

**PART C – Decision under Appeal**

The decision under appeal is the reconsideration decision dated September 9, 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  
Employment and Assistance Regulation (EAR) section 29 (4)

## 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 12, 2014. The agreement required the appellant to attend all appointments by the Employment Program of BC (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.
- A page of client contact notes provided by the EPBC contractor detailing the interactions they had with the appellant and details of her obligations to the employment related program. The contractor instructed the appellant to complete and return a job search record every two weeks. The contractor recorded the appellant missed her initial appointment on February 25, 2014. She attended appointments on March 18 and 28, 2014 however she missed appointments on April 7, 8, and 22, 2014.
- An Employment Program of BC Action Plan document dated March 26, 2014 detailing the activities the appellant will complete as part of her employment program with the EPBC contractor.
- A hand written letter dated June 25, 2014 completed by the appellant. In it the appellant explains her mother was diagnosed with dementia in December 2013 and she has been her mother's caregiver. She writes the past year has been difficult for her and she has allowed her own health deteriorate resulting in her hepatitis C becoming an issue. She is also having difficulty eating due to a mouth injury where she lost five teeth and her bridge was broken. She adds that she is aware she was not in compliance with her EP.
- An authorization agreement form and release of information form completed by the appellant. The forms authorized the ministry to release information, and to direct funds, to an alcohol and drug treatment clinic.

At the hearing the appellant told the panel she understands why she was found to be non-compliant but wanted to have an appeal hearing to explain the circumstances she was dealing with that lead to her non-compliance. She explained that her mother was diagnosed with dementia in December 2013 and her mother's doctor told the family that she should not be left alone because she has wandered from the house and became lost twice. The appellant and her family decided that the appellant would provide care for their mother until her sister could assist in the future. Her mother is currently living with her sister in another city and the appellant has moved into a shelter. The appellant added that when she was caring for her mother she was living only 3 buildings away from the EPBC contractor's office but, due to her mother's care needs, she was not able attend the appointments with the EPBC contractor as scheduled. The appellant wanted to make it clear that she had no intention of taking advantage of the system by missing her appointments but, was faced with the very difficult task of caring for her mother, she felt she needed to focus on her mother. The appellant clarified that while she suffers from symptoms relating to hepatitis C, the condition was not a factor in missing the appointments with the EPBC contractor. The appellant told the panel that she did not discuss her mother's health condition with the ministry when she signed the EP nor did she inform the ministry she was her mother's caregiver until she met with the ministry on July 28<sup>th</sup>. The appellant added that she is not sure when she told the EPBC contractor about her mother's condition but she estimates it was sometime in April.

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 EPBC contractor contacted the ministry on April 23, 2014 to report that they had had no contact with the appellant since March 26, 2014 and their messages to her had gone unreturned. The ministry added that the appellant attended only two appointments with the EPBC contractor between February 12, 2014 and July 28, 2014. The ministry told the panel that if a person on an EP cannot meet their obligations they are to inform the ministry as soon as possible so a solution or a modification to the EP can be made.

## 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 participate 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.

Section 29(4) of the Employment and Assistance Regulation states:

### Consequences of failing to meet employment-related obligations

**29** (1) For the purposes of section 13 (2) (a) [*consequences of not meeting employment-related obligations*] of the Act,

(a) for a default referred to in section 13 (1) (a) of the Act, the income assistance or hardship assistance provided to or for the family unit must be reduced by \$100 for each of 2 calendar months starting from the later of the following dates:

(i) the date of the applicant's submission of the application for income assistance (part 2) form under this regulation;

(ii) the date the default occurred, and

(b) for a default referred to in section 13 (1) (b) of the Act, the income assistance or hardship assistance provided to or for the family unit must be reduced by \$100 for each calendar month until the later of the following occurs:

(i) the income assistance or hardship assistance provided to the family unit has been reduced for one calendar month;

(ii) the minister is satisfied that the applicant or recipient who committed the default is demonstrating reasonable efforts to search for employment.

(2) The reduction under subsection (1) applies in respect of each applicant or recipient in a family unit who

does anything prohibited under section 13 (1) [*consequences of not meeting employment-related obligations*] of the Act.

- (3) For the purposes of section 13 (2) (b) [*consequences of not meeting employment-related obligations*] of the Act, the period of ineligibility for income assistance lasts
- (a) for a default referred in to section 13 (1) (a) of the Act, until 2 calendar months have elapsed from the later of the following dates:
- (i) the date of the applicant's submission of the application for income assistance (part 2) form under this regulation;
- (ii) the date the default occurred, and
- (b) for a default referred to in section 13 (1) (b) of the Act, until the later of the following has occurred:
- (i) the family unit has been ineligible for income assistance for one calendar month;
- (ii) the minister is satisfied that the applicant or recipient who committed the default is demonstrating reasonable efforts to search for employment.
- (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, Sch. 1, s. 2 (a).]
- (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, Sch. 1, s. 1 (b).]
- (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, s. 2.]
- (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*];
- (v) persons who have persistent multiple barriers to employment; or
- (vi) persons who have reached 65 years of age;
- (i) Repealed. [B.C. Reg. 48/2010, Sch. 1, s. 1 (b).]
- (j) sole applicants or sole recipients who are providing care under an agreement referred to in section 8 of the *Child, Family and Community Service Act* for a 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;
- (k) sole applicants or sole recipients who are providing care under an agreement referred to in section 93 (1) (g) (ii) [*other powers and duties of directors*] of the *Child, Family and Community Service Act* for a 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.

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

The ministry's argument is that the appellant did not demonstrate reasonable efforts to participate in the program demonstrated by the appellant attending only two appointments with the EPBC contractor between February 12, 2014 and July 28, 2014 not submitting any job searches.

In coming to its decision the panel considered the appellant's arguments that she was caring for her mother and unable to attend the 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 mother's condition at the time the EP was signed and only explained her situation to the ministry when she was found to be non-compliant with her EP. 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, including modifying her EP, may have been found. The panel notes the appellant's testimony that although she suffers from symptoms relating to hepatitis C, the condition was not a factor in missing the appointments with the EPBC contractor. 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 the ministry was reasonable to determine that the appellant does not qualify for an exemption under EAR section 29(4). Although the appellant was caring for her mother, the section 29(4)(g) allows for the care of a spouse but does not include provisions for the care of a parent.

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.