

**PART C – Decision under Appeal**

The decision under appeal is the Ministry of Social Development and Social Innovation (ministry) reconsideration decision of November 14<sup>th</sup>, 2013 wherein the ministry determined the appellant was not eligible for income assistance as set out in section 9(1)(b) Employment and Assistance Act (EAA) because he did not comply with the conditions stated in his Employment Plan (EP) ; that he failed to provide his monthly work search activities when requested.

**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:

- Application for Income Assistance dated December 16<sup>th</sup>, 2011;
- Employment Plan dated July 24<sup>th</sup>, 2013;
- Non-Formal Referral in name of appellant indicating Orientation Session was held on July 29<sup>th</sup> .;
- Appointment Slip indicating next appointment August 21<sup>st</sup>, 2013; at bottom of this notice it's written that next appointment is August 29<sup>th</sup>, 2013;
- Appointment Slip indicating next appointment is Tues, Sept 17<sup>th</sup>.
- Note, undated, in appellant's name states "This client last attended an appointment on August 8<sup>th</sup>, 2013. He has either missed or cancelled 4 appointments since that date. He was scheduled to attend a meeting with the Case Manager this morning but did not attend."
- Letter from ministry to appellant dated September 30<sup>th</sup>, 2013 advising the appellant that his assistance cheque will be held at the office until the Job Search Information is received and requesting the appellant to contact the ministry office.
- Letter, undated and unsigned, is addressed "To Whom It May Concern". The letter appears to have been written by the appellant as it states "on July 24<sup>th</sup> I signed an agreement to comply with your work program to further my enrollment from social assistance". The writer goes on to explain that attendance was made at a scheduled appointment with a ministry contractor; that the contractor would not work with the writer because the writer acknowledged to the contractor that he was homeless and a drug addict; that he was told by the contractor he was not fit, health wise, to be in the work force at the moment; that his appointment(s) were rescheduled so he was able to get his cheque; that this happened two more times. The writer then states "look I am not homeless and I have structure but will be homeless again if you refuse me, I am capable of taking your courses now that I have a home and I am going to recovery for drug and alcohol treatment. I would appreciate (sp) this opportunity to say I will take the Job program and will attend classes now that I'm (sp) able to be punctual and groomed and well rested. Thank you" ...unreadable signature.
- Request for Reconsideration dated October 30<sup>th</sup>, 2013.

On July 24<sup>th</sup>, 2013 the appellant agreed to enter into a Supervised Independent Work Search Employment Plan (SIWSEP); was given a non-formal referral form; and was booked for an orientation appointment on July 29<sup>th</sup>, 2013 with a ministry contractor. The appellant attended the July 29<sup>th</sup>, 2013 appointment and was given a follow-up appointment for August 6<sup>th</sup>, 2013 which he did not attend. The appellant missed several appointments with the ministry's contractor but the assistance of the contractor with the appellant's job search was only a suggested activity of the EP and not mandatory.

The conditions set out in the EP signed by the appellant on July 24<sup>th</sup> 2013 state, "I will participate fully and to the best of my ability in the activities required by the ministry or contractor as set out in sections 3(a) to (f) of the EP. Section 3(a) to (f) states:

- a) Term: 2013-Jul-24 to 2014-Jul-24
- b) Name of Program/Service: SIWS – Supervised Independent Work Schedule
- c) Name of Contractor: blank
- d) Details: I will update and distribute my resume to all potential employers. I will seek out and pursue all available resources and employment opportunities, eg. EAS providers, Service Canada, internet, library, newspaper, community agencies, cold-calling potential employers, etc. I will record my monthly search activities on the ministry form (SD0077) and provide these to the ministry upon request. I will utilize all personal contacts to assist my work-search (family, friends, etc). I am aware that the ministry expectation is that I spend 25 hours minimum per week on work search activities. I will submit my work search record by the 5<sup>th</sup> of every month showing 5 activities/day, 5 days/week. I am aware I can contact the Employment Program of BC for self services to determine if their resources could assist me to achieve my work search goals and assist me to overcome my barriers. I understand that I can access

services from the WorkBC location closest to my residence located at: (agency provided is the contractor referred to previously).

e) Date of Referral: blank

f) Client Reporting Requirements: "x" appears for Other: name of contractor is shown.

