

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the ministry) reconsideration decision dated May 27, 2014, which held that the appellant is not eligible for income assistance due to a failure to comply with the conditions of his Employment Plan (EP) as required by section 9 (1) of the Employment and Assistance Act (EAA) given the appellant failed to demonstrate reasonable effort to participate in his EP and has not ceased to participate for medical reasons pursuant to section 9 (4) of the EAA.

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.

The following evidence was before the Ministry at the time of reconsideration:

- 1) Request for Reconsideration signed and dated May 19, 2014, which states the following:
 - On April 25, 2014 he had an in-person meeting with the ministry regarding his May 2014 cheque, in which he provided proof that he rescheduled his appointment with the EPBC (Employment Program of British Columbia) for April 1, 2014, but was told he was denied his assistance cheque;
 - For the months of March and April he was dealing with the death of a childhood friend and had teeth problems for which he had an appointment scheduled for April 1, 2014;
 - The teeth problems had caused pain and hunger as he could not eat due to the pain;
 - He rescheduled his April 1, 2014 appointment with EPBC to April 10, 2014 and provided proof of this;
 - He attended the April 10, 2014 appointment with EPBC but left early due to teeth pain and sickness brought on by hunger. He went to his dentist without an appointment and the dentist pulled out some teeth;
 - Due to the dental work done on April 10, 2014, the appellant was required to eat specific foods, and had a doctor's note confirming this, but he was denied a food voucher as it was not deemed an emergency;
 - He rescheduled his April 10, 2014 appointment to April 23, 2014 but forgot to attend due to concerns regarding his assistance cheque and weakness brought on by pain and hunger;
 - Since he did not receive his May cheque as of April 23, 2014, he went to the ministry office to show proof he had rescheduled his April 23, 2014 appointment to April 30, 2014 but was denied assistance;
 - As soon as he can provide proof that he left his appointment with the EPBC contractor to go to the dentist, he will; and
 - Now with the hunger he is also stressed and not sleeping.
- 2) An appointment card from a dental office which indicates an appointment for February 17, 2014 at 2:30pm;
- 3) Three appointment cards from EPBC that indicate appointments for April 10, 2014 at 9:45am, April 23, 2014 at 9:00am and April 30, 2014 at 10:30am;
- 4) A 2- page program for a memorial service for March 7, 2014 at 10:00am, with the individual's death occurring February 24, 2014;
- 5) A 2-page program for a memorial service for February 1, 2014 at 2:00pm, with the individual's death occurring January 23, 2014;
- 6) EP signed and dated February 18, 2014, acknowledging the appellant is aware of the consequences of not complying with the EP and aware requirements of his EP that state the appellant will:

- Contact EPBC within five business days of signing the EP;
- Participate in EPBC programming regularly and as directed by the contractor;
- Work with EPBC to address any issues that may impact employability and complete all tasks assigned ;
- Contact EPBC if he is unable to attend a session.

In the Notice of Appeal, signed and dated June 6, 2014, the appellant states that;

- he disagrees with the ministry and that he did comply with his EP;
- one appointment was missed due to a funeral for a friend/family but it was rescheduled for April 1, 2014;
- the April 1, 2014 was missed due to not feel well as a result of not eating;
- a doctor's note was provided to the ministry regarding the need for health supplements but this was denied on February 25, 2014;
- for 2 months he suffered great pain due to his teeth and had dentist appointment during this time as well;
- on April 10, 2014 he left his appointment with EPBC due to teeth pain, went to his dentist, who extracted teeth, and then rescheduled his the appointment for April 23, 2014;
- he forgot his April 23, 2014 because he was worried about his cheque but rescheduled it for April 30, 2014;
- on April 23, 2014 he waited for 5 hours to see a ministry worker but did not get the opportunity;
- on April 25, 2014 he met with the ministry and was told he was denied assistance due to non-compliance with his EP even though he showed the worker that he rescheduled his appointment to April 30, 2014, had proof of doctor's appointments and of two funerals;
- on April 30, 2014 he did not attend his appointment with EPBC because he was upset and stressed due to no money;
- on June 1, 2014 he was evicted from his home and is unable to get his belongings.

At the hearing the ministry relied on its reconsideration hearing.

