

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the “ministry”) reconsideration decision of July 10th, 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 he did not comply with the conditions stated in his Employment Plan (EP) as he 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

Section 9, EAA

PART E – Summary of Facts

With the consent of the appellant the ministry had an observer attend the hearing.

The evidence before the ministry at the time of reconsideration:

- Cheque stub #539 showing a cheque was issued to the appellant on May 31st, 2014 for \$190.82;
- Payroll deductions online calculator in appellant's name indicates he earned \$194.48 for 11 hours work;
- Payroll deductions online calculator in appellant's name indicates the appellant earned \$194.48 on June 30th, 2014 for 11 hours work;
- 3 pages of tracking information provided by Employment Program of BC (EPBC) from the appellant's file;
- EP signed by the appellant on January 23rd, 2013 and ends on January 1st, 2015;

On January 23rd, 2013 the appellant signed an EP referring him to EPBC and acknowledging that it is a condition of eligibility for income assistance that he comply with the conditions set out in his EP.

Specifically, in his EP, he agreed to:

- Attend the EPBC to attend an orientation session;
- Attend and participate in EPBC as directed by the EPBC contractor;
- Will work with the EPBC contractor to address any issues that may impact his employability;
- Complete all tasks assigned including any activities that may be set out in his action plan, and
- Will notify the contractor if he is unable to attend a session or when he starts or stops any employment;
- That he will submit his Action Plan to the ministry within 30 days of signing his EP;
- Will participate with EPBC sub-contractors should a referral to any programs be deemed suitable;
- That he will declare all income and report any changes to the ministry.

On June 16th, 2014 the ministry received communication from EPBC advising that the appellant's file is now closed due to non-participation and/or non-compliance and that he last attended the program on April 3rd, 2014.

The following is the tracking information on the appellant's file:

Communication	Occurred at	Occurred with Result
Telephone to Client	Wed Dec 11 2013 10:11am	Left message
Telephone to Client	Mon Dec 23 2013 1:47pm	Left message
Telephone to Client	Thu Jan 02 2014 1:13pm	Left message
Telephone from Client	Wed Jan 08 2014 11:24am	Answered
Telephone from Client	Wed Jan 08 2014 11:46am	Answered
Telephone to Client	Thu Jan 23 2014 3:41pm	Left Message
Mail to Client	Fri Feb 14 2014 9:08am	Left Message
Telephone to Client	Mon Mar 03 2014 4:22pm	Answered
Telephone to Client	Tues Mar 25 2014 4:19pm	Left Message
Telephone to Client	Wed Apr 02 2014 10:18am	Answered
Telephone to Client	Mon May 5 2014 10:53am	Left message
Mail to Client	Mon Jun 02 2014 9:56am	Compliance letter

Calendar	Start Time	Status/Outcome
301	Thu Nov 21 2013 12:00pm	Attended
301	Thu Nov 21 2013 1:00pm	Attended
301	Thu Dec 19 2013 1:00pm	No-show
Name	Tue Mar 04 2:00pm	OVD-attended
301	Thu Apr 03 1:00pm	Attended

On June 25th, 2014 the appellant attended the ministry office concerning his July 2014 benefits and discussed his non-compliance/attendance at EPBC. The appellant advised the Employment and Assistance worker (EAW) that he had worked in April and June of 2014, was updating his resume and out pounding the pavement looking for employment. The EAW advised the appellant that his work in April and June did not constitute full-time work and because he had not provided any mitigating circumstances for his non-compliance with his EP that he was denied further income assistance.

On July 19th, 2014 the contractor was contacted for further information. EPBC indicated that the appellant was expected to attend the program every two weeks, conduct an independent active job search, and no job search records had been submitted to-date. EPBC indicated that on the summary provided (above) to the ministry the entries with numbers, i.e. 301 were workshops and the entries with names were with a case manager or administrative.

In the Reconsideration Decision the Reconsideration officer noted that the EP indicated that the appellant needed to provide a copy of his Action Plan and confirmation of attending workshops with his monthly stub, however, a review of the file shows no record of that being tracked by the ministry as compliance with his EP was being monitored based on negative reporting by the program only which was not received until June 2014.

In the Notice of Appeal the appellant stated that he has had a long ongoing battle with severe depression and deteriorating eyesight making it very hard to be social, that his up and down mood swings are taking its toll. One minute happy, work ready, the next crying depressed and thinking about my life and how I can keep on going. I have made an appointment to see my doctor to get my prescription and find out why my depression is getting worse and why my eyesight is rapidly going blurry. I still have to pay my mom back for paying the rent to stop an eviction but the landlord is still going to evict me. I have a computer and I am on two different job search programs. I check all job sites every day and upgrade my res (? - resume) to the job description with cover letter to suit. My severe depression and outbreak and allergic reactions to people make it difficult to find a job and leave my house anymore. It's getting worse, no money, no food, rent is paid (payed) for now. Please let me back to the program so I can find steady work.

