

PART C – Decision under Appeal

Under appeal is the Ministry of Social Development and Social Innovation's July 29, 2014 reconsideration decision that the appellant was not eligible for income assistance because he ceased to participate in his employment program, thereby failing to meet the requirements of sections 9(1)(b) and 9(4) of the Employment and Assistance Act.

PART D – Relevant Legislation

EAA Employment and Assistance Act, sections 9(1)(b) and 9(4)

PART E – Summary of Facts

The evidence before the ministry at reconsideration was

- the appellant is a sole employable recipient with no dependants.
- a February 18, 2013 note from the appellant's physician saying "*This man is unable to work for medical reasons.*"
- an employment plan signed by the appellant on March 27, 2014, in which the appellant acknowledged if he does not comply with the conditions of his employment plan and the requirement to participate in the Employment Program of BC (EPBC), his assistance will be discontinued.
- on May 28, 2014 EPBC reported that the appellant withdrew from the employment plan program for medical reasons.
- on June 12, 2014 the appellant met with the ministry to discuss his non-compliance with his employment plan; the appellant was to contact EPBC.
- EPBC reported on July 3, 2014 they had closed their file due to non-compliance and no contact by the appellant. The ministry worker told the appellant he was no longer eligible for income assistance.
- a request for reconsideration in which the appellant stated he was unable to work, that his doctor had filled out numerous reports, he was recovering from a stroke, awaiting heart surgery, has high blood pressure, was recently diagnosed with COPD, and had been mentally unable to cope and was seeking psychiatric help. He said he misunderstood the requirements to attend the employment program, will attend and is willing to go back to work when he is able.

The appellant filed a notice to appeal on August 7, 2014 requesting a written hearing. He wrote that he is unable to work, depends on assistance to help him survive, and is unable to pay for his medication without it.

With the notice of appeal was an August 7, 2014 Medical Report - Employability from the appellant's physician, in which he described the appellant's medical condition as hypertension, stroke survivor, osteoarthritis, with chronic pain as a secondary condition. The physician checked the overall condition as moderate and expected duration as more than two years, but did not make additional comments or complete the section requesting a description of any restrictions relating to the medical conditions.

The panel determined the August 7, 2014 Medical Report - Employability was admissible under section 22(4) of the EAA, being in support of the records before the minister at reconsideration because it provided more information about the medical conditions the appellant mentioned in his request for reconsideration .

PART F – Reasons for Panel Decision

The issue is the reasonableness of the ministry's decision that the appellant is not eligible for income assistance because he ceased to participate in his employment plan, failing to meet the requirements of Employment and Assistance Act sections 9(1)(b) and 9(4).

Relevant Legislation

EMPLOYMENT AND ASSISTANCE ACT

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].

Appellant's Position

The appellant argues he is unable to work presently because of his medical conditions. He says he is recovering from a stroke, is awaiting heart surgery, has high blood pressure, a recent diagnosis of COPD and has been mentally unable to cope. He says he misunderstood his requirements to attend

the employment program, that he will return to work when he is able.

Ministry's Position

The ministry argues that by ceasing to participate in his employment program, the appellant is not eligible for assistance under the terms of section 9 of the Employment and Assistance Act.

The ministry says the appellant read, understood and agreed to the conditions of his employment plan, had conversations with the ministry about the consequences of non-compliance, and is not satisfied that the appellant did not understand the requirements to attend.

The ministry says that although the appellant described multiple health issues and said his doctor filled out numerous reports, the only medical documentation provided at the time of the reconsideration decision was a February 18, 2013 note advising the appellant was unable to work for medical reasons. The ministry is not satisfied that the health issues prevent the appellant from attending the employment program.

Panel's Decision

Sections 9(1) and (4) of the EAA state to be eligible for income assistance, a recipient must comply with the conditions of the employment plan, and if the plan includes a condition to participate in a specific employment-related program, that condition is not met if the person ceases, except for medical reasons, to participate in the program. The appellant's position is that he ceased to participate in his employment program for medical reasons.

At reconsideration the only medical information before the ministry was a February 2013 note from the appellant's physician saying the appellant was unable to work for medical reasons. Upon appeal the appellant submitted an August 7, 2014 medical report form, in which his physician lists the appellant's medical conditions as hypertension, stroke survivor, osteoarthritis, with chronic pain, describing the overall medical condition as moderate. However, the section requesting a description of restrictions relating to the medical conditions is blank in this recent medical report.

As the appellant ceased to participate in the employment program and the medical evidence does not establish that the appellant is unable to participate in the employment plan due to medical reasons, the panel finds the ministry's determination was reasonably supported by the evidence and confirms the decision.