



PART C – Decision under Appeal

The appellant appeals the reconsideration decision of the Ministry of Social Development and Social Innovation (the ministry) dated January 23, 2014 in which the ministry determined that the appellant was no longer eligible for income assistance as a result of his non-compliance with the terms and conditions of an employment plan required by section 9 of the *Employment and Assistance Act*.

PART D – Relevant Legislation

Employment and Assistance Act, section 9 (“EAA”)

PART E – Summary of Facts

The appellant did not attend the hearing although the panel delayed the start time of the hearing for 10 minutes. The panel received confirmation from the Tribunal that the appellant had been notified of the date, time and location of the hearing. Accordingly, under s. 86(b) of the *Employment Assistance Regulation*, the panel heard the appeal in the appellant's absence.

The evidence before the ministry at the reconsideration consisted of the following:

- an employment plan (2 pages) signed by the appellant and date stamped April 17, 2013 ("EP") the details of which are set out below;
- a one-page letter to the appellant from the ministry dated November 27, 2013 stating that the ministry would like to speak to the appellant about why he "did not follow through" with his EP and asking the appellant to contact the contracted service provider by December 5, 2013;
- a one-page letter to the appellant from the ministry dated December 4, 2013 stating that the appellant did not follow through with his EP requirements, specifically that he had not participated in EPBC (Employment Plan of British Columbia) programming regularly and as directed by the EPBC contractor to address issues that may impact the appellant's employability and informing the appellant he was no longer eligible for income assistance; and
- the appellant's request for reconsideration with his handwritten submission dated January 8, 2014.

As noted in the reconsideration decision, the appellant entered into an EP (employment plan) for a two-year term from April 16, 2013 through April 16, 2015, and received income assistance. The section on the first page of the EP, "A note about your employment plan", states: "It is important that you follow through with the conditions of the EP. If you are unable to follow through please advise the ministry. If you fail to comply with your EP you will be ineligible for assistance." In section 3 of the EP, Conditions of the Plan, it states, "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(1) to (f)." The name of the EPBC contractor and its telephone number is provided in section 3(c) and the following details are set out in section 3(d):

- The appellant will contact the EPBC contractor by Thursday April 25, 2013 to have an intake appointment booked with the contractor.
- As a condition of continued eligibility for assistance, the appellant will participate in EPBC programming regularly and as directed by the EPBC contractor.
- The appellant will work with the EPBC contractor to address any issues that may impact his employability and will complete all tasks assigned including any activities that may be set out in an action plan.
- The appellant will notify the contractor at its telephone number if he is unable to attend a session or when he starts or ends any employment.
- The appellant understands that if he fails to comply with the conditions of his EP, he will be ineligible for assistance under the *Employment and Assistance Act*.
- The appellant will declare all income and report any changes to the ministry and will attend all ministry review appointments as required.

The second page of the appellant's EP contains section 5, Compliance with Employment Plan and Actions for Non-Compliance, which provides that to be eligible for assistance, each applicant must,



when required to do so, enter into an EP and comply with the conditions set out in the EP. The second page of the appellant's EP also contains the following acknowledgement above the appellant's signature and date of April 17, 2013:

I acknowledge that it is a condition of eligibility that I sign this employment plan and that I comply with the conditions set out in this plan, including any condition to participate in a specific employment-related program. ...

I further acknowledge and understand that, if the ministry refers me to a specific employment-related program, I will participate fully and to the best of my ability in the activities required by the ministry contractor. ...

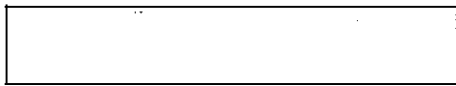
As stated in the reconsideration decision, the appellant signed an EP on April 17, 2013. On November 27, 2013, the EPBC contractor advised the ministry that the appellant had briefly attended their office on November 26, 2013 and updated an action plan, but that the appellant failed to attend his next appointment with the EPBC contractor scheduled for November 27, 2013. The ministry advised the appellant in the November 27, 2013 letter that he had to contact the EPBC contractor by December 5, 2013. The reconsideration decision notes that on December 5, 2013, the EPBC contractor advised that the appellant had not made contact with them and closed his file. The reconsideration decision states that the appellant called the ministry on January 3, 2014 and advised the ministry that he was in the process of trying to relocate to another city as he had employment opportunities there.

