

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the “ministry”) reconsideration decision of August 20th, 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

EAA, section 9

PART E – Summary of Facts

The evidence before the ministry at the time of reconsideration:

- EP dated November 18th, 2013 signed by the appellant;
- Letter from ministry to the appellant dated February 5th, 2014 advising the appellant he must comply with the conditions set out in his EP and set up an appointment with Employment Program of BC (EPBC);
- Letter from ministry to appellant dated August 1st, 2014 advising that he is not eligible for income assistance because he did not follow through on the conditions in his EP and EPBC has closed his file;
- Request for Reconsideration dated August 7th, 2014;

On November 18th, 2013 the appellant signed an EP referring him to the Employment Program of BC (EPBC) and acknowledging that it is a condition of eligibility for income assistance that he comply with the conditions set out in his EP.

On March 25th, 2014 EPBC reported to the ministry that during the March 18th, 2014 appointment with the appellant, the appellant advised that he was unable to look for work until he attended a detox center because of substance abuse issues and was unable to keep employment. EPBC advised the appellant to inform the ministry of his issues affecting his employment obligations. The appellant told EPBC that he would advise the ministry and would advise EPBC of the outcome.

On July 15th, 2014 EPBC reported to the ministry that the appellant had reported to them that he was unable to look for work due to substance abuse and that he had a broken arm. EPBC requested the ministry to advise them on the appellant's employment status and requested the ministry's assistance in reconnecting with the appellant.

On July 30th, 2014 EPBC reported the appellant's file was being closed for lack of participation. EPBC reported the last time the appellant had attended the program was March 18th, 2014 and the last contact was June 12th, 2014 when the appellant advised he was not ready to participate in the program due to a broken arm.

At the hearing the appellant testified that he had been assaulted near the end of May 2014 and as a result he suffered a broken arm. He stated the arm was put into a cast but the bone didn't heal and had to be re-broken, re-set and re-casted; the cast was removed at the end of August 2014. The appellant testified that this was the reason he didn't attend his appointments and that he had gone to see his doctor about getting a note but he didn't have the money to pay for the doctor's letter.

In response to questions from the ministry, the appellant stated that he had advised an Employment and Assistance worker (EAW) that he had a broken arm and had tried to get a letter from his doctor but he didn't have the funds to pay for the letter. He stated that the EAW did not inform him about the medical request form nor was he advised that the ministry would pay for the doctor to complete this form.

In response to questions from the panel, the appellant acknowledged that he had missed several appointments with EPBC contractor in January 2014; that his EP was updated in February 2014 and when he attended his appointment with EPBC in March 2014 he informed them that he could not work due or keep work due to substance abuse issues. The appellant stated that the EPBC were going to inform (email) the ministry about his situation.

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 because it provides further detail of circumstances previously described and is admissible as evidence in accordance with section 22(4) EAA.

At the hearing the ministry relied on the facts stated 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 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 signed his EP on November 18th, 2013 agreeing that that he would participate in the EPBC programming regularly and as directed by the EPBC contractor; that he will complete all tasks assigned including activities that may be set out in an action plan and would advise the contractor if he was unable to attend the program. The ministry argued that the appellant did not attend several appointments with the EPBC contractor; that letters had been sent to him to encourage him to be compliant with his EP; that his EP had been amended in February 2014 to assist him but still he did not attend to the programs set out by the contractor. The ministry argued the appellant did not provide any medical evidence to advising that he was unable to look to participate in the programs because of medical/health issues. The ministry argued that his non-compliant issues began in January 2014 before his arm was broken (May 2014); that he did not inform the ministry about broken arm until July 2014 but this should not have prevented him from attending the EPBC program (workshops). The ministry argued the appellant did not inform them of his health challenges regarding substance abuse.

The appellant argued that he missed his appointments with EPBC contractor because he had substance abuse issues and a broken arm and didn't have any money to pay for note from his doctor.

The evidence before the panel is that the appellant missed several appointments with the EPBC contractor in January 2014 and even after his EP was revised in February 2014 his continued to miss appointments. While the appellant argues that he was unable to look for work because of substance abuse issues and a broken arm in May 2014 and couldn't afford a doctor's letter and was unaware that the ministry would pay for his doctor to complete a medical employability form, the panel finds that the appellant has not provided medical confirmation of either medical condition and how they would impact his ability to attend his employment program.

The panel finds that the EP laid out several conditions, which the appellant acknowledged he understood by signing that area of the EP. In absence of the medical confirmation the panel does not accept the appellant's reason(s) for not attending the program as reasonable as the appellant did not attend several sessions in January 2014 scheduled by the EPBC contractor and that after his EP had been revised in February 2014 he still failed to attend appointments or comply with the conditions within the EP.

The panel finds that the ministry's decision that the appellant did not demonstrate a reasonable effort to

participate in the EP was reasonable.

The panel finds that the ministry decision that the appellant did not cease to participate in his EP program due to medical reasons was reasonable.

Therefore, the panel finds the ministry's decision that the appellant did not comply with the conditions in his EP was reasonable and confirms the decision in accordance with section 24(1)(b) and section 24(2)(a) EAA.