

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the “ministry”) Reconsideration Decision of December 4, 2014 in which the ministry declared the appellant ineligible for income assistance (IA) because she failed to comply with the conditions of her Employment Plan pursuant to Section 9 of the Employment and Assistance Act (EAA).

PART D – Relevant Legislation

Employment and Assistance Act (EAA), Section 9

PART E – Summary of Facts

The appellant has been a recipient of IA as a two-person family unit since April 2014.

The evidence before the ministry at the time of reconsideration consisted of the following:

- Employment Plan (EP) signed by the appellant on April 11, 2014 in which the appellant agreed:
 - to book and attend her first appointment with her employment contractor (“M”) within 10 business days of April 7, 2014;
 - to participate in employment programming regularly and as directed by M;
 - to address any issues that may impact her employability;
 - to complete all assigned tasks including any activities that may be set out in an action plan;
 - to notify M if she is unable to attend any employment session or when she starts or ends any employment;
 - to report any changes to the ministry and declare all income;
 - to comply with the conditions of her EP, and to acknowledge that failure to comply would make her ineligible for IA.
- Employment Program of British Columbia (“EPBC”) Action Plan for the period March 10, 2014 to April 9, 2014 completed by the appellant on March 11, 2014;
- EPBC Action Plan for the period September 3, 2014 to October 3, 2014 signed by the appellant and her case manager on September 3, 2014;
- Appellant’s employment resume (undated);
- Letter from the ministry to the appellant dated November 10, 2014 advising the appellant that she was not eligible for IA because she did not follow through with the requirements of her EP, specifically because she failed to follow through with attendance at her EPBC workshops;
- Request for Reconsideration dated by the appellant November 18, 2014 and received by the ministry November 25, 2014 to which was attached 11 pages of notes handwritten by the appellant. Several of these pages pertain to her husband’s work searches and Action Plan, which are not relevant to this appeal. The remaining notes include the following:
 - the appellant’s employment history;
 - a statement that she suffers from depression and extreme anxiety related to the expiry of her EI benefits and her husband’s inability to find employment in his chosen field;
 - her decision to participate in the Self Employment (SE) program and dismay in finding that she had missed the deadline for the group class;
 - her attempts to find employment through job boards and other postings;
 - her success in being hired by a company contingent upon successful completion of a course costing \$1,000;
 - her frustration in not receiving assistance from Work BC to pay for the course;
 - the fact that her phone, electricity and heat have been cut off;
 - a listing of 18 email messages (dates only, without content of messages or recipient address included) sent by the appellant to M during the period July 2 – November 7, 2014.

In her Notice of Appeal dated December 10, 2014 the appellant stated that she had been trying to follow her EP but that her case worker had not submitted her SE application on time, and that she and her husband were suffering from anxiety and depression and their doctor would sign the Notice of Appeal to verify their health issues. Appended to the Notice of Appeal were the following:

- a Service Request form, undated but received by the ministry on December 16, 2014, seeking crisis supplements for shelter, utilities, food and moving expenses;
- handwritten notes of her husband's employment searches;
- eviction notice requiring the appellant and her husband to vacate their rented premises by December 10, 2014;
- Shelter Information document dated December 10, 2014 advising of the appellant's new tenancy agreement.

At the hearing the appellant stated that she did not start receiving IA until July 2014, and had voluntarily entered into the EP with M in April 2014 in a voluntary attempt to find employment. She advised that she lived on the outskirts of the city and did not drive, so she had stayed in contact with M by email, sending 84 email messages. She acknowledged that she had not attended at M's offices between June 2 and July 2, 2014 but countered that she had stayed in touch by email. She expressed her frustration that her EP would not pay the \$1,000 tuition fee for the course that she was required to complete before commencing employment with the company.

The ministry relied on its Reconsideration Decision, which is summarized as follows:

- on April 28, 2014 M reported that the appellant had not attended their offices since March 11, 2014 and that attempts to contact her were unsuccessful because her phone was not in service;
- on May 2, 2014 the ministry sent a letter to the appellant advising that her June IA was being held and requesting proof of kept appointments;
- on May 9, 2014 the appellant contacted the ministry and was advised that she was non-compliant with her EP. The appellant said she would attend at M's offices that afternoon;
- on May 21, 2014 the appellant advised the ministry that she had attempted several times to contact her case worker at M, but because the case worker had resigned the appellant's SE application was not received on time. The appellant also advised that her new case worker had set up an appointment for June 2, 2014;
- upon receipt of copies of the appellant's SE forms the ministry released her June IA;
- on July 2, 2014 M reported that the appellant had not yet been in contact with them;
- on July 4, 2014 the appellant advised the ministry that she had obtained employment with a company, and the ministry released her June supplements;
- on July 9, 2014 the ministry requested information from M respecting the appellant's participation and enrollment in the SE program;
- on August 27, 2014 M advised the ministry that the appellant had not met the deadline for the SE program and had responded periodically by email, usually requesting financial supplements for interview clothing or a possible return to school;
- on September 2, 2014 the appellant advised the ministry that she had a job with a company upon completion of an examination, and the ministry requested confirmation from M that the appellant had kept her scheduled appointments;
- on September 3, 2014 the ministry received a signed copy of the appellant's Action Plan, dated the same day;
- on September 10, 2014 the ministry offered the appellant another chance to comply with the conditions of her EP and released her September IA;
- on October 21, 2014 M informed the ministry that:

