

PART C – Decision under Appeal

The decision under appeal is the reconsideration decision of the Ministry of Social Development and Social Innovation (the ministry) dated 26 February 2014 that found that the appellant was not eligible for income assistance pursuant to section 9 of the *Employment and Assistance Act*. The ministry determined that the appellant has not demonstrated that she has made a reasonable effort to comply with the conditions of her employment plan (EP) or that she has a medical condition that has prevented her from complying with those conditions.

PART D – Relevant Legislation

Employment and Assistance Act (EAA), section 9

PART E – Summary of Facts

The evidence before the ministry at reconsideration included the following:

1. The first page of the appellant's Employment Plan (EP) with a start date of 13 September 2013 and an end date of 30 September 2015, referring her to an Employment Program of BC (EPBC) contractor. The EP provides the following details:

“As a condition of continued eligibility for assistance I will participate in EPBC programming regularly and as directed by the EPBC contractor. I will work with the EPBC contractor to address any issues that may impact my employability, and will complete all tasks assigned including any activities that may be set out in an action plan. I will notify the contractor.... if I am unable to attend a session or when I start or end any employment. I understand that if I fail to comply with the conditions of my employment plan, I will be ineligible for assistance under the Employment and Assistance Act... “
2. A Student Schedule/Bill from the appellant's university for Winter 2014, showing enrollment in 3 courses.
3. From the ministry's files, as set out in the appellant's Request for Reconsideration and in the reconsideration decision:
 - 13 September 2013 – the appellant's signed EP was received at the ministry office.
 - 24 January 2014 – the appellant advised the ministry that she had begun upgrading her schooling and was still looking for work.
 - 03 February 2014 – the appellant request of the ministry's assistance with funding for schooling at her university.
 - 07 February 2014 – the appellant submitted confirmation to the ministry that she was attending an ABESAP (Adult Basic Education Student Assistance Program) unfunded upgrading program. She advised a ministry worker that she was about to start another set of 2 classes for a total of 5 classes. Upon review of this information the ministry determined that the appellant was a full-time student as she is currently attending three classes (60%); her books and tuition were paid for by ABESAP funding. She stated that she had started her classes on 06 January 2014. When asked, the appellant stated that she had not been referred or preapproved to attend the university by the EPBC contractor. She stated that she was no longer attending the EPBC program and that EPBC was not willing to support her educational goals so she had applied for the upgrading on her own. She advised that EPBC had told her that they would be closing her file.
 - 07 February 2014 – the appellant's EPBC case manager advised the ministry that in November 2013 the appellant and the case manager had an in-person discussion about looking into a “skills program” at the university. However the program lost funding shortly after and EPBC could no longer fund her attendance. The case manager also instituted a further conversation in January 2014 to discuss the situation (there had been no appointments booked between November and January); the appellant advised the case manager that she had decided to follow through with going to the university on her own. She advised the case manager that this was her path and she would not be able to participate in the EPBC program anymore and therefore would not attend any upcoming appointments. EPBC then sent a notification to the ministry to advise of the closure of her file.

- 11 February 2014 – the ministry supervisor reviewed her file. It was determined that the appellant was noncompliant with her EP. A sanction was added to her file.
4. The appellant's Request for Reconsideration, dated 13 February 2014. Under reasons, the appellant writes that she will be focusing on full-time employment. The reason she is disturbed by this is because she had a case manager recommended by the ministry who never worked with her to give her a program to follow, sponsored by them, to gain credits towards a GED. As she told the case manager two months prior to starting school she didn't think it would be a problem as she was still was looking for a job. She wants to become a social worker. The semester is over beginning of March. She asks to at least let her finish that and go into the workforce. She still needs help and assistance as she transfers from school to the workforce and she will find other means to get her upgrading, including online.

In her Notice of Appeal, dated 05 March 2014, the appellant writes that she is in desperate need of financial assistance. She will need assistance for the time which she needs to find a full-time employment. She has a right to feel safe and secure. She had no idea of the consequences of going to school. She had a case manager who should have told her or helped her regarding this.