In his submissions on the request for reconsideration, the appellant wrote:

- Moving to different locations continued to find jobs
- Couldn't find stable residence
- Moving to different towns
- Need more job opportunities and programs
- Need updated resume

The panel makes the following findings of fact:

- The appellant entered into an EP on April 17, 2013;
- The appellant did not attend an appointment on November 27, 2013 with the EPBC contractor; and
- The appellant did not contact the EPBC contractor on or before December 5, 2013.



PART F – Reasons for Panel Decision

The issue on this appeal is the reasonableness of the ministry's reconsideration decision of January 23, 2014, denying the appellant income assistance for non-compliance with an employment plan (EP), as required by section 9 of the *Employment and Assistance Act* ("EAA").

Section 9(1) of the EAA states that in order for a family unit to be eligible for income assistance, each applicant, when required to do so by the minister, must (a) enter into an employment plan, and (b) comply with the conditions of the employment plan. Subsection 9(3) provides that the minister may specify the conditions in an employment plan including, without limitation, participation in a specific employment-related program that will assist the applicant in finding employment or becoming more employable. Subsection 9(4) of the EAA also requires that if an employment plan includes a condition requiring an applicant 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 ministry's position is that the denial of income assistance was reasonable. The ministry says that the appellant entered into and signed an EP on April 17, 2013 and agreed to the conditions in the EP, which included attending at the EPBC contractor's office as required, and that he knew he was obliged to comply with the conditions of the EP in order to receive income assistance. At the hearing, the ministry said the appellant had on several occasions missed appointments with the EPBC contractor and knew that he was required to attend appointments with the EPBC contractor in order to continue to receive assistance. The ministry says that the appellant failed to comply with the terms of the EP because on November 26, 2013 he made an appointment with the EPBC contractor for the next day, November 27, 2013, but did not show up for the scheduled appointment, or contact the EPBC contractor to reschedule the appointment.

The ministry noted that the appellant said in his submissions on reconsideration that he was moving to another city, but that he did not provide to the ministry or to the EPBC contractor confirmation that he had moved to the other city as the reason he missed the scheduled appointment on November 27, 2013. The ministry also says that the appellant's submission on reconsideration that he needs assistance with his resume is exactly the services provided by the EPBC contractor as part of his EP. The ministry says further that the appellant did not provide to the ministry any confirmation or evidence that he meets any of the listed categories under section 29(4) of the EAR for exemption from the consequences of failing to meet the requirements of the EP. The ministry submits that the appellant is well aware of the requirement to comply with the conditions of the EP to receive assistance and says that the appellant did not explain what prevented him from keeping his scheduled appointment with the contractor on November 27, 2013, or from contacting the EPBC contractor by December 5, 2013, as required by the legislation.

The panel notes that section 29 of the EAR applies to the consequences of not meeting employment related obligations under section 13 of the EAA – this does not apply to the appellant as his EP and its obligations arise under section 9 of the EAA.

The panel finds that the appellant was aware of the terms and conditions of his EP, including that he was required to contact the EPBC contractor and attend scheduled appointments with the EPBC contractor. The panel finds that the appellant did not provide any evidence that moving to another city caused him to miss his appointment with the contractor on November 27, 2013, and prevented

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him from contacting the EPBC contractor on or before December 5, 2013, as he was required to do. The panel finds that the ministry's decision to deny the appellant income assistance for failing to comply with the terms of the EP as per section 9 of the EAA is reasonably supported by the evidence. The panel confirms the reconsideration decision.