

PART C – Decision under Appeal

The Ministry of Social Development and Social Innovation (the ministry) reconsideration decision dated 21 November 2014 determined that the appellant was not eligible for continued income assistance because he failed to demonstrate reasonable efforts to comply with the conditions of his Employment Plan (EP) as required under section 9 of the Employment and Assistance Act by failing to attend scheduled appointments.

PART D – Relevant Legislation

Employment and Assistance Act (EAA), section 9.

PART E – Summary of Facts

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

- On 30 July 2014, the appellant re-applied for income assistance, confirming that he was looking for work and discussed with the employment worker non-compliance with a previous EP.
- On 11 August 2014 the appellant was found eligible for income assistance and he signed an EP dated that same day with the following conditions that he accepted:
 - If not contacted by Work BC within the following 5 business days, he would attend their office within the next 5 business days.
 - As a condition of continued eligibility for assistance, will participate in the Employment Program of BC (EPBC) programming regularly and as directed by the EPBC contractor.
 - Will work with the EPBC contractor to address any issues that may impact his employability and will complete all tasks assigned including any activities that may be set out in an action plan.
 - Will notify the contractor [name, address and phone number] if unable to attend a session or when he starts or ends any employment.
 - He understands that if he fails to comply with the conditions of his EP, he will be ineligible for assistance.
 - He will declare all income and report any changes to the ministry and will attend all ministry review appointments as required.
- On 21 August 2014, the appellant attended an orientation session with the contractor and an intake appointment was scheduled for 28 August 2014.
- On 28 August 2014, the appellant did not attend his intake appointment and did not call to advise he was unable to attend that session.
- On 8 September 2014, the appellant called EPBC and re-scheduled his intake appointment for 15 September 2014.
- On 15 September 2014, the appellant did not attend his intake appointment and did not call to advise he was unable to attend that session.
- On 19 September 2014, the ministry held the appellant's monthly assistance cheque to discuss compliance with his EP.
- On 24 September 2014, the appellant called EPBC and re-scheduled his intake appointment for 26 September 2014.
- On 25 September 2014, the appellant called EPBC and re-scheduled his intake appointment for 30 September 2014.
- On 29 September 2014, the appellant called EPBC and re-scheduled his intake appointment for 2 October 2014 at 3 PM.
- On 1 October 2014, the appellant attended the ministry's office and confirmed with the worker his scheduled appointment for the next day and the consequences of not attending were discussed. His monthly assistance cheque was released to him.
- On 2 October 2014, the appellant did not attend his appointment and did not contact EPBC to advise he was unable to attend the appointment.
- On 3 October 2014, the appellant's November assistance payment was held by the ministry and a letter was sent to the appellant advising him to contact the ministry worker to discuss missed appointments.
- On 14 October 2014, the appellant called the ministry main phone line advising he had received

the letter and was advised to contact directly the ministry worker who had sent it. The appellant indicated he would call but hoped to avoid having to go to the ministry's office because he "would have to miss work".

- On 20 October 2014, the appellant left a message for the ministry worker. The ministry worker returned the call but could not leave a message since the appellant's voice mail was full.
- On 21 October 2014, the ministry worker attempted to call the appellant on 3 occasions, twice a third party answering and stating the appellant was not available and a message was left.
- On 22 October 2014, the ministry worker called a first time in the morning but could not leave a message since there was no voice mail option. Later the same day, the ministry worker was able to reach the appellant on the phone and the appellant provided the following reasons for not attending his appointments:
 - 28 August 2014: He drove a relative to the hospital.
 - 15 September 2014: Was not exactly sure but indicated that he was convinced he had a job and that he did not need to attend EPBC for services. When asked if he was presently working, the appellant indicated he wasn't and when asked about his comment to the effect he hoped not to have to go the ministry's office because he would have to miss work, the appellant stated it was not what he said but rather that he could not go to the ministry's office in case he got work.
 - 26 September 2014 (the documentation mentions 15 September 2014 but according to the chronology of events, this would be 26 September 2014): The timing was not right for the appellant since he was told by a friend to go to a construction site for a job interview but when he went there, he was only given someone's phone number to contact about that job.
 - 30 September 2014: The appellant was waiting for a phone call from the construction site.
 - 2 October 2014: The appellant stated that probably the time did not work for him and he was waiting for that phone call from the construction site that he did not want to miss.
- In his Request for reconsideration dated 3 November 2014, the appellant stated that on 28 August, he did not attend the appointment because he had a family emergency and that he had re-scheduled all the other appointments because he was waiting for someone to get back to him about a job opening and it was a job that he wanted to do and had a lot of interest in. He also stated that a friend had told him about that job around the time he had his orientation session.

