

**PART C – Decision under Appeal**

The decision under appeal is the Ministry of Social Development and Social Innovation (ministry) reconsideration decision dated October 22, 2014 whereby the appellant was found to be ineligible for income assistance pursuant to Section 9 of the *Employment and Assistance Act* (EAA) for not complying with the conditions of her Employment Plan (EP), due to her failure to participate in her employment-related program.

**PART D – Relevant Legislation**

*Employment and Assistance Act* (EAA), Section 9

## PART E – Summary of Facts

The appellant did not attend the hearing. After confirming that the appellant was notified, the hearing proceeded under Section 86(b) of the *Employment and Assistance Regulation*.

The evidence before the ministry at the time of the reconsideration decision included:

- 1) EP signed by the appellant dated July 24, 2014. The terms of the EP include provisions requiring the appellant to participate in the Employment Program of B.C. program regularly and as directed by the contractor. She will work with the contractor to address any issues that may impact her employability and complete all tasks assigned including any activities that may be set out in an action plan. She will notify the contractor if she is unable to attend a session or when she starts or ends any employment. She will declare all income and report any changes to the ministry and will attend all ministry review appointments as required;
- 2) Contractor case notes covering the period August 28, 2014 through September 29, 2014, including notes that:
  - August 28, 2014 the appellant attended an intake appointment, an action plan was completed and the appellant was asked to complete a medical report to verify her suitability.
  - September 16, 2014 the appellant did not attend an appointment. Contractor could only leave a message for the appellant to call.
  - September 18, 2014 the contractor attempted to contact the appellant but there was no answer and no voice mail.
  - September 19, 2014 the contractor sent an email to the appellant regarding the missed appointment.
  - September 22, 2014 the appellant requested a new appointment, which was set for September 26, 2014 at 11:30 a.m.
  - The appellant did not attend the appointment on September 26, 2014; and,
- 3) Request for Reconsideration dated October 8, 2014 with attached handwritten pages.

In her Request for Reconsideration the appellant wrote that:

- She admits that she missed her first appointment by forgetting due to a lot of stress and mental issues. Since her first meeting with [the contractor] she has been dealing with so much that she considered taking her own life.
- She has a drug addiction and she is in a battle to stay clean. She has been clean for almost a year with one slip and the month of September 2014 almost caused her to start using again since she could not find a place to live and she had to stay with friends on different couches.
- She is not purposely breaking her job requirement agreement.
- The months of August and September 2014 have been hard for her with having to move.
- When she met with [the contractor] on August 28, 2014, she was asked to go to her doctor to get a form filled out and to return to the contractor on September 16, 2014.
- It is difficult for her to get to her doctor who is located in another community. She cannot take the bus due to panic attacks and anxiety she experiences.
- She forgot about the September 16, 2014 appointment since she was stressed out, staying with a friend, trying to find a place to live, looking for jobs and schools, and trying to get to the other community to see her doctor.
- She received an email from [the contractor] and another appointment was set up for

September 26, 2014 at 11:30 a.m.

- On September 26, 2014 she went to an interview starting at 10:45 a.m. and she talked with the interviewer about the job, courses, and possible accommodation and she lost track of time.
- She moved into the new accommodation on September 29 and 30, 2014. She went to get her assistance cheque and was told that she was no longer eligible.
- After she got settled in her place and got her rent paid she had full intention of going to [the contractor] to tell her about getting a home and finding a course.

The ministry relied on its reconsideration decision, as summarized at the hearing.

At the hearing, the ministry stated that:

- The appellant was referred to a contractor who specializes in helping clients overcome barriers to employment and moving them further down the continuum to making them more employable.
- The program is not necessarily a full-time commitment and can be as little as 5 hours per week engaged in some activity tailored to the particular individual.
- No confirming information was received by the contractor or the ministry regarding an inability to attend the program due to medical conditions.

## PART F – Reasons for Panel Decision

The issue on appeal is whether the ministry reasonably concluded that the appellant did not comply with the conditions of her EP, due to her failure to participate in her employment-related program, and that, therefore, the appellant is not eligible for income assistance pursuant to Section 9 of the *Employment and Assistance Act (EAA)*.

