



**PART C – Decision under Appeal**

In a reconsideration decision dated August 6, 2014, the Ministry of Social Development and Social Innovation (the Ministry) denied the Appellant income assistance (IA) due to non-compliance of his Employment Plan (EP) pursuant to Section 9 in the Employment and Assistance Act (EAA).

**PART D – Relevant Legislation**

Employment and Assistance Act, Section 9

## PART E – Summary of Facts

Preliminary Matter: Soon after the scheduled start time of the hearing, the Panel confirmed that the Appellant was notified of the hearing and then proceeded without the Appellant in attendance, hearing pursuant to the Employment and Assistance Regulation, section 86(b) that states “the panel may hear an appeal in the absence of a party if the party was notified of the hearing;”.

The evidence before the Ministry at the time of the reconsideration decision included the Appellant's Employment Plan (EP) which specified the Appellant:

- would attend his first appointment with an Employment Program of British Columbia contractor (EPBC) before November 22, 2013,
- would, as a condition of continued eligibility for assistance, participate in EPBC programming regularly and as directed by the EPBC,
- would work with the EPBC to address any issues and complete all tasks including any activities set in an action plan,
- would notify the EPBC if he was unable to attend a session,
- understands that if he failed to comply with the conditions of his EP, he would be ineligible for assistance,
- would declare all income and report any changes to the Ministry and attend all Ministry review appointments.

The Appellant acknowledged that compliance with the conditions as set out in the EP is a condition of eligibility by signing his EP on November 18, 2013.

The Request for Reconsideration summarized the interactions between the Appellant, the EPBC and the Ministry as follows:

- The EPBC informed the Ministry that the Appellant did not show up for his December 13, 2013 appointment, they called, left a message on the Appellant's answering machine, and the Appellant called back to reschedule.
- The EPBC reported on March 19, 2014 that the Appellant failed to attend appointments on January 3 and February 21, 2014. Also the Appellant arrived late for his appointments on January 6 and March 17, consequently the EPBC was not able to work with the Appellant.
- On March 19, 2014 the Ministry sent the Appellant a letter notifying him that he has not attended required appointments with the EPBC or has been too late to be seen by the EPBC and that the Ministry would like to talk to him as to why he has not followed through with his EP. The letter requests the Appellant contact the Ministry by March 26, 2014 and notes if he does not make contact, his assistance may be delayed.
- On July 10, 2014, the EPBC advised the Ministry that the Appellant did not attend his appointment on July 4, 2014 and had made no attempt to contact the EPBC to reschedule.
- On July 10, 2014 the Ministry sent a letter notifying the Appellant he was no longer eligible for IA because he did not follow through with his EP, specifically, he did not participate regularly or as directed by the EPBC as agreed in his EP and the EPBC reports he is in noncompliance to their program.

In the Request for Reconsideration, the Appellant states he had no funds for gas or to pay for his cell

phone bill, and therefore had no communication or transportation available for almost 3 weeks of early July. He states that he lives in a remote rural area and could not drive without gas or communicate without a cell phone during that time period.

At the hearing the Ministry reviewed the sequence of events that led to its decision. The Ministry stated that compliance with an EP includes attending scheduled meetings with the EPBC as well as regular contact with the EPBC if meetings cannot be met or if the Appellant's situation changes in any way.

Upon questioning from the Panel, the Ministry stated the applicants for IA do receive a copy of their signed EP, that the intake worker reviews the plan with the applicant and that both parties agree the plan is reasonable. The Ministry also stated there was nothing in the files to indicate the Appellant had responded to the Ministry's letter of March 26, 2014. The Ministry could not answer how much contact, if any, was made between the Appellant and the EPBC during the months of April, May and June.



## PART F – Reasons for Panel Decision

The issue in this case is the reasonableness of the Ministry's decision to deny the Appellant IA due to non-compliance of his EP pursuant to Section 9 in the EAA.

The Ministry argues the Appellant's history between signing his EP in November 2013 and July 10, 2014 demonstrates failure to attend many scheduled appointments, late arrivals for appointments and consequently no appointment occurred, and failure to contact EPBC to provide rationale for non-attendance at his scheduled appointments illustrates non-compliance of his EP.

The Appellant argues he has complied with his EP to the best of his abilities, given his financial and logistical situation. He argues that his last appointment with the worker at EPBC was not attended and no contact was made by him because he had no funds available for gas or to pay for his cell phone bill for three weeks in early July.

The pertinent legislation is as follows:

### ***EAA, Section 9***

#### ***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*

- [Redacted]
- (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 legislation is clear that to be eligible for IA, the Appellant, when required by the Ministry, must enter into an EP and comply with the conditions of that EP. In this case, the Appellant signed his EP acknowledging the conditions and the consequences of noncompliance. The facts indicate that despite circumstances (no funds for gas or cell phone) causing the Appellant to miss his July 4, 2014 appointment, his history of attendance with the EPBC from December 13, 2013 through July 10, 2014, illustrates several missed appointments, late arrivals and lack of contact or response to conditions of his EP. Therefore, the Panel finds that the ministry reasonably determined that the Appellant did not demonstrate a reasonable effort to participate, work with the EPBC or comply with his EP.

The Panel finds the decision of the Ministry to deny the Appellant IA due to non-compliance with his EP was a reasonably supported by the evidence and was a reasonable application of the applicable enactment in the circumstances of the Appellant and confirms the decision.