

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the Ministry) reconsideration decision dated August 15, 2014 which held that the appellant was not eligible for income assistance because he failed to comply with the terms and conditions of his employment plan as required by Section 9(1) of the Employment and Assistance Act (EAA) by failing to demonstrate reasonable efforts to participate in his employment-related program as per Section 9(4).

PART D – Relevant Legislation

Employment and Assistance Act (EAA) Section 9

PART E – Summary of Facts

The evidence before the Ministry at the time of reconsideration consisted of: :

- The appellant is the sole recipient of assistance.
- An Employment Plan (EP) signed by the appellant and dated June 12, 2014. The terms of the EP include that the appellant:
 - Will attend appointments with the Employment Program of British Columbia (EPBC) assigned contractor;
 - Will participate in EPBC programming regularly and as directed by the EPBC contractor;
 - Will work with the EPBC to address any issues that may impact his employability;
 - Will complete all tasks assigned including any activities that may be set out in an action plan;
 - Will notify the EPBC contractor if unable to attend a session or when he starts or ends any employment;
 - Acknowledges that if he fails to comply with the conditions of the EP or ceases, except for medical reasons to participate in the program, he will be ineligible for assistance.
- A record of contacts between the Ministry and the appellant, and with the provider of the EPBC:
 - June 23, 2014 – The appellant did attend a scheduled Group Orientation session.
 - June 24, 2014 – The appellant was scheduled to attend an intake appointment with the case manager and did not attend; the appointment was rescheduled for July 2, 2014.
 - July 2, 2014 – The appellant did not attend; the appointment was rescheduled for July 8, 2014.
 - July 8, 2014 – The appellant did not attend.
 - July 10, 2014 – The ministry received information from the contractor that the appellant had not attended the program as required.
 - July 23, 2014 – The ministry placed a hold on the July 23, 2014 cheque.
 - July 23, 2014 – The appellant contacted the ministry.
- The appellant's Request for Reconsideration dated August 1, 2014.

The appellant provided the following reasons for his Request for Reconsideration:

- He was on hardship before.
- In January he started the employment plan and they did not tell him if he missed a day he would be kicked off.
- If he was told that he would be kicked off he would not have missed his meeting.
- He has not been able to find work.
- He needs more help to find jobs.
- He has been looking for work and making a new resume.
- He can't get through to an advocate.



Admissibility of New Information

The appellant filed a Notice of Appeal which was received by the Employment and Assistance Appeal Tribunal on August 26, 2014. In the Notice of Appeal dated August 25, 2014 the appellant states that he may have misunderstood some of the instructions given to him by different workers. And, he was not given enough time to find any advocates.

During the hearing, the appellant stated that the reason given by the ministry for his missing his June 24 appointment was incorrect; he was golfing, not camping with family members. He stated that he missed only one appointment on June 24; 2014; not three as described in the reconsideration decision because there were no further appointments scheduled. He stated that EPBC told him not to attend any more appointments and to wait for a letter from the ministry; he was unable to recall the date of that conversation. He stated that when he read the letter from the ministry, it also told him not to continue with the program. He did not keep the letter.

The panel determined the additional documentary evidence that is part of the Notice of Appeal and the evidence provided by the appellant during the hearing is admissible under Section 22(4) of the EAA as being in support of the information before the minister at reconsideration as it provides more details on his situation and essentially this information was before the minister at the time of reconsideration.

PART F – Reasons for Panel Decision

The issue under appeal is whether the Ministry's reconsideration decision which found the appellant ineligible for further income assistance due to non-compliance with his employment plan pursuant to section 9 of the EAA was reasonably supported by the evidence or a reasonable application of the legislation in the appellant's circumstances.

The relevant legislation is as follows:

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 reported that when he started the employment plan in January he was not told if he missed a day he would be “kicked off” social assistance. Had he been told he would not have missed his meetings. He stated that he has not been able to find work and needs more help to find jobs; he has been looking for work and making a new resume. He also stated that he has not been able to connect with an advocate.

At the hearing, the appellant stated that he misunderstood and also that he had been misunderstood regarding his attendance at appointments. He stated that he went to his EPBC and asked if he could reschedule his appointment of June 24, 2014 and was told that a letter would be mailed to him and he should go to the ministry office. He stated that he missed only one meeting and he did not have a meeting scheduled for July 2, 2014. He further stated that he was told not to attend EPBC or he would have kept going.

He would go back on the program and get a job; he cannot stay on welfare for the rest of his life and does not want to live on the streets. He tried going through employment programs when he was younger and really wants to get into a program that suits him. He is currently trying to get his status so he can obtain funding for school.

When asked by the panel about the number of meetings missed, the appellant confirmed his testimony that there were no other missed meetings – only one. He said he was told not to attend but wait for a letter that was being mailed. He didn't stay in the program because of a letter telling him not to attend.

He said that he missed his June 24 appointment because his dog broke a nail and there was a lot of blood; he had to take the dog to the vet. The panel again questioned the appellant about the number of appointments missed. He had initially stated that he had missed only one appointment because of his dog but he subsequently said that the ministry was incorrect in its reconsideration decision about the reason for the missed appointment; that he went golfing with family members and not camping. He then stated he went golfing on the weekend and not on July 2 or July 8, also as stated in the reconsideration decision.

The appellant stated that he is not very good at reading and writing and he doesn't always know what he says. This whole thing is new to him and he would have done a better job with this appeal if he had an advocate. If he had an advocate, he would have known to keep the letters he received telling him not to attend the program.

