



### PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the ministry)'s Reconsideration decision dated August 7, 2014 wherein the ministry denied the appellant's request for further income assistance after determining that the appellant had not complied with his employment plan as is required by the *Employment and Assistance Act*, Section 9(1) and (4) and he did not fall within any of the exemptions in *Employment and Assistance Regulation*, Section 29.

### PART D – Relevant Legislation

Employment and Assistance Act, Sections 9 (1) and (4)  
Employment and Assistance Regulation, Section 29.



## PART E – Summary of Facts

The appellant is employable and single with no dependants whose ministry file was reopened in November 2012. On April 16, 2014 the ministry sent a letter to the appellant advising him that his assistance for June 2014 would be held, unless he attended an appointment with an Employment Program of BC case manager and be in full compliance with his employment plan prior to the May 23, 2014 cutoff date. On July 4, 2014 another letter was sent by the ministry to the appellant, advising him that he was no longer eligible for assistance as he had not followed through with the requirements of his employment plan. On July 10, 2014 the appellant contacted the ministry after receiving this July 4, 2014 letter and on July 29, 2014 he requested reconsideration of that decision.

The information before the ministry at the time of reconsideration included the following:

- 1) A copy of appointment slips for the appellant to attend appointments on July 16, July 17 and July 18 at the Employment Services Centre.
- 2) A copy of the appellant's Work Search Activities Records for the periods of November 1-15, 2013 and November 18 to 29, 2013.
- 3) A copy of a letter, dated May 5, 2014 from the HR/Site Coordinating Manager at a company, confirming full time employment for the appellant, starting May 6, 2014 and noting that he will require steel toed boots for the position.
- 4) A copy of the appellant's employment plan, created on November 22, 2013 and signed and dated by the appellant on January 22, 2014.
- 5) A record of five appointments, following the signing of his employment plan on January 22, 2014, that the appellant had booked and failed to attend with either his Case Manager or Employment Services Centre between February and May, 2014.
- 6) In Section 3 of the Request for Reconsideration, the appellant states that he does not agree with the statements made in the first two pages of the decision, particularly that the information provided does not include any of the positive things he has done or accomplished. He states that he did attend classes and did get a job, but it required steel toed boots and when he went to Work BC and the ministry office, no one would help him. He tried to find steel toed boots at a thrift store but was unable to do so and grew discouraged and failed to follow through. He regrets this now and apologizes.

In his Notice of Appeal the appellant states that he disagrees with the ministry's reconsideration decision because he believes that he is a person with persistent multiple barriers.

The appellant did not attend the hearing. Having confirmed that the appellant was notified of the hearing, the panel proceeded with the hearing pursuant to Employment and Assistance Regulation 86(b).

The ministry relied on the information within the reconsideration decision and otherwise submitted no

new information.

The ministry clarified that the Work Search Activities Records for the periods of November 1-15, 2013 and November 18 to 29, 2013 were completed prior to the appellant's signing of his employment plan. The ministry also noted that the letter dated May 5, 2014 from the HR/Site Coordinating Manager at a company, confirming full time employment for the appellant, starting May 6, 2014 and noting that he will require steel toed boots for the position was picked up from the ministry office drop box on May 5, 2014 and there is no record of any communication between the appellant and anyone at the ministry office that day. The ministry stated that the appellant may not have received assistance with getting steel toed boots from the [employment contractor] office as he had not recently attended or been in compliance with their office, however if the ministry office is made aware of a particular need, they will make every effort to get individuals the items they require in order to secure employment.



**PART F – Reasons for Panel Decision**

The issue on this appeal is whether the ministry reasonably concluded that the appellant is not eligible for further income assistance due to his non-compliance with his employment plan as is required by the *Employment and Assistance Act*, Section 9 (4) and Section 9 (1)(b) or provided evidence of any reason that prevents him from complying with his employment plan, pursuant to *Employment and Assistance Regulation*, Section 29.