At the hearing, the appellant stated that this whole situation had stressed her out and she was worried about becoming homeless. She said that when she was initially assigned to the EPBC her first case manager was very helpful, but that case manager left and she was assigned to another who she felt was not interested in helping her. She told this case manager on several occasions about wanting to upgrade her education to get a Dogwood Diploma and eventually become a social worker. She felt that the case manager did not believe that she would follow through with her intentions. This case manager did not provide her with any encouragement or advice in how to move forward with their plan. As a result she went ahead on her own and, with ABESAF assistance, enrolled in 3 upgrading courses at the university, with the classes beginning in early January 2014. She stated that no one, particularly her EPBC case manager, told her of the consequences of enrolling in these courses and leaving the EPBC program. She noted that many of her classmates at the university were on social assistance and that she could not understand how they were able to receive benefits while taking courses there and she was not.

She stated that she is determined to obtain her Dogwood Diploma by January of next year. She has completed all the paperwork and has been assured funding through her First Nations Band, but this will not be in place until September, 2014.

The balance of the appellant's testimony at the hearing went to argument (see Part F, Reasons for Panel Decision, below).

The ministry stood by its position at reconsideration.

With the exception noted below, the panel finds that the information provided by the appellant in her oral testimony is in support of the evidence before the ministry when it made the decision under appeal. The panel therefore admits the information provided the appellant under section 22(4) of the *Employment and Assistance Act*. The panel does not admit as evidence the information provided by the appellant as to her future funding through her Band, as this was not before the ministry at reconsideration and in any event is not relevant to the issue under appeal.

PART F – Reasons for Panel Decision

The issue in this appeal is whether the ministry decision that the appellant was not eligible for income assistance pursuant to section 9 of the EAA is reasonably supported by the evidence or is a reasonable application of the legislation in the circumstances of the appellant. More specifically, the issue is whether the ministry was reasonable in determining that the appellant has not demonstrated that she has made a reasonable effort to comply with the conditions of her employment plan (EP) or that she has a medical condition that has prevented her from complying with those conditions.

The applicable legislation is from the 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.
- (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.

The position of the ministry, as set out in the reconsideration decision, is that by signing her EP, the appellant confirmed that she had read, understood and agreed to the conditions specified in the plan. As a condition of her eligibility for assistance, she agreed to participate regularly with EPBC. She had advised EPBC that she was attending school and would no longer be participating in their program or attending any upcoming appointments. In accordance with section 9 of the EAA, if she has stopped participating in an employment related program for any reason other than for medical reasons, she has not met the conditions of her EP. She has not provided any medical documentation that indicates she suffers from any medical issues that would impact her ability to attend EPBC programming. As a result the ministry found that she has failed to comply with the conditions of her EP and does not have any mitigating circumstances that prevented her from complying with the conditions of her EP. Therefore she is not eligible for assistance.

The appellant's position is that no one, particularly her EPBC case manager, advised her of the consequences of dropping out of the EPBC programming and enrolling in courses to upgrade her schooling. She feels this is unfair, as others are able to attend classes at her university while still receiving assistance from the ministry. She argues that things could have been done differently, for example by giving her a deadline of 2 two months to get full-time employment or be cut off assistance if she has not found a job by that time.

Panel findings

The evidence, not disputed by the appellant, is that on 07 February 2014 she advised her EPBC contractor case manager that she had decided to follow through with going to the university on her own. She advised the case manager that this was her path and she would not be able to participate in the EPBC program anymore. The panel acknowledges that there may have been some difficulties in communication between the appellant and her EPBC case manager. While this is unfortunate, the panel must be guided by the legislation, with section 9 of the EAA and the requirement to comply with the conditions of an employment plan providing the basic framework for the ministry in administering the income assistance program. The panel finds that the appellant confirmed her obligations to participate in EPBC programming and acknowledged the consequences of noncompliance with those obligations by signing her EP, and she advised EPBC that she would no longer be participating in that programming, and that she has not provided any documentation as to medically-related mitigating circumstances. Therefore the panel finds that the ministry's decision that she is not eligible for income assistance is a reasonable application of the legislation in the circumstances of the appellant.

The panel therefore confirms the ministry's decision.