

### PART C – Decision under Appeal

The decision under appeal is the 05 January 2015 reconsideration decision of the Ministry of Social Development and Social Innovation (the Ministry) in which the Ministry determined that the Appellant ceased to be eligible for income assistance (IA) for non-compliance with the conditions of her employment plan pursuant to the *Employment and Assistance Act* (EAA), Section 9(1) because she failed to demonstrate reasonable efforts to participate in her employment program and didn't have a medical condition that prevented her participation pursuant to Section 9(4).

### PART D – Relevant Legislation

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

## PART E – Summary of Facts

Preliminary Matter: The Appellant did not attend the hearing. After confirming that the Appellant had received the appeal documents and the notice of hearing, the Panel proceeded with the appeal hearing in accordance with section 86(b) of the Employment and Assistance Regulation.

The evidence before the Ministry at the time of reconsideration included the following:

1. From the Ministry's files:

- The Appellant's Employment Plan (EP) was mailed to her on 06 October 2014, instructing her to sign it and return it to the Ministry before 14 October 2014.
- The Employment Program of BC (EPBC) contractor reported to the Ministry that the Appellant did not attend her first appointment on 14 October 2014.
- The Ministry sent the Appellant a letter advising her that her November cheque would be held if she did not attend her first appointment and return her signed EP.
- On 17 October 2014 the Appellant signed her EP.
- The EPBC contractor reported to the Ministry that the Appellant did not attend next two appointments as outlined in the signed EP.
- The Ministry held the Appellant's December cheque pending a discussion regarding her non-compliance with her EP.
- The Appellant reported to the Ministry that she had rescheduled her appointment and the Ministry advised her that any further missed appointments would result in denial of her income assistance (IA).
- The EPBC contractor contacted the Ministry and reported the Appellant did not attend her rescheduled 03 December 2014 appointment, had not followed through with any agreed upon steps in her EP and as a result it closed her file.
- The Appellant attended the local Ministry office on 04 December 2014 and was advised by the Ministry that she had been denied IA for failing to comply with the conditions of her EP.

2. Other documents:

- The Appellant's Request For Reconsideration in which the Appellant explains that she had no intention to miss her appointment or any further appointment. She explains that she has borrowed a phone and now "things should be good for here on out".
- Attached to her Request for Reconsideration is an undated, handwritten letter from the Appellant stamped received by the Ministry on 19 December 2014 in which the Appellant explains she rescheduled her second appointment with the EPBC contractor from 27 November 2014 to 3 December 2014 because of holiday plans. While away her phone quit working and she was unable to check her appointment day. She went to the EPBC contractor on 04 December 2014 and was informed she had missed her 03 December 2014 appointment, that the Ministry had been already informed that she had missed another appointment and that another appointment would not be scheduled until the EPBC contractor heard from the Ministry.
- An EP, signed by the Appellant on 17 October 2014 which states that she will attend her first appointment on Monday, 14 October 2014 at 1:30, that for continued eligibility for assistance, she will participate in an EPBC regularly and as directed as the EPBC contractor, that she will work with the EPBC contractor to address any issues that may impact her employability, and that she will complete all tasks assigned and set out in her action plan. Furthermore the EP states the Appellant will notify the EPBC contractor if she is unable to attend a session, or

when she starts or ends any employment, that she understands she will be ineligible of IA if she fails to comply with the conditions of her EP, that she will declare all income and report any changes to the Ministry and that she will attend all ministry review appointments as required.

- A Ministry letter dated 13 November 2014 to the Appellant informing her that the December IA cheque will be held until her job search information is received and requesting she reschedule and attend her appointments with the EPBC contractor by 05 December 2014 or she will not be eligible for IA.

At the hearing the Ministry reviewed the chronological contact dates between the Appellant, the Ministry, and the EPBC contractor between 06 October 2014 and 03 December 2014 then summarized that the Appellant had missed 5 separate appointments with the EPBC contractor over the time period. Upon questioning from the Panel, the Ministry stated that the Appellant had attended at least one of her scheduled appointments in October but clarified the Ministry is only contacted by the EPBC contractor when their clients fail to attend their appointments.

The Panel finds as fact that the Appellant signed her EP and that she indicated understanding the conditions of her EP by signing the EP and through conversations with both the Ministry and the EPBC contractor.

## PART F – Reasons for Panel Decision

The issue on this appeal is whether the Ministry's reconsideration decision of 05 January 2015, in which the Ministry denied the Appellant IA for non-compliance with the conditions of her EP pursuant to the EAA, Section 9, is reasonably supported by the evidence or is a reasonable application of the legislation in the circumstances of the appellant.

The following legislation applies to this appeal:

### **EAA Section 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.*

*(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 she did not intend to be non-compliant and is ready and willing to prove it given another chance. She argues that she could not confirm the date of her appointment date in early December because her phone had quit working. She also argues that she made contact with the EPBC contractor on 04 December 2014 and the 13 November 2014 letter from the Ministry states she had until 05 December 2014 to make arrangements with the EPBC contractor.

The Ministry argues that the Appellant missed 5 scheduled appointments with the EPBC contractor with no explanation of mitigating circumstances and therefore the Appellant has not shown reasonable efforts to participate in her EP. The Panel has found that the condition of regular participation and direction of the EP for continued eligibility for IA as specified in the Appellant's EP was clearly explained to the Appellant.

The Panel notes that the Appellant did not give any medical reasons or other mitigating circumstances to explain why she failed to meet the required activities at least 5 times between 14 October 2014 and 05 December 2014. As the Ministry reasonably submitted in the reconsideration decision, because other options such as borrowing a telephone, using a pay phone, using a computer or appearing in person to confirm her appointment were available, the explanation that she missed her 03 December 2014 appointment because she did not have a working cell phone does not demonstrate reasonable efforts to participate in her employment program. In the Panel's view, the Appellant's explanation that she attempted to attend the EPBC contractor on 04 December 2014, before the 05 December 2014 date specified in the Ministry's letter does not demonstrate reasonable efforts to participate in her employment program as required by 9(4) EAA in order to comply her EP pursuant to 9(1) EAA.

Accordingly, the Panel finds the Ministry's determination that the Appellant was non-compliant with the conditions of her EP and therefore ceased to be eligible for IA as specified under the EAA, Section 9, (1) and (4) was reasonably supported by the evidence. The Panel therefore confirms the Ministry's decision.