

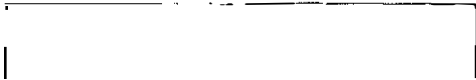


### PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the “ministry”) Reconsideration Decision of August 8, 2014 in which the ministry denied further income assistance (IA) to the appellant for failure to comply with the terms of his employment plan pursuant to Section 9 of the Employment and Assistance Act (EAA) because he failed to demonstrate reasonable efforts to participate in his employment program.

### PART D – Relevant Legislation

Employment and Assistance Act (EAA), Section 9



## PART E – Summary of Facts

The appellant is a single employable male with no dependants. He has been a recipient of IA since 2009. At the commencement of the hearing he consented to the ministry representative's request that a ministry observer attend the hearing via telephone.

The evidence before the ministry at the time of reconsideration consisted of the following:

- Employment plan signed by the appellant on April 22, 2014, in which the appellant agreed:
  - to book and attend his first appointment with his employment contractor ("M") no later than May 1 2014;
  - to participate in employment programming regularly as directed by M;
  - to address any issues that may impact his employability;
  - to complete all assigned tasks;
  - to notify M if he is unable to attend any employment session;
  - to report any changes to the ministry and declare all income;
  - to comply with the conditions of his employment plan, and to acknowledge that failure to comply would make him ineligible for IA.
- June 5, 2014 letter from the ministry to the appellant informing him that he was required to attend and participate in his employment plan, and that failure to contact M by June 19, 2014 may result in delay of IA;
- Request for Reconsideration dated July 24, 2014 to which was appended a one-page handwritten letter by the appellant. In the letter the appellant acknowledged that he signed the employment plan, but that his life was very stressful because he was in trouble with the law and was facing a jail sentence. He also stated that he had never received the June 5, 2014 letter because he lived in a house with 8 other people and in the past his mail has gone missing. He informed the ministry that he has been sentenced to 60 days' incarceration, to be served in the local police detachment between 9 am Mondays and 4 pm Tuesdays. He concluded by stating that he has attended at M and has another appointment booked for July 25, 2014.
- Employment plan signed by the appellant on June 20, 2013 and Work Search Activities Records (6 pages) covering the period May 27 – June 19, 2013.

The Reconsideration Decision is summarized as follows:

- the employment plan that the ministry mailed to the appellant for review and signature highlighted the expectations and consequences of non-compliance;
- as of June 5, 2014 the appellant had not contacted M;
- on June 5, 2014 the ministry wrote a letter to the appellant advising that he was required to attend and participate in his employment plan, that failure to contact M by June 19, 2014 may result in delay of IA, and asking the appellant to contact the ministry to explain his failure to comply;
- On June 10 and 24, 2014 M attempted to contact the appellant by telephone but received no answer and was unable to leave a voice mail message;
- on June 24, 2014 M contacted the ministry to advise that the appellant had not attended at M's office and they had been unsuccessful in reaching him by phone, whereupon the ministry signaled the appellant's IA cheque;
- on July 4, 2014 the appellant attended at the ministry office to pick up his IA cheque and

received a copy of the June 5, 2014 letter reminding him to comply with his obligations under the employment plan;

- on July 11, 2014 M again advised the ministry that the appellant had not yet been in contact with their office, whereupon the ministry cancelled the appellant's IA cheque production;
- on July 16, 2014 the appellant called the ministry asking for the location of Work BC in his community, stating that a ministry worker had advised him to contact Work BC.
- On August 1, 2014 the ministry was advised that the appellant had attended two appointments with M and had signed an action plan.

In his Notice of Appeal dated August 20, 2014 the appellant stated that he disagreed with the ministry's reconsideration decision because it had been a very stressful time in his life and "his mind wouldn't have been in M's classes". He asked that it be taken into consideration that he is now attending the required courses, he is doing the best he can, and cutting off his benefits will send him down the wrong path.

No additional documentary evidence was submitted. At the hearing the appellant stated that at the time he was supposed to be in class he had court dates to attend. He believed that he would be sentenced to six months in jail, but on June 30, 2014 the judge sentenced him to sixty days, to be served in the local detachment every week between the hours of 9 am Monday and 4 pm Tuesday. He believes his sentence will be completed in October. The appellant also informed the panel that since June 30, 2014 he has been attending M's programs and plans to continue to attend on a regular basis.

In response to a question from the panel the appellant said that he did contact M, he believes in mid-May, to book an appointment, but it slipped his mind and he did not attend. When asked why he called the ministry to find out where Work BC was located he replied that he has participated in an employment plan in a different municipality.

The panel admitted the appellant's oral testimony as evidence in support of the information and records before the ministry at reconsideration because it provided further detail of his court sentencing requirements and his attendance at M between June 30, 2014 and the date of the reconsideration decision.

