the appellant's EP and the appellant had not submitted any work search documents since signing his EP. The ministry sent the appellant a letter indicating that he did not comply with the conditions of his EP.
13. June 24, 2013 the appellant's spouse visited the ministry's office and advised that the appellant had been seeking employment and had all of his work search documents at home. The appellant's spouse stated that the two of them were not aware that the appellant was required to submit his work search documents on a monthly basis.
14. June 28, 2013 the appellant submitted a work search document which the ministry determined

met the minimum work search requirements specified in the conditions of his EP. The ministry advised the appellant that he would have another opportunity to demonstrate compliance with the conditions of his EP. The ministry reviewed with the appellant the conditions, expectations and consequences of not complying with his EP. The appellant was provided with work search activities records, a copy of his signed EP and the contact information for WorkBC.

15. July 22, 2013 the appellant submitted his July monthly work search activity record. The ministry reviewed the appellant's work search activities record which lists about 26 work search activities from June 27 to July 2013 and determined that it did not demonstrate that he had met the minimum work search requirements of his EP.
16. August 26, 2013 the appellant submitted his August monthly work search activities record. The ministry reviewed the appellant's work search activities record which lists about 44 work search activities and determined that it did not demonstrate that he had met the minimum work search requirements of his EP. The ministry advised the appellant that they had several conversations with him regarding his EP conditions, expectations and consequences of non-compliance. The ministry reviewed the appellant's situation with him and confirmed that he was no longer eligible for assistance because he failed to comply with the conditions of his EP.

The ministry explained that the appellant by signing his EP confirmed that he read, understood and agreed to the conditions of the plan. The ministry explained to the appellant the conditions of his EP and the consequences of non-compliance. The appellant was required to submit monthly work search activities records showing five work search activities per day, five days per week and he did not meet these requirements. While the appellant stated that there are not enough businesses in his city to enable him to meet the minimum work search requirements he did not provide any details to substantiate this claim. Furthermore, the ministry notes that the conditions of the appellant's plan specify that his work search requirements are not restricted to job applications but include any activities that would help him become more employable.

Although the conditions of his plan required him to "seek out and pursue all available resources" the appellant had not indicated that he contacted WorkBC at the time his plan was created. The ministry notes that the appellant was made aware of two options for accessing available WorkBC services, either at his local WorkBC site office or at an employment agency. On March 14, 2013 when the appellant's EP was created, the ministry confirmed that WorkBC works specifically with clients with barriers to employment and that he was referred to it in order to provide him with the most accessible supports available. The appellant has not indicated that he made any effort to connect with WorkBC resources.

17. August 29, 2013 the appellant in his Employment and Assistance Request for Reconsideration (EARR) states that he has been out of work for 11 years and is trying hard to find work despite medical problems. The appellant states he needs to walk two hours from town to search for work, and that he has four children and a sick wife. He states that his employment options are limited as he has only a grade 9 education, and there are not enough businesses in his city for him to meet the minimum work search requirements. He indicates that he has spent time at home working on his resume and looking for work online.

In his Notice of Appeal (NOA) dated October 1, 2013 the appellant disagrees with the ministry's reconsideration decision and states that he does not think they looked at the full picture. He states that, "I was trying the Best I could and was actively looking for work. I didn't know it had to be at 8 contacts a day. Some days I spent on my resume. And I have health issues and was still trying."

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

At the hearing, the ministry indicated the appellant did not submit the minimum requirements for the period, March to June 2013, but in the principle of administrative fairness, they did not penalize him. The appellant was given an opportunity to comply with the conditions of his EP for July and August, 2013.

The ministry indicated that the appellant did not submit any mitigating circumstances for not complying with the conditions of his EP. The ministry stood by the record.

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

- The appellant signed an EP on March 14, 2013 agreeing to the requirements therein.
- The appellant did not proceed with his PPMB application and his medical EP.
- The appellant did not provide any medical documentation respecting his health or employment barriers subsequent to signing his EP.
- The appellant did not meet the minimum work requirements for the period, March to June, 2013 but in applying the principle of administrative fairness, the ministry did not penalize him.
- The appellant's work search activities record lists only 26 work search activities for the month of July 2013 and 44 work search activities for the month of August 2013
- The appellant did not contact WorkBC for accessing their resources.

## 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 the conditions of his EP as required under section 9 of the 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 ministry's position is that they explained to the appellant when he signed his EP on March 14, 2013 the consequences of not complying with the conditions of his EP. The ministry noted that the appellant did not submit the minimum work requirements for the period, March-June, 2013 but they did not penalize him for not complying with the conditions of his EP. On June 24, 2013 the ministry again explained to the appellant the consequences of not complying with the conditions of his EP. The appellant again did not meet the minimum work requirements for the months of July and August, 2013. The ministry further notes that the conditions of the appellant's plan specify that his work search requirements are not restricted to job applications but include any activities that would help him become more employable

The appellant argues that he has done his best in spite of his health issues and that there are not enough businesses in the city in which he lives to enable him to meet the minimum work search requirements.

The ministry's position is that the appellant did not provide any details to substantiate his claim that there are not enough businesses in the city where he resides.

The ministry's position is that the conditions of the appellant's plan required him to "seek out and pursue all available resources" and the appellant was made aware of two options for accessing available WorkBC services, either at his local WorkBC site office or a local employment agency. On March 14, 2013 when the appellant's EP was created, the ministry confirmed that WorkBC works specifically with clients with barriers to employment and that he was referred to WorkBC in order to provide him with the most accessible supports available. The appellant has not indicated that he made any effort to connect with a WorkBC resources.

The panel finds that the ministry explained to the appellant on 2 occasions the terms and conditions of his EP and the consequences of not complying with the terms and conditions when he signed his EP on March 14, 2013 and on June 28, 2013 when he submitted his work search activities record. The panel also notes that the appellant was not penalized by the ministry when he did not submit the minimum requirement for the months of March-June, 2013. He also did not submit the minimum work requirements for the months of July and August, 2013. The appellant was required to submit 5 activities a day for 5 days per week, a minimum of 25 work search activities per week or 100 work search per month. For the month of July the appellant had submitted only 26 work search activities and for the month of August he had submitted only 44 work search activities. Furthermore, the appellant failed to contact WorkBC to access their resources. It is 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 many opportunities to comply with the conditions of his EP and has not

provided medical or other reasons during the period of his EP 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 reviewed the conditions of the EP including the obligation to advise the ministry if he was unable to follow through. The panel finds the ministry is reasonable in finding that the appellant did not meet the conditions of his EP as he failed to comply with the conditions of his EP as required under section 9 of the EAA.

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.