In his Notice of Appeal dated 4 December 2014, the appellant stated that he could not afford clinic and medical fees for his relative who had stopped receiving a pension and who is unable to pay his half of their rent. He further needed to help his relative with medication fees. It used to be better when another relative was alive as he had extra support. He concluded by stating: "That is why, PLEASE I do need to continue having the ministry support. Thank you". The panel accepts that submission as argument as to why the appellant needs income assistance.

PART F – Reasons for Panel Decision

The issue under appeal is whether the ministry's decision that the appellant was not eligible for continued income assistance because he failed to demonstrate reasonable efforts to comply with the conditions of his EP, as required under section 9 of the EAA, by failing to attend the scheduled appointments, was a reasonable application of the legislation or reasonably supported by the evidence.

The applicable legislation in this matter is s. 9 of the EAA:

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...

(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*].

The ministry argued that the appellant failed to attend all his appointments with EPBC since the orientation session on 21 August 2014 and while the ministry appreciates the appellant hoped to receive a call for a job that he was interested in, it is not reasonable to fail to attend appointments for 2 months because he was waiting for a call from an employer. The ministry argued that it would be reasonable to contact that employer and identify when he might get a call and to leave a way for the employer to leave him a message. The ministry argued as well that the employment program he was referred to should have been a resource that could assist him in becoming more employable or finding employment. Finally, the ministry argued that the appellant did not provide any evidence that he suffered from a medical condition that would prevent him from participating in his EP.

The appellant argued that he had good reasons for not attending his appointments: on 28 August 2014, he had a family emergency and had to drive a family member to the hospital and on all the

other occasions, he was expecting a phone call for possible employment that he really wanted and he was concerned that he could miss the call if he went to his appointments. Further, he argued that it made sense to make sure he would be there when the call came because if he got employment he did not need to use EPBC services. Finally, he argued that his financial situation had deteriorated in the past year or so because the family member who is living with him stopped getting a pension and he had also to help paying for medication prescribed for this family member who was even unable to pay his part of the rent. He argued he really needed the ministry's support.

The panel notes that the appellant did not dispute the chronology of events submitted by the ministry with the exception of the mention to a ministry worker during a phone call on 14 October 2014 that he hoped to not have to go to the ministry's office because he would have to miss work, a statement that he disputed during the conversation with another ministry worker on 22 October 2014, stating he had said he couldn't go to the ministry's office in case he got work. The appellant did not reiterate that statement in his Request for Reconsideration or his Notice of Appeal while the ministry worker who got the statement made a note of it; thus the panel accepts the ministry's version while noting that it referred to a potential meeting at the ministry's office and not one of his EP appointments.

The panel also notes that the appellant did not argue in any of his discussions or documents that he had a medical condition that would have precluded him from participating in the program and attending the appointments. Thus the panel finds the ministry reasonably determined the appellant had not demonstrated that he had ceased to participate in the program for medical reason under s. 9(4)(b) of the EAA.

The panel notes that after the appellant attended the appointment on 21 August 2014 for an orientation session, the appellant did not attend any other appointment and the explanations he gave were that on one occasion he had to drive a relative to the hospital and then for all the other occasions he either was not sure why he did not attend or was expecting a phone call for a possible job. The evidence shows the appellant failed to attend workshops on 28 August, 15 September, called the 25 September to cancel the appointment scheduled for the next day, called again the 29 September to cancel appointment scheduled for the next day and had it re-scheduled for 2 October and failed to attend that appointment and did not call the contractor. The onus was on him to demonstrate the unreasonableness of the ministry's decision and the panel finds those explanations fail to show reasonable efforts to comply with his EP. The whole purpose of an EP is to assist an individual to find and secure employment and instead of using his EP and the possibilities it offered, he chose to ignore it. In those circumstances, the ministry could reasonably determine he had failed to demonstrate reasonable efforts to participate in his EP according to s. 9(4)(a) of the EAA thereby failing to comply with it and reasonably determined he was not eligible for income assistance under s. 9(1) of the EAA.

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