

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (ministry) reconsideration decision dated March 12, 2014 whereby the appellant was found to be ineligible for income assistance pursuant to Section 9 of the *Employment and Assistance Act* (EAA) for not complying with the conditions of her Employment Plan (EP), due to her failure to participate in her employment-related program and with no medical reason for her non-participation.

PART D – Relevant Legislation

Employment and Assistance Act (EAA), Section 9

PART E – Summary of Facts

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

The evidence before the ministry at the time of the reconsideration decision included:

- 1) EP signed by the appellant dated December 24, 2013. The terms of the EP include provisions requiring the appellant to participate in the Employment Program of B.C. program regularly and as directed by the contractor. She will work with the contractor to address any issues that may impact her employability and complete all tasks assigned including any activities that may be set out in an action plan. She will notify the contractor if she is unable to attend a session or when she starts or ends any employment.
- 2) Request for Reconsideration, which did not include any reasons and was stamped received by the ministry February 26, 2014.

In her Notice of Appeal dated March 14, 2014 the appellant expressed her disagreement with the ministry's reconsideration decision because she is able to get a job and denial [of income assistance] when in need is not beneficial. The appellant appears to write that she is not 60 or 80 years old and she is not crippled, although her comments are not entirely intelligible.

The ministry stated that the appellant is a single employable recipient with no dependents. She signed an EP on December 24, 2013, thereby agreeing to participate in employment programming through a contractor. The conditions of her plan require that the appellant complete all tasks assigned and to notify the contractor if she is unable to attend a session. On January 8, 2014, the appellant provided confirmation to the ministry that she had scheduled an intake appointment with the contractor on January 16, 2014. On February 14, 2014, the contractor advised the ministry that the appellant failed to attend the appointments scheduled on January 16 and 27 and February 3 and 11, 2014. On February 19, 2014, the appellant advised the ministry that she failed to attend the appointments with the contractor because she was sick. The ministry verified with the contractor that the appellant had not contacted them. The appellant did not provide any information to confirm that she had been sick.

At the hearing, the ministry stated that there were at least two conversations with the appellant about the consequences for not complying with an EP. The ministry stated that the appellant also had compliance issues in October and December under her previous EP. She had missed appointments with the contractor and first explained that she was sick and then stated that she did not wake up in time for one appointment and her alarm clock did not work and she missed the other. For the present EP, the appellant had signed up for the program and then did not attend any sessions. The appellant advised the ministry that she had contacted the contractor to let them know that she was sick but when the ministry contacted the contractor, the ministry was advised that no contact had been made. The ministry stated that the contractor is capable of assessing any barriers to employment that the client may have and to make referrals to start to address these issues. The ministry stated that the period of time over which the appellant stated she was sick and unable to attend the appointments with the contractor was approximately 3 weeks and it was not clear why she would not have visited a doctor over this time and have obtained some confirming information, or why she scheduled further appointments if she was ill. The ministry confirmed that no information regarding an illness was provided to the ministry by the appellant.

PART F – Reasons for Panel Decision

The issue on appeal is whether the ministry reasonably concluded that the appellant did not comply with the conditions of her EP, due to her failure to participate in her employment-related program and with no medical reason for not participating, and that, therefore, the appellant is not eligible for income assistance pursuant to Section 9 of the *Employment and Assistance Act* (EAA).

Section 9 of the EAA provides:

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].

Section 9(1) of the EAA provides that, when the ministry requires, a person must enter into an EP and comply with the conditions in the EP in order to be eligible for income assistance. Under Section 9(3) of the EAA, the ministry has the authority to specify conditions in an EP, including a requirement that the person participate in an employment-related program. Pursuant to Section 9(4) of the EAA, if an EP includes a condition requiring a person to participate in a specific employment-related program, that condition is not met if the person fails to demonstrate reasonable efforts to participate in the program or if the person ceases, except for medical reasons, to participate in the program.

Ministry's Position

The ministry's position is that the appellant ceased to participate in her EP and that she has not provided any information to verify that it was for medical reasons. The ministry argued that the appellant entered into an EP dated December 24, 2013 and, by signing her EP, confirmed that she read, understood and agreed to the conditions specified. It is a requirement in the appellant's EP to complete all tasks assigned by the contractor and notify the contractor if she is unable to attend. The

ministry argued that the appellant was aware of the consequences for failing to comply with the conditions of her EP. The ministry pointed out that the appellant failed to attend appointments scheduled with the contractor for January 16 and 27 and February 3 and 11, 2014 and she did not provide any medical documentation that indicates she suffers from any medical issues that would impact her ability to attend.

Appellant's Position

The appellant's position as set out in her Notice of Appeal is that she is able to get a job and denial [of income assistance] when in need is not beneficial.

Panel's Decision

The panel finds that the appellant signed her EP on December 24, 2013 and the EP includes conditions that she will work with the contractor to address any issues that may impact her employability, complete all tasks assigned including any activities that may be set out in an action plan, and notify the contractor if she is unable to attend a session. It is not disputed that the appellant missed appointments with the contractor scheduled on January 16 and 27 and February 3 and 11, 2014. Although the appellant advised the ministry that she had let the contractor know that she was not able to attend because of illness, the contractor advised the ministry that no contact had been made by the appellant.

The panel finds that, after signing her EP, the appellant did not attend any of the appointments scheduled and did not contact the contractor to explain her absences and thereby ceased to participate in her program. While the appellant argued in her Notice of Appeal that she can secure employment on her own, she has not attended any of the sessions with the current contractor in order to explore the services that the contractor, or some of the referrals, may offer to her, as is required by her EP. The appellant initially argued that she did not attend the sessions because she was ill. The panel finds that there is no information provided by the appellant as to the nature of her medical condition or the associated restrictions in order to demonstrate that there is a medical reason for her ceasing to participate in her program. The legislation requires that the appellant provide a medical reason for ceasing to participate in the program, and the panel finds that the ministry reasonably concluded, pursuant to Section 9 of the EAA, that this requirement has not been met in this case.

Conclusion

The panel finds that the ministry decision, whereby the appellant was found to be ineligible for income assistance pursuant to Section 9 of the EAA, was a reasonable application of the applicable enactment in the circumstances of the appellant and confirms the decision.