

PART C – Decision under Appeal

The decision under appeal is the reconsideration decision dated September 25, 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 December 23, 2013. The agreement required the appellant to make contact 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 ministry information document titled Your Guide to the Employment Plan. The document provides an outline of the purpose of an EP and other general information.
- A letter addressed to the appellant from the ministry dated May 27, 2014. The letter requests the appellant to contact the ministry and notes that in order for her to remain eligible for income assistance she must comply with the terms of her EP.
- A letter addressed to the ministry from the EPBC contractor dated July 2, 2014. The letter states the appellant reconnected with the EPBC contractor on July 2, 2014 and will attend another appointment before July 15, 2014 but an appointment time could not be booked at the time of the meeting due to computer issues.
- A letter addressed to the appellant from the ministry dated August 21, 2014. The letter states the appellant missed appointments with the EPBC contractor on April 30, May 27, July 15, August 7, and August 19, 2014. The letter informs the appellant that, because of failing to comply with the conditions of her EP, she is ineligible for further income assistance.
- A Request for Reconsideration application signed by the appellant dated September 16, 2014. The appellant writes she deserves another chance [to comply with her EP] because she is a young mother of a young child and she needs income assistance to feed and clothe her child. She writes if given a second chance, she will attend her appointments with the EPBC contractor and work with her case manager to find employment.

In her Notice of Appeal dated October 15, 2014 the appellant writes she is a single parent of a young and that she has been handing out her resume but has not been able to find work yet. She writes that without her income assistance she has no ability to provide for her family.

The ministry was not in attendance at the hearing. After confirming it had been notified, the hearing proceeded under section 86(b) of the Employment and Assistance Regulation.

At the hearing the appellant told the panel she has been searching for work by handing out resumes to many local businesses, but has not yet found employment. She is currently living with her parents, but has not been able to pay rent because she is not receiving income assistance. She told the panel that childcare is not an issue for her because her parents can often care for her son and there is a 24-hour daycare at a school located 5 minutes from her home where she can drop her son off anytime. She said she has no cellular phone and she didn't always get the messages that the EPBC contractor left for her at her home. She also stated that she does not have a computer at home.

The appellant explained that she missed one of her appointments with the EPBC contractor because she had to babysit her son and another child and on another occasion she had to travel to a nearby town and was unable to call the EPBC contractor to inform them that she would miss her

appointment. She told the panel that she didn't think she missed as many appointments as she did and added after reading the reconsideration decision she understands why the ministry found her ineligible. She could not recall why she missed the other appointments.

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 and has been searching for work on her own. She was not able to attend all her scheduled appointments with the EPBC contractor because she was traveling and babysitting occasionally.

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 at least five appointments with the EPBC contractor between April and August 2014 despite being aware of her obligations of her EP, and the consequence of non-compliance.

In coming to its decision the panel considered the appellant's arguments that she had to babysit her son and another child on one day and couldn't attend her appointment. The panel considered her argument that she had to travel to a nearby town and was unable to inform the EPBC contractor. The panel considered the obligations of the EP that the appellant signed, including the requirement 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 appellant told the panel that she has a phone at home and therefore could have informed the contractor of her travel plans if the travel was urgent. The panel considered the appellant's access to childcare at home and at the daycare near her home.

The panel considered that there were at least three other missed appointments that the appellant could not explain.

Regarding the appellant's argument that she has been actively searching for employment independently the panel notes that the EP obligates her to attend, participate in, and complete the assigned tasks of the EPBC contractor. Although searching for work independently is laudable, it does not excuse the appellant from meeting the obligations of her EP. The panel is satisfied that the appellant was aware of her obligations relating to the employment plan including the requirement to contact the ministry if there was any reason that she could not participate in her assigned employment related program. She did not argue that she did not understand her obligations under the EP.

The panel finds that the ministry reasonably determined the appellant did not comply with the conditions 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.