The panel finds that since the appellant had not advised the ministry of his medical condition at the time of reconsideration, the statements in the appellant's Notice of Appeal that relate to his medical condition can't be said to be "in support" of information and records that were before the ministry, and therefore are not admissible.

The panel finds that the information that relates to his activities in searching for a job, i.e. searching on the computer, updating his resume, etc is information in support of the information and records that were before the minister when the decision being appealed was made and is admissible as evidence in accordance with section 22(4) EAA.

Before the hearing commenced the appellant presented the following documentation:

1. A letter dated July 22nd, 2014 from a medical practitioner (MP), not his family doctor, who provided his diagnosis of the appellant's medical condition and stated that the appellant was not presently fit for employment. The MP stated the appellant was to be reassessed regularly by his family doctor.
2. 4 pages of date stamped notes covering the period of October 28, 2002 to September 3, 2009. These pages are unsigned and untitled. The appellant advised these notes are from his medical file and were made by his family physician.

The ministry did not object to the panel receiving these documents for consideration.

The panel finds that these two submissions do not contain information in support of the information and records that were before the minister when the decision being appealed was made since the appellant had not

advised the ministry of his medical condition at the time of reconsideration. Accordingly the panel cannot accept these documents as evidence.

At the hearing the appellant read a prepared statement. He stated that "I have not fulfilled my responsibilities with the contractual agreement with ... (the ministry's contractor)." The appellant stated that a family event that occurred a few years ago had significant impact on his life and his activities at that time and he is still trying emotionally to deal with that event. The appellant stated that he has had difficulty understanding and processing the responsibilities that were required of him to be accountable for his participation in the program. The appellant stated that he has been seeing his family doctor for assistance. He stated that "although I have not proved to you that I have been participating by providing documentation of my participation, I have avidly searched out on the internet the available jobs. I have acquired jobs periodically, which shows my determination, to gain employment. I truly desire to have employment which gives me purpose and self-esteem; however, my health had been challenged by personal circumstances."

In response to questions from the ministry the appellant acknowledged that he did not inform the ministry (EAW) or the EPBC contractor of the family event and the impact that event was having on him. The appellant also stated that he still did not advise the ministry (EAW) in June 2014 about his medical condition when he was interviewed regarding his non-compliance with his EP. At that time he told the EAW that he was trying to find work, had worked a couple of days but hadn't reported the income because he was told he could earn \$200 a month, had gotten upset with EAW and left the office after being told he was being denied assistance.

The panel finds the appellant's oral testimony does contain information that is in support of the information and record that was before the ministry at the time the reconsideration decision was made and is admissible as evidence in accordance with section 22(4) EAA.

The ministry relied on its reconsideration decision and provided no additional information

The panel makes the following findings of fact:

1. The appellant signed an EP, with conditions, on January 23, 2013 with an end date of January 1, 2015;
2. A condition in the EP was that the appellant would notify the EPBC contractor if he was unable to attend a session or when he started or ended employment;
3. The appellant had not attended EPBC program since April 3, 2014;
4. The appellant did not claim a medical reason for not complying with the conditions in his EP.

PART F – Reasons for Panel Decision

The issue under appeal is the reasonableness of the ministry's reconsideration decision of July 10th, 2014 wherein the ministry determined the appellant was not eligible for income assistance as set out in section 9(1)(b) EAA because he did not comply with the conditions stated in his EP as he 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 the appellant had signed an EP that required that he attend the EPBC contractor's program twice a month, conduct an active job search and advise the contractor if he was unable to attend the program. The ministry argued the appellant only attended the program twice since November 2013 despite regular efforts by the contractor to get him back into compliance with his EP.

The appellant argued that his medical condition(s) had a significant impact on him which prevented him from participating in the program. He argued that he had difficulty understanding and processing his responsibilities but does understand now that he did not fulfil his responsibilities regarding the EP and would like the opportunity to participate in the program again. The appellant argued that the environment within the ministry office is not conducive for sharing sensitive and emotional information.

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

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

The panel finds the evidence does not support that the appellant demonstrated a reasonable effort to participate in the EPBC program by making contact with the contractor or advising the ministry that he was unable to attend the program.

The panel finds the appellant did not disclose to the EAW that he 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 his EP as set out in section 9(1)(b) EAA was reasonable and confirms the decision in accordance with section 24(1)(a) and section 24(2)(a) EAA.