

### PART C – Decision under Appeal

The decision under appeal is the reconsideration decision dated September 12, 2014 in which the ministry denied income assistance to the appellant, pursuant to section 9 of the Employment and Assistance Act (EAA), for failing to comply with the conditions of her employment plan.

### PART D – Relevant Legislation

Employment and Assistance Act (EAA) section 9

## PART E – Summary of Facts

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

- An employment plan (EP) signed by the appellant dated February 20, 2014. The agreement required the appellant to meet with the Employment Program of BC (EPBC) contractor within 5 business days, attend all appointments by the EPBC contractor, to participate in EPBC programming regularly and as directed by the contractor, and to notify the contractor if she is unable to attend a session. The EP also instructed her to advise the ministry if there is any reason she cannot follow through with the agreement.
- A page titled EPBC Case Notes undated. The page reads the appellant missed workshop appointments on May 28, 30, June 11, 12, July 21,23,25, 28, and August 8, 2014. She also missed scheduled appointments with her case manager on June 18 and July 28.
- A written statement completed by the appellant with the assistance of an advocate dated August 15, 2014. In the letter the appellant writes:
  1. She signed the EP on February 20, 2014
  2. She attended a meeting with the EPBC contractor on March 12, 2014 and was registered for an employment related program.
  3. She missed her April 1 and May 1 appointments because she had to care for her son and cousin because her aunt was in the hospital.
  4. She attended a few of the EPBC workshops and appointments but due to the stress of her aunt's medical condition, and because she had no reliable childcare for her son and niece, she could not attend all of her appointments.
  5. She has no reliable childcare and the EPBC contractor does not provide childcare.
  6. She asks how a single mother is able to attend all the appointments when the ministry doesn't provide any funding for childcare and she cannot bring her child to the appointments with her.
  7. She did as much as she could to comply with the conditions of her EP but her EPBC case manager did not work with her to overcome her issue of childcare.

With her notice of appeal documentation the appellant provided a letter dated September 19, 2014 where she writes she has had difficulty finding a reliable caregiver for her son and cousin and this has caused her to miss some of her EPBC workshop appointments. She adds that she did attempt to contact the EPBC contractor when she was unable to come to the workshops but she had no phone on some of those days and that she is working on earning her grade-12 equivalency diploma.

At the hearing the appellant told the panel she began caring for her cousin full time on May 11, 2014 because her aunt was hospitalized. She had been caring for her cousin periodically over the past year because of her aunt's illness. She said her family is not reliable and she doesn't feel comfortable leaving her son with them while she is at her workshops. She told the panel she was aware of the Childcare Subsidy available to her, however, since she is not the legal guardian of her cousin she could not apply for a subsidy to cover the childcare expenses for her niece. She added that she also has had to travel to see her aunt in the hospital regularly, which is more than a 90-minute drive. The appellant said although she doesn't always have a phone of her own, she has been able to use the phone belonging to her other cousin who attends university locally and has been staying with the appellant periodically while her aunt has been hospitalized.

At the hearing the ministry reviewed the reconsideration decision including the obligations contained in the EP signed by the appellant. The ministry noted the requirement in the EP for the appellant to

participate in the EPBC contractor's program regularly and as directed by the contractor. The ministry noted that the appellant signed the EP on February 20 2014, met with the EPBC contractor March 12 and told the contractor she would be unavailable until April. The ministry contacted the appellant on May 21 to discuss her missed appointments and to explain that the consequence of non-compliance is ineligibility for benefits. On August 6, 2014 the EPBC contractor contacted the ministry stating the appellant had missed an additional six workshops and one scheduled appointment with her case manager between July 21 and July 28, 2014. The ministry told the panel that the appellant was made aware that a Childcare Subsidy was available and that the appellant did not contact them to say she could not attend the workshops.

## PART F – Reasons for Panel Decision

The issue under appeal in this case is the reasonableness of the ministry's decision to deny the appellant income assistance, pursuant to section 9 of the Employment and Assistance Act (EAA), for failing to comply with the conditions of her employment plan. The ministry determined the appellant did not demonstrate reasonable efforts to participate in the program and did not have a medical reason to cease participation in the program.

Section 9 of the Employment and Assistance Act states:

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 appellant's argument is that she demonstrated reasonable efforts to participate in the program but due to her son's and cousin's care needs, she was not able to attend all her workshops and scheduled appointments with the EPBC contractor.

The ministry's argument is that the appellant did not demonstrate reasonable efforts to comply with the conditions of her EP. The ministry argues the appellant missed nine workshops and at least two scheduled appointments with her EPBC case manager.

The panel notes that the EPBC appointment date in April that the appellant missed is conflicting. The ministry submits the appointment was April 11, whereas the appellant submits it was April 1. The fact that the appellant missed the appointment is not in dispute and the panel finds the difference in the dates inconsequential to the outcome of the decision.

In coming to its decision the panel considered the appellant's arguments that she was caring for her son and cousin and was unable to attend the workshops and scheduled appointments. The panel considered the obligations of her EP including the requirement to contact the ministry if there is any reason that she could not comply with its obligations. The panel considered the evidence that the

appellant did not inform the ministry of her childcare situation, including that she was periodically caring for her cousin because of her aunt's health, at the time the EP was signed. The panel considered that the appellant didn't inform the ministry until May 21 that her cousin moved in with her on May 11 that would affect her ability to attend her appointments with the EPBC contractor. The panel considered the ministry's evidence that the appellant should have informed the ministry so the situation could have been discussed and a solution may have been found including a referral for her to apply for a childcare subsidy. The panel considered the evidence that between signing the EP on Feb. 20, 2014 and when the ministry contacted her to discuss her compliance on May 21, 2014, the appellant had attended only one appointment with the EPBC contractor. After her conversation on May 21, the appellant missed at least 11 various appointments until she was found to be noncompliant with her EP on August 6, 2014. The panel notes there has been no evidence or testimony provided that suggests the appellant had a medical reason to cease her participation in the EPBC program. The panel finds the ministry was reasonable to determine the appellant did not demonstrate reasonable efforts to participate in the program and did not have a medical reason to cease participation in the program.

The panel finds that the ministry reasonably determined the appellant did not comply with the condition of her employment plan and ceased to be eligible for income assistance under section 9 (1) because she failed to demonstrate reasonable effort to participate in the employment program pursuant to EAA section 9(4)(a) and did not cease to participate due to a medical reason pursuant to section 9(4)(b).

The panel finds that the ministry's decision was a reasonable application of the applicable enactment in the circumstances of the appellant and confirms the decision.