- the appellant had not been in contact with M since September 3, 2014;
- the appellant had failed to attend two scheduled appointments; and
- the appellant had not provided M with reasons for her non-attendance.
- on October 21, 2014 the ministry withheld the appellant's November IA and sent a letter to the appellant advising to attend at M's offices in order to be eligible for further assistance;
- on November 6, 2014 M advised the ministry that on October 22, 2014 the appellant had made an appointment to meet with them on November 6, 2014 but had not attended;
- on November 10, 2014 the ministry advised the appellant that because she had not met the requirements of her EP she was no longer eligible for IA, specifically because she had failed to attend three appointments between September 3, 2014 and November 6, 2014 and had failed to notify M that she was unable to attend, and had not provided medical confirmation to establish that she had ceased to participate for medical reasons;
- on November 12, 2014 the ministry verbally advised the appellant that she was no longer eligible for IA.

At the hearing the ministry representative stated that the ministry's records indicate that the appellant received IA for the seven month period beginning in April 2014 and ending in October 2014. He explained further that the SE program is one of several options available to a participant in an employment program, and that the ministry's compliance expectations differ depending on which program is chosen. He emphasized that the ministry's decision to declare the appellant ineligible for IA was based on her failure to attend at scheduled appointments.

PART F – Reasons for Panel Decision

The issue under appeal is the reasonableness of the ministry decision of December 4, 2014 in which the ministry declared the appellant ineligible for income assistance (IA) because she failed to comply with the conditions of her Employment Plan pursuant to Section 9 of the Employment and Assistance Act (EAA).

The relevant legislation is as follows:

EAA:

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.
- (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 argues that she attempted to remain in contact with M by email and that because her case worker at M's offices quit unexpectedly the appellant's application for the SE program was too late to allow her to attend the program. The appellant also argues that she lived on the outskirts of the city and was unable to attend at M's offices because she did not drive and she and her husband did not have enough money for gas. She added that she searched for jobs on her own, was successful in finding a job contingent upon successful completion of a course which cost \$1,000, and was frustrated that M would not pay for the course. She argued further that she and her husband have been suffering from anxiety and depression.

The ministry argues that on April 11, 2014 the appellant entered into an employment plan in which she agreed to participate in employment programming regularly as directed by M and to notify M if she was unable to attend any employment session. The ministry argues further that the terms and conditions of the EP were explained to the appellant and that the appellant acknowledged that failure to comply with the conditions of her EP would make her ineligible for IA. The ministry argues further that the appellant was given three opportunities to comply with the conditions of her EP after holding

her IA for non-compliance, and that the ministry's decision to declare the appellant ineligible for IA arose from her failure to attend three scheduled appointments between September 3, 2014 and November 6, 2014 to notify M when she could not attend. Finally, the ministry argued that the appellant had not provided medical confirmation to establish that she had ceased to participate for medical reasons.

Decision of the Panel

EAA Section 9 (1) states that a recipient of IA must comply with the conditions of the employment plan in order to be eligible for IA, and in subsection (4) specifies that, if an employment plan 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 ceases, except for medical reasons, to participate.

The evidence establishes that on April 11, 2014 the appellant signed an employment plan in which she agreed to participate in employment programming regularly as directed by M and to notify M if she was unable to attend any employment session. On three occasions the ministry gave the appellant another chance to comply with the conditions of her EP after holding her IA for non-compliance and then releasing it to her. Subsequently, between September 3, 2014 and November 6, 2014 the appellant failed to attend three scheduled appointments with M and did not notify M of her inability to attend or attempt to reschedule the appointments. Although the appellant informed the ministry that she was suffering from anxiety and depression she did not provide any medical evidence to establish that she had ceased to participate for medical reasons.

The panel finds that the ministry reasonably determined that the appellant failed to demonstrate reasonable efforts to participate in the employment program, specifically by failing to attend three scheduled appointments between September 3, 2014 and November 6, 2014 and failing to notify M that she was unable to attend. The ministry also reasonably determined that the appellant failed to satisfy the ministry that she was unable to meet the obligations of the employment plan for medical reasons. The panel also finds that because the ministry reasonably determined that the appellant failed to comply with the conditions of the employment plan she was no longer eligible for IA pursuant to EAA Sections 9 (1) and (4).

Accordingly this panel finds that the decision of the ministry to declare the appellant ineligible for IA for failure to comply with the conditions of her employment plan was a reasonable application of the applicable enactment in the circumstances of the appellant, and confirms the decision.