In arriving at its reconsideration decision, the ministry relied upon the following legislation:

**Employment and Assistance Regulation applied to this decision:**

Other Factors That Affect Eligibility for Income Assistance or Hardship  
Division 1 – Factors Related to Employment and Employment Plans  
Consequences of failing to meet employment-related obligations

**Section 29**

**(4) Section 13 [consequences of not meeting employment-related obligations] of the Act does not apply to a family unit of an applicant or recipient who is in any of the following categories:**

- (a) Repealed (B.C. Reg 116/2003);
- (b) sole applicants or sole recipients who have at least one dependent child who
  - (i) has not reached 3 years of age, or
  - (ii) has a physical or mental condition that, in the minister’s opinion, precludes the sole applicant or recipient from leaving home for the purposes of employment;
- (c) Repealed (B.C. Reg. 48/2010)
- (d) sole applicants or sole recipients who have a foster child who
  - (i) has not reached 3 years of age, or
  - (ii) has a physical or mental condition that, in the minister’s opinion, precludes the sole applicant or recipient from leaving home for the purposes of employment;
- (e) persons who receive accommodation and care in a special care facility or private hospital;
- (f) applicants or recipients admitted to hospital because they require extended care;
- (g) persons who reside with and care for a spouse who has a physical or mental condition that, in the minister’s opinion, precludes the person from leaving home for the purposes of employment;
- (h) applicants or recipients in a family unit that includes only applicants or recipients who are
  - (i) Repealed (B.C. Reg. 160/2004)
  - (ii) persons who are participating in a treatment or rehabilitation program approved by the minister, if their participation in that program, in the minister’s opinion, interferes with their ability to search for, accept or continue in employment,
  - (iii) persons who have separated from an abusive spouse or relative within the previous 6 months, if, in the minister’s opinion, the abuse or the separation interferes with their ability to search for, accept or continue in employment,
  - (iv) persons not described in section 7 (2) [citizenship requirements], or
  - (v) persons who have persistent multiple barriers to employment;
  - (vi) persons who have reached 65 years of age; (B.C.Reg 116/2003)

**Employment and Assistance Act applied to this decision**

Employment plan

Section 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.

The ministry's position is that Section 9 of the EAA states that for a person, such as the Appellant, to be eligible for income assistance, he may be required to enter into an employment plan and section 9(1)(b) requires compliance with the conditions of an employment plan. Under Section 29 of the EAR clients in specific circumstances may be temporarily exempt from their employment-related obligations, however the appellant has not provided evidence of meeting any of the specific criteria for exemption.

The appellant's position was that the ministry's decision does not appear to have taken into consideration any of the positive things he has done or accomplished. He states that he had attended classes and had been offered a job, but when he was unable to get the required steel toed boots, he grew discouraged and failed to follow through.

The panel finds that Section 9 of the EAA sets out the requirements of an employment plan in order to maintain eligibility for income assistance. More specifically, Section 9(1)(b) requires compliance with the conditions of an employment plan, which is the circumstance of the appellant required him to attend appointments with an Employment Program of British Columbia contractor and complete all tasks assigned. The panel finds that the evidence before the Ministry indicates that the appellant did miss five appointments that were arranged with a WorkBC Case Manager and Job Coach between December 2013 and June 2014 and therefore was noncompliant with the conditions of his employment plan. Therefore, the Panel finds that the Appellant did not demonstrate that he made reasonable efforts to participate in the program as required by section 9(4)(a) of the EAA.

The panel finds that there was no evidence provided by the Appellant and none in the record to demonstrate that he had any medical reasons for not participating in his employment plan, as required by section 9(4)(a) of the EAA. Additionally, the panel finds that there is no evidence in the record that the Appellant falls within any of the exemptions in Section 29 of the EAR, therefore, the panel finds that the ministry reasonably determined that the Appellant did not meet the conditions of his employment plan .

Conclusion

In conclusion, the panel finds that the ministry's decision to deny the appellant income assistance for June, due to non-compliance with his employment plan, as set out in Section 9 of the EAR, was reasonably supported by the evidence and a reasonable application of the legislation in the circumstances of the appellant. The panel thus confirms the ministry's decision.