

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 July 3, 2014, which denied the appellant Income Assistance (IA), as the Ministry determined that she was non-compliant with the conditions of her employment plan, (EP), contrary to Section (s.) 9(1) and (4) of the Employment Assistance Act (EAA). Specifically the ministry determined that the appellant has not demonstrated she has made any efforts to comply with the conditions of her EP, or that she has any mitigating circumstances that prevented her from complying with the conditions of her EP.

PART D – Relevant Legislation

Employment and Assistance Act (EAA) s. 9(1) and (4)

PART E – Summary of Facts

The ministry was not in attendance at the hearing. After confirming that the ministry were duly notified, the hearing proceeded pursuant to section 86(b) of the Employment and Assistance Regulation.

A summary of the evidence before the Ministry at the time of the reconsideration is as follows:

1. A copy of the appellant's employment plan (EP) signed by the Appellant on April 16, 2014. The appellant's EP included the following components:

Plan Conditions

Conditions of the EP require that the appellant participate fully to the best of her ability in the activities required by the ministry or Employment Programs of British Columbia (EPBC) contractor as set out in sections 3(a) to (f) of her EP.

Section 3(a) sets a start date of April 16, 2014; (b) lists the name of the Program/ Service as EPBC; (c) provides the name of the contractor and a telephone number; (d) states that as a condition of continued eligibility for IA the appellant will participate in EPBC programming regularly and as directed by the EPBC contractor. She must also work with the EPBC contractor to address any issues that may impact her employability and will complete all tasks assigned including any activities that may be set out in an action plan. The appellant agreed to contact the contractor at the telephone number listed in part (c) of her EP if she is unable to attend a session or when she starts or ends employment. If the appellant fails to comply with the conditions of her EP she understands that she will be ineligible for IA under the EAA. The appellant also understands that she must report all income, and report any changes to the ministry and attend all ministry review appointments as required; (e) date referred April 16, 2014; (f) reporting requirements as per program requirements.

Section 5: Compliance with EP and Actions for Non-Compliance

To be eligible for assistance, each applicant or recipient in a family unit must, when required to do so, enter into an EP, and comply with the conditions set out in the EP. The purpose of an EP is to help a person a) find employment, or b) become more employable. Assistance will be discontinued if a person a) fails to demonstrate reasonable efforts to participate in a program in which he or she is required to participate or b) ceases except for medical reasons, to participate in the program.

Section 6: Acknowledgments

The appellant acknowledges that it is a condition of eligibility that she sign her EP and that she comply with the conditions set out in her EP, including any conditions to participate in a specific employment-related program. The appellant understands that ministry contractors have the ability to report back on her activities. She also understands that she may be required to provide verification of her compliance with the conditions of her EP, including proof of active work search and/or records of attendance or participation in an employment related program as required by the ministry.

The appellant further agrees that she acknowledges and understands that, if the ministry refers her to an employment-related program that she must participate fully and to the best of her ability in the activities required by the ministry contractor.

In accordance with the conditions of the EAA the appellant acknowledges that she understands that if she does not comply with the conditions of her EP, the assistance issued to her or her family will be discontinued. The appellant also acknowledges that she understands that participation in an EP is not open to appeal.

2. A copy of the appellant's Request for Reconsideration signed by the appellant July 2, 2014.

In Section 3 of the Request for Reconsideration the appellant is asked to provide her reason for making her

request. In this section the appellant reported that she has a five year old child who is not in school and she is also looking after a 9 year old relative. She is a single mother trying to look for a job. She found a job but was unable to get a ride to work. The appellant concludes by reporting that she finally got her child into summer school, has a doctor's appointment to see if she is under stress or depressed and has been attending EPBC. The appellant requested reinstatement of her assistance as her rent is currently due.

3. A copy of a non-compliance letter sent to the appellant by the ministry dated May 1, 2014, advising her to contact EPBC for an appointment and that her assistance would be held for proof she was working with EPBC.
4. A copy of a non-compliance letter sent to the appellant by the ministry dated June 12, 2014, informing her that she is no longer eligible for income assistance and informing her of her right to Reconsideration.
5. Ministry records report among other things the following:
 - The appellant is a sole employable recipient with one dependent child over three years of age.
 - On April 16, 2014, the appellant entered into an EP with conditions
 - On April 22, 2014, the appellant was scheduled to meet with EPBC for an orientation session on April 29, 2014, and two assessment appointments on May 1st and 2nd, 2014.
 - The appellant failed to attend orientation appointment with EPBC on April 29, 2014, and did not contact either the ministry or EPBC to reschedule.
 - EPBC attempted to contact the appellant to reschedule the appointments.
 - On May 1, 2014, the ministry sent the appellant a letter advising her that she had failed to comply with the conditions of her EP and she was told to contact EPBC and set up an appointment. She was also advised that her assistance would be held for proof that she was working with EPBC.
 - On May 2, 2014, EPBC reported that they were not successful in their attempts to contact the appellant and mailed a letter to her advising that if they had not heard from her by May 9, 2014, her EPBC file would be closed.
 - On May 13, 2014, EPBC reported that the letter they sent the appellant was returned.
 - On May 14, 2014, the ministry discussed with the appellant the return of the mail from EPBC and advised the appellant in person to reconnect with EPBC by May 28, 2014.
 - On June 12, 2014, the ministry sent the appellant a letter advising her that she was not eligible for assistance because she failed to comply with the activities set out in her EP because she failed to participate in employment programming with EPBC.
 - On June 23, 2014, EPBC reported the appellant rescheduled her orientation session for July 2, 2014, and assessment appointments for July 3 and 4, 2014.
 - On July 2, 2014 EPBC reported that the appellant failed to attend the orientation session.

