

APPEAL #

### PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (ministry) reconsideration decision of June 18<sup>th</sup>, 2014 wherein the ministry determined the appellant was not eligible for income assistance as set out in section 9(1)(b) Employment and Assistance Act (EAA) because she did not comply with the conditions stated in her Employment Plan (EP) as she failed to demonstrate reasonable efforts to participate in the program and did not cease to participate in the program for medical reasons as set out in section 9(4) EAA.

### PART D – Relevant Legislation

EAA – section 9

## PART E – Summary of Facts

The evidence before the ministry at the time of reconsideration:

- EP dated December 19<sup>th</sup>, 2013;
- Request for Reconsideration signed June 13<sup>th</sup>, 2014;

On December 19<sup>th</sup>, 2013 the appellant signed an EP referring her to the Employment Program of BC (EPBC) acknowledging that it is a condition of eligibility for income assistance that she comply with the conditions set out in her EP.

Specifically, in her EP, she agreed to:

- Attend the EPBC by January 7<sup>th</sup>, 2014, if she was not contacted by EPBC prior to this date;
- Attend and participate in the EPBC programming as directed by EPBC;
- Work with the EPC to address any issue that may impact her employability;
- Complete all tasks assigned including any activities that may be set out in her action plan, and
- Notify the EPBC if she is unable to attend a session or when she starts or stops any employment.

The EAW and the appellant reviewed her obligations outlined within the EP and she signed the EP acknowledging that she understood her obligations and the consequences of being deemed non-compliant.

On May 21<sup>st</sup>, 2014 the contractor advised the ministry that the appellant had not attended her EPBC program since March 6<sup>th</sup>, 2014; had not responded to the compliance reminder letter that was mailed on April 2<sup>nd</sup>, 2014 or the compliance letter that was emailed to her on April 24<sup>th</sup>, 2014. The appellant's file was closed due to non-compliance. On May 29<sup>th</sup>, 2014 the appellant attended the ministry's office and advised the Employment and Assistance worker (EAW) that she had been sick, suffering from seizures but had not gone to the doctor or the hospital. The EAW discussed compliance versus non-compliance matters with the appellant and requested the appellant to provide a completed medical form from her doctor. The EAW explained that if the medical report did not support a medical reason for the appellant not attending EPBC then she would be deemed non-compliant and ineligible for assistance.

The following is the contractor's record of the communication with the appellant:

Communication	Occurred at	Result
Telephone to client	Mon Dec 30 2013	Left message
Telephone to client	Thu Jan 2 2014	Left message
Telephone to client	Fri Jan 3 2014	Left message
Email to client	Tue Jan 7 2014	Compliance reminder
Email to client	Wed Feb 26 2014	Compliance reminder
Telephone to client	Wed Mar 5 2014	Compliance letter
Mail to Client	Apr 2 2014	Compliance letter

On June 3<sup>rd</sup>, 2014 the appellant advised the EAW that her doctor would not complete the medical report and gave her a form for tests to be done. The appellant advised that this doctor was not her regular doctor and that her regular doctor practices in another community. The appellant further advised she was having other medical issues as well that were caused from a previous injury which she noticed when she was helping a friend deliver papers. The EAW advised the appellant that without medical documentation, which could also be provided to EPBC at any time during her referral period, she would not be eligible for assistance due to non-compliance with her EP.

At the hearing the appellant stated that she was not sure what to say. She stated that she did not comply with the conditions in her EP and was not able to get a letter from her doctor as he is in another community and she does not have access to any transportation.

APPEAL # \_\_\_\_\_

The ministry relied on the facts in the reconsideration decision.

## PART F – Reasons for Panel Decision

The issue under appeal is the reasonableness of the ministry's reconsideration decision wherein the ministry determined the appellant was not eligible for income assistance as set out in section 9(1)(b) EAA because she did not comply with the conditions stated in her EP as she failed to demonstrate reasonable efforts to participate in the program and did not cease to participate in the program for medical reasons as set out in section 9(4) EAA.

The legislation considered:

### Section 9 EAA

- (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 ministry argued that for a recipient to be eligible for income assistance the recipient must enter into an EP and comply with the conditions stated in the EP. The ministry argued the appellant signed the EP, acknowledged that she knew the conditions with the EP and the consequences is she did not comply with those conditions. The ministry argued the appellant failed to comply with the condition(s) in her EP when she failed to attend several scheduled appointments with the ministry's contractor; that the EAW had explained to the appellant several times the consequences of non-compliance; and, in addition the contractor sent letters to the appellant which she did not acknowledge. The ministry argued the contractor also attempted to re-schedule appointments for her to contact them but she did not respond. The ministry argued that it was not until the appellant's June income assistance cheque was withheld that the appellant attended the ministry office. The ministry argued the appellant did not provide any medical evidence to the EAW for not complying with her EP; that the appellant stated "she went tried to get a letter from her doctor but he is in a different community".

The appellant argued that she had concerns about the doctor in her community so did not go back to see him again.

The panel finds that the EP laid out several conditions, which the appellant acknowledged she understood by initialing that area of the EP; that she would attend and participate in EPBC as directed by the ministry contractor, and, that she will contact the contractor if is she is unable to attend a session.

The panel finds that the appellant did not attend the appointments scheduled by the contractor and did not contact the contractor of the EPBC to advise she was not able to attend scheduled appointments.

The panel finds the evidence does not support that the appellant demonstrated a reasonable effort to participate in the EP program by making contact with the contractor or responding to the ministry's letters to contact her.

In reference to section 9(4) EAA which states 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 panel notes the following:

The ministry's position is that the appellant did not demonstrate reasonable efforts to participate in her EP nor did she provide any medical reason why she was not able to participate in the program set out in the EP. The ministry's position is that when the EAW spoke to the appellant on May 29<sup>th</sup>, 2014 to inquire if there were any medical reasons that prevented her from working or participating in the contractor's program the appellant informed the ministry she had been sick, that she had had seizures. The ministry's position is that the appellant did not inform the contractor or her EAW that she had been sick and when requested by the EAW to provide have her doctor complete a medical form and complete a letter, she told the EAW that her doctor refused to complete the medical form, however she was well enough to assist with paper delivery. The appellant's position is that she couldn't get a letter from her regular doctor as his office is in another community and she didn't have any way to get there.

The panel finds there is no medical evidence to support that the appellant ceased to participate in the employment –related program for medical reasons.

Therefore, the panel finds the ministry's decision that the appellant did not comply with the conditions in her EP as set out in section 9(1)(b) EAA was reasonable.