

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the “ministry”) reconsideration decision of September 11th, 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(1) and 9(4)

PART E – Summary of Facts

The appellant was not in attendance and, the panel being satisfied that the appellant had been properly notified of the date and time of the hearing, the hearing proceeded under section 86(b) Employment and Assistance Regulation.

The evidence before the ministry at the time of reconsideration:

- Employment Program BC (EPBC) contractor's file notes on the appellant's attendance to program.
- EP signed by appellant on January 31st, 2014;
- Request for Reconsideration signed by appellant on August 29th, 2014.

On January 31st, 2014 the appellant signed an EP referring him to EPBC and acknowledging that it is a condition of eligibility for income assistance that he comply with the conditions set out in his EP.

Specifically, in his EP, he agreed to:

- Attend the EPBC to attend an orientation session;
- Attend and participate in EPBC as directed by the EPBC contractor;
- Will work with the EPBC contractor to address any issues that may impact his employability, including any activities that may be set out in my action plan;
- Complete all tasks assigned including any activities that may be set out in his action plan, and
- Will notify the sub/contractor if he is unable to attend a session or when he starts or stops any employment;
- That he will declare all income and report any changes to the ministry.
- He understands that if he fails to comply with the conditions of his EP, that he will be ineligible for assistance under EAA.

On August 7th, 2014 EPBC reported to the ministry that the appellant was non-compliant with EPBC and that his last contact with them was on May 21st, 2014. On August 27th, 2014 the appellant advised the ministry that he had been in contact with EPBC and could provide proof of his compliance with program. The ministry advised no information was received from the appellant to show that he had been compliant with the EPBC program. EPBC advised the ministry the appellant had recently attended their office requesting an appointment and to have his file re-opened so that he may receive a cheque from the ministry. The report from EPBC contractor showed that between January 2014 and May 21st, 2014 the appellant attended the program four times and missed seven other appointments; letters regarding his non-compliance were sent to him in April, June and July 2014; and the contractor attempted telephone contact nine times and was only able to speak with him once that being in April 2014.

In the Notice of Appeal the appellant stated, "I disagree with the ministry's reconsideration decision because "I have been making all my EPBC appointments and I have been putting out resumes to find work please help me until I find work? (I have a possible interview at ...)"

The panel finds that the statements in the appellant's Notice of Appeal contain information in support of the information and records that were before the minister when the decision being appealed was made. As the statements provide information consistent with the appellant's previous testimony respecting attendance at EPBC, the panel finds the statement is admissible as evidence in accordance with section 22(4) EAA.

The ministry relied on the information in its reconsideration decision.

PART F – Reasons for Panel Decision

The issue under appeal is the reasonableness of the ministry's reconsideration decision of September 11th, 2014 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 had signed an EP that required that he attend and participate in the EPBC contractor's program as directed, work with the contractor to address any issues that may impact on his employability and advise the contractor if he was unable to attend the program. The ministry argued the last meeting the appellant attended with the contractor was on May 21st, 2014; that the appellant did not attend several scheduled program dates; that he did not advise the contractor nor the ministry that he was unable to attend on the scheduled dates; and that the contractor had sent several non-compliant letters to the appellant regarding his non-attendance. The ministry argued that the appellant had been on a previous EP so was familiar with the program and very aware that failure to attend or keep in contact as required could result in denial of income assistance.

The ministry argued that the appellant's evidence is inconsistent because he says that he attended the EPBC many times during June and July 2014 but did not make appointments with his case manager and that his case manager left EPBC and didn't record the appellant's appointments. Further, the appellant's statement on August 27th, 2014 that he could provide further evidence to demonstrate his attendance at EPBC during the time period in question was not supported by the evidence of EPBC that the appellant had recently attended to request the re-opening of his file and an appointment so that he may receive a cheque from the ministry. The ministry argued that the appellant's efforts to attend the EP program did not demonstrate that he made reasonable efforts to comply with the condition(s) in his EP.

The ministry further argued that the appellant did not identify any restrictions or provide any medical information that would impact on his ability to attend employment programming.

The appellant did not attend the hearing. In the Request for Reconsideration the appellant argued that he had attended the EPBC program many times in June and July 2014 but the date of his attendance was not recorded by the program manager as she had left the program. The appellant argued that he did not receive the letters of non-compliance from the contractor as he had moved and they were sent to his previous address.

The panel finds that the EP laid out several conditions, which the appellant acknowledged he understood by initialing that area of the EP; that he would attend and participate in EPBC as directed by the ministry contractor; that he would notify the contractor if he was unable to attend a session, and that he will report any changes to the ministry.

The evidence shows that the appellant attended his initial program session with the EPBC program but then failed to attend his next appointment and until he had been contacted by EPBC. The panel finds the cycle continued between February and May 2014, that he would attend a session or appointment again and then, again, it would take a couple of telephone messages and possibly a compliance letter before he would attend another EPBC program session with no contact between the appellant and EPBC between May 21st and August 7th, 2014. The panel finds the appellant provided no evidence to dispute the attendance and communication record provided by EPBC contractor and therefore relied on this written evidence in making its finding.

The panel finds that the appellant did not attend the sessions scheduled by the EPBC contractor; that he did not contact the contractor to advise that he was not able to attend nor did he report changes to the ministry as required by his EP.

The panel finds the written record provided by the EPBC contractor does not support that the appellant demonstrated a reasonable effort to participate in the EPBC program by attending scheduled programs and by contacting with the EPBC contractor or advising the ministry that he was unable to attend the program.

The panel finds the appellant did not disclose to the ministry that he ceased to participate in the employment-related program for medical reasons.

Therefore, the panel finds the ministry's decision that the appellant did not comply with the conditions in his EP as set out in section 9(1)(b) EAA was reasonable and confirms the decision in accordance with section 24(1)(b) and section 24(2)(a) EAA.