On October 16<sup>th</sup>, 2013 the appellant attended the ministry office in response to the letter of September 30<sup>th</sup>, 2013. The ministry requested the appellant's Job Search reports from July 24<sup>th</sup>, 2013 and he responded that he did not have them and did not submit any new information to support that he was actively looking for work. The appellant indicated that he did have a drug problem and was planning to attend treatment but he did not provide any evidence to the ministry that would support that he was medically unemployable or medically unable to manage a SIWSEP. The last medical report the ministry has on file is dated September 2012 which indicated the appellant had chronic knee pain that was expected to last 3 to 6 months; and, the last medical letter is dated December 2011 which indicated he was residing in a recovery house at that time for substance abuse and that employability to be re-assessed in 3 months.

The only written submission related to the appeal made by the appellant is found in the Notice of Appeal under Reasons for Appeal: on November 22<sup>nd</sup>, 2013 he writes/prints "I find your decision ridiculous (prints) you EXPECT A HOMELESS drug addict to take YOUR COURSES WELL GET HIM A HOME FIRST. NOW I HAVE A HOME AM ABLE TO SLEEP AND FUNCTION NOW I CAN "

The panel finds the appellant's statement in the Notice of Appeal does not contain any new information that was not before the ministry at the time the reconsideration decision was made and therefore is not considered as new evidence.

The ministry relied on its reconsideration decision and submitted no new information.

## PART F – Reasons for Panel Decision

The issue under appeal is the reasonableness of the ministry's decision of November 14<sup>th</sup>, 2013 wherein the ministry determined the appellant was not eligible for income assistance as set out in section 9(1)(b) EAA because he did not comply with the conditions in the EP by providing his monthly work search reports (Form SD0077) to demonstrate that he was making reasonable efforts to comply with the EP.

The legislation considered:

### Section 9 EAA

(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.

(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.

Section 9(1)(b) EAA states that to be eligible for income assistance a recipient must comply with the conditions in the employment plan. The ministry's position is that the appellant signed an EP agreement on July 24<sup>th</sup>, 2013 indicating that he would comply with the conditions of his EP by submitting his work search record (Form SD0077) by the 5<sup>th</sup> day of each month. The ministry argued that the EP required the appellant to distribute his resume to prospective employers; seek out and pursue all available resources and employment opportunities, i.e. Service Canada, library, newspaper, community agencies, etc and record his activities on Form SD0077. The ministry argued the appellant did not provide any new information to support that he was actively looking for work to demonstrate that he was making reasonable efforts to search for work. The ministry argued that when the appellant was asked for the work search records he stated he didn't have them.

The appellant did not provide any arguments to the panel to explain why he did not submit his search activity record, Forms SD0077. The appellant had stated, in a note to the ministry, that when he attended his initial appointment with the contractor, the contractor told him that he was not fit, health wise, to be in the workforce and that until he was clean "off drugs" that the contractor would not work with him. The appellant stated that he had a drug addiction and was going to a treatment center in December 2013.

The panel finds that SIWSEP is a supervised activity or service whereby the ministry monitors the client's work search activity; that SIWSEP is not a specific employment-related program as referred to in section 9(4) EAA.

The panel finds there is no evidence to support that the appellant submitted the work search record, Form SD0077, nor is there any evidence that the appellant complied with other conditions within the EP, i.e. that he would spend a minimum of 25 hours per week on work search activities; distribute resumes to potential employers; and, seek out and pursue all available resources, etc. For these reasons the panel finds there is no evidence that the appellant demonstrated that he had made reasonable efforts to comply with the conditions set out in the EP.

There is no medical evidence before the panel to support the contractor's comment that the appellant is not fit, health wise, to be in the workforce; nor is there any medical evidence that he has a substance abuse addiction and is going to treatment; or that he informed the ministry that he had a substance abuse addiction and was unable to comply with the conditions in his EP.

Therefore, the panel finds that the ministry's decision that the appellant was not eligible for income assistance

because he did not comply with the conditions in his EP as set out in section 9(1)(b) EAA was reasonable.

The panel finds that based on the evidence the ministry's decision was a reasonable application of the applicable enactment in the circumstances of the person appealing the decision and confirms the decision pursuant to section 24(1)(b) and section 24(2)(a) of the EAA.