PART F – Reasons for Panel Decision

The issue before the panel is the reasonableness of the ministry's reconsideration decision dated May 27, 2014, which held that the appellant is not eligible for income assistance due to a failure to comply with the conditions of his Employment Plan (EP) as required by section 9 (1) of the Employment and Assistance Act (EAA) given the appellant failed to demonstrate reasonable effort to participate in his EP and has not ceased to participate for medical reasons pursuant to section 9 (4) of the EAA.

Section 9 of the EAA states that:
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:

The appellant's position is that he did comply with his EP requirements but was unable to complete his appointment due to teeth pain. He argues that he had 2 funerals to attend and teeth pain which prevented him from attending his scheduled appointments. Furthermore, he argues that he provided a letter from his dentist that stated that he needs a health supplement and this demonstrates he had dental work done and confirms a medical reason that prevented him from participating in his EP. Since he was denied a health supplement, he was also too hungry and weak to attend his appointments with EPBC.

The Ministry's Position:

The ministry's position is that on February 18, 2014 the appellant signed his EP which demonstrates that he understood that he is ineligible for income assistance if he does not comply with the conditions of his EP; one condition was to participate in the employment program (EPBC). On this date the ministry representative also advised the appellant to inform EPBC of his dental appointments and other current medical issues such as depression and limb pain. Between February 18, 2014 and April 25, 2014, the appellant had a scheduled appointment and several rescheduled appointments with EPBC. He attended only one and left part way through the appointment, thus not completing his initial appointment with the contractor or making reasonable efforts to participate in his employment program. The ministry does not consider mourning due to the passing of 2 friends, teeth pain and extractions, hunger, not feeling well and forgetting as events that would preclude the appellant from attending and/or completing his first appointment with EPBC. Furthermore, the ministry argues that the appellant did not attend his April 30, 2014 appointment and did not provide information as to why he did not attend. Finally, the ministry's position is that the appellant has not provided confirmation from a medical practitioner that a medical reason precluded him from participating or caused him to cease to participate in the EP as pursuant to section 9(4)(b) of the EAA.

The Panel's Decision:

Section 9 of the EAA sets out that to be eligible for assistance, the recipient must, when required to, enter into an EP, and comply with the conditions of the plan. The panel notes that evidence establishes that the appellant was aware of the requirements of his EP and aware of the consequences of not complying with the EP. The appellant's EP contained the condition that he attend an employment program and he failed to make reasonable efforts to participate.

The appellant argues that he attended 2 funerals. The panel acknowledges that the appellant's two friends did pass away. However, the panel notes that, the passing of one friend was on January 23, 2014 and his funeral was February 1, 2014, which was prior to the appellant attending his

appointment with the ministry on February 18, 2014, when he signed his EP. The appellant's second friend passed away on February 24, 2014, thus giving the appellant 3 business days between signing the EP and his friend's death to contact the EPBC contractor to set up his initial appointment but he did not make contact until after the funeral.

The appellant also argues that he was in pain due to problem with his teeth and teeth extractions. As a result of his teeth pain, he was hungry and weak, as he could not eat, and for these reasons he could not attend or complete his appointments with EPBC. The panel notes that the appellant has provided one appointment card for a dental appointment dated February 17, 2014, which was one day prior to him signing his EP. However, there are no other appointment cards or evidence to establish that he attended dental appointments immediately prior to, or on the day of his schedule appointments with EPBC. The panel notes that the appellant has made reference to two letters from his dentist that, in his opinion, confirm he had a medical reason to miss his appointments with EPBC; one which states that he needs a health supplement, and a second that he will provide as soon as he can. Since these letters were not made available to the panel, the panel finds that the appellant did not provide confirmation of a medical condition that prevented him from participating in his employment program as required by section 9(4)(b) of the EAA.

The ministry also argues that EPBC rescheduled the appellant's appointments several times thus giving him reasonable opportunity to attend and thus comply with the conditions of his EP and that he has not provided confirmation of a medical condition the prevented him from participating. The panel notes that the appellant did have his appointments rescheduled several times, he attended one but left before it was complete and he did not attend his April 30, 2014 appointment at all. The panel finds that the appellant did not demonstrate reasonable efforts to participate in his employment program and did not have a medical condition that prevented him from participating this condition pursuant to section 9(4) of the EAA has not been met. As participation in an employment program was a condition of his EP the panel finds the appellant did not comply with the conditions in his EP.

Conclusion:

The panel therefore finds that the ministry's decision to deny the appellant income assistance due to failure to comply with the conditions of his EP was a reasonable application of the legislation and was reasonably supported by the evidence. The panel therefore confirms the ministry's decision.