In the appellant's Notice of Appeal dated July 15, 2014, submitted to the Tribunal office by the appellant after the Reconsideration Decision, and prior to the hearing, she reports that she is in need of assistance for rent, has an eviction notice and is a single mother with one child. In a letter dated July 11, 2014, accompanying the appellant's notice of appeal she further reports that on March 10, 2014, she fled an abusive relationship, lost all of her furniture, and moved in with her father in another city where she was unable to find a new home. As a result, she moved to another city where she lived with family until she was able to find a place for herself and

her child to live. She was then referred to EPBC by the ministry and was going there every day to look for work and had no idea she had to see a case manager. By the time she found out it was too late and she was denied assistance for July. She further reports that she is on the verge of being evicted and is going through a depression. She really needs help and is waiting to see a councilor to seek treatment so she will never have to go through this again.

At the hearing the appellant submitted a biography which included references attesting to her good character, a resume and other information regarding her personal history. The panel finds that the appellant's submission to be in support of her argument.

The appellant told the panel she had tried to find an advocate to assist her with her appeal but had been unsuccessful. She then stood by the record adding that she had moved into a new residence June 1, 2014, and that her mail had not been forwarded to her by her cousin with whom she had been living. The appellant also told the panel that she was now attending EPBC as required, and she was told by EPBC that they would notify the ministry that she was now in compliance. No other evidence was submitted.

The panel determined the appellant's oral testimony was admissible under s. 22(4) of the EAA as it was in support of the records before the minister at reconsideration and particularly because it helped the panel to clarify the date of her move to her current residence and her reported status with EPBC.

Findings of Facts:

- The appellant is a single employable recipient with one dependent child over the age of 3.
- On April 16, 2014, the appellant entered into an EP with conditions.
- The appellant failed to attend her orientation session with EPBC April 29, 2014, and failed to contact either the ministry or EPBC to reschedule a new set of appointments.
- On May 2, 2014, EPBC reported that they were not successful in their attempts to contact the appellant and mailed a letter which was returned to them May 13, 2014.
- On May 14, 2014, the ministry discussed with the appellant the return of the mail from EPBC and advised her in person to reconnect with EPBC by May 28, 2014.
- On June 12, 2014, the ministry sent the appellant a letter advising her that she was not eligible for assistance because she failed to comply with the activities set out in her EP and because she failed to participate in employment programming with EPBC.
- On June 23, 2014, EPBC reported the appellant rescheduled her orientation session for July 2, 2014, and assessment appointments for July 3 and 4, 2014.
- On July 2, 2014, EPBC reported that the appellant failed to attend the orientation session.

PART F – Reasons for Panel Decision

The issue to be determined is whether the Ministry reasonably denied the Appellant IA, as the Ministry determined that she was non-compliant with the conditions of her EP, contrary to Sec. 9 of the Employment Assistance Act. Specifically the ministry determined that the appellant has not demonstrated she has made any efforts to comply with the conditions of her EP, or that she has any mitigating circumstances that prevented her from complying with the conditions of her EP.

Employment and Assistance Act

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.*

(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 appellant's position is that she was unable to keep her appointments with EPBC because she didn't have daycare for her child and didn't understand the conditions of her EP. The ministry's position is that the appellant was found to be non-compliant with the conditions of her EP, contrary to s. 9(1) and (4) of EAA and is therefore ineligible to receive IA.

Argument

In Section 3 of the appellant's Request for Reconsideration dated July 2, 2014, and in her Notice of Appeal dated July 15, 2014, and accompanying letter of July 11, 2014, the appellant argued that she is a single mother with a child over the age of 3 and was unable to keep her first set of appointments with EPBC because she did not have daycare. After she was referred to EPBC by the ministry she argued that she went there every day to look for work and had no idea she had to see a case manager. By the time she found out it was too late and she was denied assistance for July. She further argued that she is going through a depression, needs assistance for rent and has an eviction notice.