The Ministry's Position

The Ministry's position is that the appellant entered into an EP dated June 12, 2014 and by signing his EP, confirmed that he read, understood and agreed to the requirements of attendance and compliance with the conditions in the EP as well as the consequences for non-compliance.

The appellant was scheduled to attend an intake appointment with a case manager on June 24, 2014 and did not attend. He had two subsequent appointments scheduled for July 2 and July 8 but did not

[REDACTED]

attend either. He did not phone and inform the program that he was not attending nor did he reschedule.

On July 23, 2014 the ministry placed a hold on the appellant's cheque. The appellant contacted the ministry and advised the ministry that he did not attend his appoint on June 24, 2014 because his dog had broken his nail. He further advised that he did not attend either of the other appointments as he had gone on a yearly family camping trip. When asked by the ministry if he would have quit or not showed up for employment to attend his family camping trip, he stated that he would not have done so.

The Ministry argues that although the appellant was aware of the conditions outlined in his EP and the requirement to comply with those conditions as per Section 9(1) of the EAA, he did not demonstrate reasonable efforts to participate in the employment-related program as per Section 9(4) of the EAA and thus, is not eligible for income assistance.

At the hearing, the ministry outlined the terms of the EP. The appellant was to contact an EPBC contractor within 5 days of signing the EP and was provided with the name, address and contact information of the designated contractor. He was told that if he would be ineligible for assistance if he did not comply with the conditions of his EP or cease to participate in the program except for medical reasons.

The ministry listed the missed appointments on June 24, July 2 and July 8, 2014 as recorded in the July 10, 2014 report to the ministry from the EPBC.

The ministry representative read Sections 9(1) and 9(4) of the legislation. The ministry argued that the appellant failed to attend three appointments and did not notify or reschedule and therefore, did not comply with the conditions in the employment plan as per Section 9(1). Referring to Section 9(4) the ministry stated that the reasons provided by the appellant for not attending his appointments did not indicate that he had demonstrated reasonable efforts to participate in the program or that he ceased for medical reasons.

The ministry responded to the appellant's oral testimony regarding incorrect information in the reconsideration decision and the number of missed appointments. In the appellant's request for reconsideration he did not dispute the ministry's evidence regarding the number of scheduled appointments but instead acknowledged his failure to attend. He advised the ministry that he did not attend his appointment on June 24 as his dog had broken his nail and that he did not attend either of the July 2 or July 8 appointments because he went on a yearly family camping trip. He disputed the scheduled appointments and reason for missing only on appeal.

The ministry also argued that the letter the appellant was referring to was the letter advising him that a cheque had been placed on hold would have been sent out after July 8, the date of the third missed appointment, suggesting that the appellant is incorrect when he says he received the letter in June.

When asked by the panel if the appeal documents include a copy of the letter from the EPBC to the ministry as referenced by the appellant, the ministry replied that there is no letter – only the report of July 10, 2014 as described in the reconsideration decision. The ministry stated that the appellant must be referring to the signal letter from the ministry as that would be the only correspondence sent.



The Panel's Decision

In determining the reasonableness of the Ministry's decision, the panel finds that the appellant entered into an EP on June 12, 2014 and by signing the EP, was aware of the terms and conditions of eligibility. These conditions include that he participate in the EPBC program as directed by the EPBC contractor; attend scheduled sessions and if unable to attend advise EPBC; and complete all assigned tasks and activities.

In the request for reconsideration, it is stated that the appellant advised the ministry that he did not attend his appointment on June 24 because his dog had broken a nail and he did not attend either July 2 or July 8 appointments because he went on a yearly family camping trip. When asked if he would have quit or not showed up for employment to attend the family camping trip he said that he would not have.

At the hearing, the evidence the appellant gave contradicted information he had initially provided to the ministry regarding the number of appointments missed and the reason for doing so. Further, he began by stating he missed only one appointment because of his dog but then stated that the reason for missing his appointment was that he went golfing, not camping with family members. The appellant described a letter he received by the ministry telling him not to attend after being turned away from the EPBC office; however the ministry states that no such letter would have been sent.

The onus is on the appellant to provide information to establish eligibility for income assistance and where there is conflicting evidence, the panel must consider all arguments and determine the relative weight to give the appellant's and the ministry's evidence. The appellant has provided inconsistent evidence regarding the number of meetings missed and a total of five reasons for missing appointments: his dog broke a nail, he went on a family camping trip, he went golfing with family members, he was told not to attend by EPBC and he received a letter from the ministry telling him not to continue with the program.

In this case, the panel finds that the evidence provided by the appellant is contradictory in and of itself including the information in the request for reconsideration, the reconsideration decision and the oral testimony.

The panel finds that the Ministry reasonably determined that the appellant failed to demonstrate reasonable efforts to participate in the employment program as per Section 9(4)(a) of the EAA; that there is no evidence that he ceased to participate in the program for medical reasons as per Section 9(4)(b), and accordingly, that he is not eligible for assistance because he failed to comply with the terms and conditions of his employment plan as per Section 9(1) of the EAA. Thus, the panel finds that the Ministry's decision to deny the appellant income assistance due to the failure to comply with the conditions of his EP was a reasonable application of the legislation of the legislation and reasonably supported by the evidence.

Therefore, the panel confirms the Ministry's decision.