

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (Ministry) Reconsideration Decision dated April 23, 2014, which denied the Appellant further income assistance due to non-compliance with her employment plan. Section 9 of the Employment and Assistance Act directs that a recipient must comply with the terms of an employment plan in order to maintain eligibility for income assistance. The Ministry found that the Appellant failed to make reasonable efforts to attend or participate in an employment-related program which formed part of her employment plan and denied her further assistance.

PART D – Relevant Legislation

Employment and Assistance Act (EAA) section 9

PART E – Summary of Facts

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.

Information before the Ministry at reconsideration included:

- A copy of the Appellant's Employment Plan, signed October 31, 2013, which includes a requirement to attend an employment service contractor and to participate in programming as directed.
- The Appellant's Request for Reconsideration dated 2014 [sic], in which the Appellant stated that she was unaware that her assistance would be stopped due to not being able to attend the employment program, her son has a disability which means she has to pick him up on half days, making it extremely difficult to attend employment search groups. She stated that she has contacted a program to see about after school programming.
- A copy of a Referral for Learning Support Services, dated April 8, 2014, referring the Appellant's child to a school psychologist
- A copy of a Canada Child Tax Benefit and BC Family Bonus Notice, dated August 20, 2013.
- A copy of a Student & Instructional Services Permission for Release of Information, dated April 10, 2014.

The Appellant stated in her Notice of Appeal dated April 25, 2014, that she has not been able to pay her rent for the past month and she has explained her situation to the Ministry numerous times. She stated that it is difficult to attend, that she offered to provide more doctor's notes, but this seemed not to be taken into consideration. In her Request for Reconsideration stamped as received April 25, 2014, which was not before the Ministry at reconsideration, the Appellant stated that she has had some issues with her oldest son's school asking for different medication or he will need to start attending half days due to his behavior, which is caused by ADHD and having a child with a high risk disability is challenging. She stated that she has a child who just started kindergarten and one who will start in September; therefore she has to walk back and forth to the school six times a day. She stated that providing support for her children and dealing with her son's behavior has made it next to impossible to attend the employment centre appointments. She stated that she is capable of working and would like to work.

The Ministry stated that there is a requirement under section 9 of the EAA to comply with the requirements of an employment plan in order to remain eligible for income assistance. The Ministry stated that the Appellant signed an employment plan on October 13, 2013 requiring her to contact the service provider if she had any problems, initialing every section, and the conditions were explained to her. On December 6, 2013, the Ministry was contacted by the service provider who advised that the Appellant had not contacted them. On December 23, 2013, the Appellant contacted the Ministry and was advised that she must work with the service provider in order to remain eligible for income assistance. On December 27, 2013, a Ministry worker spoke with the Appellant, who stated that she did not have appropriate child care. The Ministry stated that they advised the Appellant to comply with her employment plan and contact the service provider. The Ministry stated that on January 7, 2014, the Appellant called them and advised that she had an appointment with the service provider on January 10. On March 25, 2014, the Ministry was advised by the service provider that the Appellant had not attended any appointments. On April 1, 2014, the Appellant advised the Ministry that she had an appointment with the service provider on April 8. On April 2, 2014, the Appellant attended a Ministry office and stated that she did not know the location of the service provider. The Ministry advised her that their address is on the Employment Plan. The Appellant stated that she was having difficulty finding care for her child. The Ministry asked why the Appellant did not attend the service provider when her child was in school, but did not receive an explanation.

In response to questions from the Panel, the Ministry stated that when the Appellant advised them of her child care problems they gave her another opportunity to attend. The Ministry stated that the employment service provider would guide the Appellant to resources to deal with barriers to employment; however there is no note in the file to confirm that.

The Panel makes the following findings of fact:

- The Appellant signed an Employment Plan on October 31, 2013, which included a requirement that she make contact with an employment service provider and participate in programming as directed.
- There is no record of the Appellant ever attending the service provider.
- The appellant did not provide the ministry with any documentation that she had a medical reason that precluded her from participating in her Employment related program.

PART F – Reasons for Panel Decision

The issue in this appeal is the reasonableness of the Ministry's decision dated April 23, 2014, which denied the Appellant further income assistance due to non-compliance with her employment plan. Section 9 of the Employment and Assistance Act directs that a recipient must comply with the terms of an employment plan in order to maintain eligibility for income assistance. The Ministry found that the Appellant failed to make reasonable efforts to attend or participate in an employment-related program which formed part of her employment plan and denied her further assistance.

Legislation**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.
- (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 Appellant's position is that the problems of dealing with a child with a disability have made it extremely difficult to follow through on the requirement to attend appointments with the employment service provider.

The Ministry's position is that the Appellant did not disclose the problems with her child at the time she signed the Employment Plan and she did not attend any appointment with the service provider over the period October, 2013 to April, 2014, therefore she did not comply with the conditions of her employment plan.

The Panel notes that the Appellant signed an Employment Plan, initialling every section. The plan required the Appellant to attend a first appointment with a service provider and to participate in their programming regularly and as directed, to work with the service provider to address any issues that may impact employability and to complete all tasks assigned. The evidence provided by the Ministry shows that the Appellant never attended her first appointment. The Appellant's explanation is insufficient to account for the inability to attend a single appointment in a five month period, nor did she ever advise the contractor if she was unable to attend, as required by the employment plan.

The Panel confirms the Ministry's decision as reasonably supported by the evidence.