Section 9 of the EAA provides:

### **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].

Section 9(1) of the EAA provides that, when the ministry requires, a person must enter into an EP and comply with the conditions in the EP in order to be eligible for income assistance. Under Section 9(3) of the EAA, the ministry has the authority to specify conditions in an EP, including a requirement that the person participate in an employment-related program. Pursuant to Section 9(4) of the EAA, if an EP includes a condition requiring a person to participate in a specific employment-related program, that condition is not met if the person fails to demonstrate reasonable efforts to participate in the program or if the person ceases, except for medical reasons, to participate in the program.

### ***Ministry's Position***

The ministry's position is that the appellant failed to demonstrate reasonable efforts to participate in her EP and she has not provided any information of circumstances that prevented her from being compliant with her EP. The ministry argued that the appellant entered into an EP dated July 24, 2014 and, by signing her EP, confirmed that she read, understood and agreed to the conditions specified. It is a requirement in the appellant's EP to complete all tasks assigned by the contractor and notify

the contractor if she is unable to attend. The ministry argued that the appellant was aware of the consequences for failing to comply with the conditions of her EP. The ministry argued that the appellant failed to attend appointments scheduled with the contractor for September 16 and September 26, 2014 and failed to notify the contractor that she was unable to attend her appointments or to reschedule the appointments. The ministry argued that the appellant did not supply any information to confirm her reason for missing the September 26, 2014 appointment with the contractor, i.e. that she attended a job interview, or to confirm the reason that she did not subsequently contact the contractor, i.e. that she secured accommodation and moved in September 29 and 30, 2014. The ministry argued that the appellant did not provide the medical report completed by her doctor as had been requested by the contractor.

#### *Appellant's Position*

The appellant's position, as set out in her Request for Reconsideration, is that she has an addiction and is not purposely breaking her job requirement agreement. The appellant acknowledged that the contractor requested that she have her doctor complete a Medical Report but argued that it is difficult for her to get to her doctor who is located in another community since she cannot take the bus. The appellant argued that she forgot about the September 16, 2014 appointment since she was stressed out, staying with a friend, trying to find a place to live, looking for jobs and schools, and trying to get to the other community to see her doctor. The appellant argued that she missed the appointment with the contractor on September 26, 2014 because she went to an interview that morning and lost track of time. The appellant argued that she did not contact the contractor after missing the appointment because she was moving into new accommodation on September 29 and 30, 2014.

#### *Panel's Decision*

The panel finds that the appellant signed her EP on July 24, 2014 and the EP includes conditions that she will work with the contractor to address any issues that may impact her employability, complete all tasks assigned, and notify the contractor if she is unable to attend a session. It is not disputed that the appellant attended the intake appointment with the contractor on August 28, 2014 and was given the task of having her doctor complete a Medical Report, to be provided to the contractor at a subsequent appointment scheduled for approximately 3 weeks later, on September 16, 2014. The appellant admits that she did not attend the appointment on September 16, 2014 because she forgot due to the stress she was under. However, the ministry confirmed at the hearing that the appellant also did not provide the Medical Report completed by her doctor, as had been requested by the contractor. For the re-schedule appointment on September 26, 2014, the appellant stated that she was at a job interview that went longer than expected; however, the panel finds that the appellant did not provide any information that she had tried to contact the contractor later that same day, and the appellant admitted that she wanted to move into her new accommodation on September 29 and 30, 2014, get settled into her place, and get her rent paid before she got in touch with the contractor.

The panel finds that, after signing her EP, the appellant failed to attend two of the appointments scheduled with the contractor, did not provide the Medical Report completed by her doctor as requested by the contractor, and did not contact the contractor after missing the second appointment. To 'participate' is to take part in or to be actively involved in, and the panel finds that the ministry reasonably determined that the appellant failed to make reasonable efforts to participate in the program.

Although the appellant wrote in her Request for Reconsideration that she has a drug addiction, the

panel finds that in the absence of a completed Medical Report, there is no information provided by the appellant's doctor as to the nature of the appellant's condition, the required treatment, or the associated restrictions in order to demonstrate that there is a medical reason for her ceasing to participate in her program. The legislation requires that the appellant demonstrate reasonable efforts to participate in the program, or to provide a medical reason for ceasing to participate in the program, and the panel finds that the ministry reasonably concluded, pursuant to Section 9 of the EAA, that the requirements have not been met in this case.

*Conclusion*

The panel finds that the ministry decision, whereby the appellant was found to be ineligible for income assistance pursuant to Section 9 of the EAA, was a reasonable application of the applicable enactment in the circumstances of the appellant and confirms the decision.