At the hearing the appellant also argued that the reason her mail from EPBC was returned was because she had moved into a new residence June 1, 2014, and that her mail had not been forwarded to her by her cousin with whom she had been living. The appellant argued that although she did sign her EP, she did not read or understand what she was agreeing to. The appellant argued that since missing her July 2, 2014, orientation appointment with EPBC, she has been attending appointments as required, and she was told by EPBC that they would notify the ministry that she was now in compliance.

The ministry argued in their Reconsideration Decision dated July 3, 2014, that by signing her EP the appellant confirmed that she had read, understood and agreed to the conditions specified in the plan. She agreed to participate and complete all tasks assigned to her by EPBC and as of July 2, 2014, had failed to attend either of two scheduled orientation sessions, the first on April 29, 2014, and the second on July 2, 2014, and two follow-up assessment appointments scheduled for May 1st and 2, 2014. The appellant was aware of the consequences

of not complying with the conditions of her EP and although she advises that she did not have childcare, she failed to contact EPBC to make other arrangements to reschedule her workshops when she did not have any childcare. In addition, the ministry also argued that it states on the EP to contact the ministry if she was unable to follow through with her plan and she failed to contact the ministry regarding issues with childcare. In conclusion, the ministry argued that even though the appellant has advised that she has a doctor's appointment to see if she is under stress or depressed, she has not submitted any medical documentation that indicates she suffers from any medical issues that would impact her ability to attend employment programming. For these reasons the ministry argued that as the appellant does not meet the legislated criteria set out above in to s. 9(1) and (4) of EAA and is therefore not eligible for assistance.

Panel Findings

Under EAA section 9(1), to be eligible for IA, the recipient, when required to do so by the minister, must enter into an employment plan, and comply with the conditions in the employment plan. Under sub-section (4), if an employment plan includes a condition requiring the recipient 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 ceases, except for medical reasons, to participate in the program.

The panel finds that on April 16, 2014, the appellant entered into an EP with conditions. One of the conditions required for continued eligibility for IA is that she participates in EPBC programming regularly and as directed by the EPBC contractor. Another condition is that she contact the contractor at the telephone number listed in part (c) of her EP if she is unable to attend a session or when she starts or ends employment. If the appellant fails to comply with the conditions of her EP she understands that she will be ineligible for IA under the EAA.

Although the appellant argued at the hearing that she did not read or understand the conditions of her EP, the panel finds that by signing her EP the appellant confirmed that she had read, understood and agreed to the conditions specified in the plan and therefore the ministry was reasonable in their determination that she did. Furthermore, the panel finds that the ministry reasonably determined that the appellant failed to meet the conditions of her EP by failing to attend either of two scheduled orientation sessions, the first on April 29, 2014, and the second on July 2, 2014, and two scheduled assessment workshops on May 1st and 2, 2014, and did not call EPBC to reschedule. The panel further finds that the ministry reasonably determined appellant was aware of the consequences of not complying with the conditions of her EP and was provided with a written reminder from the ministry in a letter dated May 1, 2014, and in a letter from EPBC dated May 2, 2014, which was returned to them May 13, 2014. The appellant was also given a verbal reminder of the need to comply with her EP during an in person conversation with the ministry on May 14, 2014. While the appellant argued at the hearing that the reason the letter from EPBC was returned to them was because her mail was not forwarded to her new address when she moved June 1, 2014, the panel finds the ministry reasonably determined that she should have received this letter as it was returned to EPBC May 13, 2014, well in advance of her June 1, 2014 move.

The panel further finds that although the appellant argued that the reason she did not attend her April 29, 2014, orientation session was because she had no childcare, this statement directly contradicts with the argument she made in her Notice of appeal regarding her daily attendance at EPBC to look for work and not knowing she was required to see a case manager. Furthermore, ministry records show that she failed to contact the ministry as required in her EP to discuss her need for childcare, and she also failed to contact EPBC to make arrangements to reschedule her workshops.

For these reasons the panel finds the ministry reasonably determined that the appellant did not comply with the conditions of her EP and failed to make a reasonable efforts to participate in the employment program as set out

above in s. 9(1) and (4)(a) of EAA

The panel finds that although the appellant argued in her Request for Reconsideration that she has a doctor's appointment to see if she is under stress or depressed, she chose not to raise this issue at the hearing, nor did she submit any medical documentation verifying that she suffers from any medical issues that would impact her ability to attend employment programming. For these reasons the panel finds that the ministry reasonably determined that there were no documented medical reasons presented causing the appellant to cease participation in the program as set out above in s. 9(4)(b) of EAA.

Therefore the panel finds that the ministry's reconsideration decision was reasonably supported by the evidence and is a reasonable application of the legislation based on the circumstances of the appellant and confirms the decision. The appellant is not successful in her appeal.