The ministry relied on its reconsideration decision, which can be summarized as follows:

- the appellant signed his employment plan, which stipulated that he must book and attend his first appointment with M by May 1, 2014;
- the appellant did not communicate with M until July 16, 2014;
- even if the appellant did not receive the June 5, 2014 letter informing him of his obligations and consequences of failure to comply with the terms of his employment plan he received a copy of that letter on July 4, 2014;
- the appellant did not supply confirmation or details of his court sentence or incarceration;
- although the appellant told the ministry that he had been going through a stressful time he did not provide evidence that he was unable to comply with his employment plan for medical reasons;
- the ministry noted that the appellant has participated in several employment programs in the past;
- based on this information the ministry was not satisfied that the appellant had demonstrated a



reasonable effort to attend or participate in his employment program, or that he was unable to meet the obligations of the program.



## PART F – Reasons for Panel Decision

The issue under appeal is the reasonableness of the ministry decision of August 8, 2014 in which the ministry denied further income assistance (IA) to the appellant for failure to comply with the terms of his employment plan pursuant to Section 9 of the EAA because he failed to demonstrate reasonable efforts to participate in his employment program.

The relevant legislation is as follows:

### **EAA:**

#### ***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.
- (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.

The appellant argues that during the period when he was expected to contact M and participate in his employment plan his life was stressful because he was in trouble with the law and was facing a jail sentence. He also argues that he did not receive the June 5, 2014 letter from the ministry informing him of his obligations under the employment plan and consequences of failure to meet its terms, and that he informed the ministry that he was sentenced to 60 days' incarceration, to be served in the local police detachment between 9 am Mondays and 4 pm Tuesdays. The appellant adds that by July 16, 2014 he had attended at M's offices, had an appointment booked for July 25, 2014, and since then has been attending M's classes and plans to continue to attend on a regular basis.

The ministry argues that the appellant's employment plan stipulated that he must book and attend his first appointment with M by May 1, 2014, that he did not communicate with M until July 16, 2014, and that even if he did not receive the June 5, 2014 letter informing him of his obligations and consequences of failure to comply with the terms of his employment plan he received a copy of that letter on July 4, 2014.

[REDACTED]

The ministry also argues that the appellant did not supply confirmation or details of his court sentence or incarceration, and that he failed to provide evidence that he was unable to comply with his employment plan for medical reasons, and noted that he has participated in several employment programs in the past. For these reasons the ministry was not satisfied that the appellant had demonstrated a reasonable effort to attend or participate in his employment program, or that he was unable to meet the obligations of the program.

#### Decision of the Panel

EAA Section 9 (1) states that a recipient of IA must comply with the conditions of the employment plan in order to be eligible for IA, and in subsection (4) specifies that, if an employment plan includes a condition requiring a person to participate in a specific employment-related program that condition is not met if the person fails to demonstrate reasonable efforts to participate in the program or ceases, except for medical reasons, to participate.

The evidence establishes that on April 22, 2014 the appellant signed an employment plan in which he agreed to book an appointment with his employment contractor by May 1, 2014. On June 5, 2014 a letter was mailed to the appellant reminding him of his obligations under the employment plan and advising him that if he failed to make contact his employer by June 19, 2014 his IA might be delayed. On July 4, 2014 a copy of this letter was given to the appellant in person when he appeared at a ministry office to pick up his assistance cheque. The appellant did not contact M until he became aware that his cheque production had been turned off on July 16, 2014, which is twelve weeks after the date upon which he agreed to contact M pursuant to his employment plan, and almost two weeks after he was given a copy of the June 5, 2014 letter and was made aware that his IA cheque had been signalled.

The appellant told the ministry that during this period he was under a great deal of stress and unable to concentrate on an employment program, but did not provide any medical evidence to support his position. The appellant also told the ministry that his availability for program participation was hampered by his court appearances and subsequent incarceration, but did not provide additional evidence to demonstrate that he was unable to make a reasonable effort to participate in the employment plan. While the appellant pointed to his attendance at M since July 16, 2014 and argued that he plans to attend the program on a regular basis, the panel finds that the ministry reasonably considered the appellant's efforts since signing his employment plan and determined that, overall, his lack of communication with M for several months did not show reasonable efforts to participate in the program.

The panel finds that the ministry reasonably determined that the appellant failed to demonstrate reasonable efforts to participate in the employment program and that the ministry reasonably determined that the appellant failed to satisfy the ministry that he was unable to meet the obligations of the employment plan for medical reasons. The panel also finds that because the ministry reasonably determined that the appellant failed to comply with the conditions of the employment plan he was no longer eligible for IA pursuant to EAA Sections 9 (1) and (4).

Accordingly this panel finds that the decision of the ministry to deny further IA to the appellant for failure to comply with the terms of his employment plan was a reasonable application of the applicable enactment in the circumstances of the appellant, and confirms the decision.