

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the “Ministry”) May 12, 2015 reconsideration decision discontinuing the Appellant’s income assistance because the Appellant failed to comply with the conditions of her employment plan as required by section 9 of the *Employment and Assistance Act*. The Ministry specifically determined that the Appellant:

- Did not attend appointments as required by her employment plan.
- Did not demonstrate that she made a reasonable effort to comply with her employment plan.
- Had no mitigating or medical circumstances preventing her from complying with the employment plan.

PART D – Relevant Legislation

Employment and Assistance Act (“EAA”) Section 9.

PART E – Summary of Facts

For its reconsideration decision, the Ministry had the following evidence:

1. Information from its records that:

- In June 2014, the Appellant was receiving income assistance.
- On July 23, 2014, the Appellant signed an employment plan requiring her to participate in employment-related programs provided by an Employment Program of British Columbia (“EPBC”) contractor.
- On September 9, 2014 and on September 30, 2014 the Appellant did not attend scheduled appointments required by the EPBC contractor, and the contractor reported her participation as sporadic.
- On October 22, 2014, the Appellant rescheduled her appointment to November 4, 2014, but then did not show for that appointment.
- On November 19, 2014, the Appellant rescheduled that day’s appointment for November 26, 2014 but did not show up then.
- On December 2, 2014, the Ministry sent the Appellant a letter about her failure to comply with the employment plan.
- On December 11, 2014 a Ministry worker discussed the employment plan with the Appellant who confirmed that she missed an appointment the previous week. She stated that she would contact the contractor right away to re-book.
- On December 18, 2014, the Appellant rescheduled that day’s appointment for January 2, 2015 but did not show up then.
- On January 2, 2015, the contractor reported that it closed the Appellant’s file for no engagement/non-participation.
- On April 14, 2014, a Ministry worker wrote to the Appellant to have her contact the office about non-compliance.
- On April 22, 2015 the Appellant called the Ministry to confirm that she completed the required EPBC program workshops and that she was now required to do a once a month check in with the program.
- The Appellant confirmed that she failed to do that check in, that she was having issues with her son and had been at his school assisting him.
- The Ministry worker advised the Appellant that a once a month check in was within her capability and was required to maintain her ongoing eligibility for assistance.

2. Employment Plan signed by the Appellant on July 23, 2014, with a confirmation that she read, understood and agreed to the plan, and that as a condition of continued eligibility for income assistance she would:

- Participate in EPBC programming regularly and as directed by the contractor.
- Complete all tasks assigned and attend required sessions/appointments.
- Notify the contractor if she is unable to attend a session.

3. Copy of December 2, 2014 letter from the Ministry to the Appellant advising her that her next income assistance check of December 17, 2014 would be held until she contacted the Ministry about her non-compliance with her employment plan and the EPBC program.

4. Appellant’s request for reconsideration dated May 4, 2015 with her written statement, a copy of a letter dated April 20, 2015 from her son’s school, and a copy of a school safety plan for her son, dated April 21, 2015.

In her request for reconsideration statement, the Appellant stated that:

- The reason she missed her appointments was that since the end of November 2014 she has been volunteering consistently at her son's school because he was having trouble adjusting and has huge behavioral problems.
- She is at the school to keep an eye on him and prevent him from getting physical with children and teachers; they are seeing a pediatrician in May 2015 regarding a diagnosis; she attached a copy of the safety plan for her son.
- She struggles with anxiety and depression, which in the past year have been crippling at times dealing with her son's behavioral issues at school; she is taking medication for these conditions; with her anxiety being so high, lately she has been very forgetful.
- She recognizes that she should have made her appointments with the EPBC contractor more of a priority; however, being a single mother with her anxiety and depression being so high, she didn't.
- She scheduled an appointment for May 11, 2015 with her case manager from the contractor to re-open her file; in the future she will make working with the contractor more of a priority.
- If her reconsideration is approved, she will make it a first priority to fulfill her requirements for eligibility until she returns to work.

In her notice of appeal, dated May 14, 2015, the Appellant wrote that she is a single mother doing her best to raise her son on her own. She stated that she has reopened her file with her case manager and submitted a copy of her action plan to the Ministry.

At the hearing, the Appellant provided much of the same information as in her request for reconsideration. She described her son's circumstances, the difficulties he has at school and how she has been volunteering at the school since November, 2014. The Appellant also described how she struggles with anxiety and depression, how crippling those conditions are and the medications she is taking. The Appellant acknowledged that she missed appointments with the contractor and that she should have made the contractor's program more of a priority. She also acknowledged that before April 2015, she did not inform the Ministry about her medical conditions, that she was volunteering at her son's school or that she might need a change to her employment plan because of these circumstances. The Appellant said that once or twice a week she did drop into the contractor's office to review the job board, to use the computer for job searches or to touch base with her case manager. However, the Appellant had no confirmation of these visits.

Pursuant to section 22(4) of the *EAA*, the Panel admits the information in the Appellant's notice of appeal and her testimony at the hearing as being consistent with and therefore in support of the evidence that the Ministry had at reconsideration.

At the hearing, the Ministry reviewed and relied on its reconsideration decision.

PART F – Reasons for Panel Decision

The issue in this appeal is whether the Ministry's reconsideration decision discontinuing the Appellant's income assistance because she failed to comply with the conditions of her employment plan, as required by section 9 of the *EAA*, was reasonably supported by the evidence and/or was a reasonable application of the applicable legislation in the Appellant's circumstances.

Applicable Legislation

The following legislation applies to the Appellant's circumstances in this appeal.

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 Parties' Positions

The Appellant's position is that she recognizes that she should have made her appointments with the EPBC contractor more of a priority; however, being a single mother with anxiety and depression, she didn't. She was focused on her son's needs and her medical conditions. She stated that in May, 2015 she re-opened her file with her case manager from the contractor and in the future, she will make working with the contractor more of a priority.

The Ministry's position is that by signing the employment plan, the Appellant agreed to its conditions. In its reconsideration decision, the Ministry noted that the Appellant did not participate in the employment plan program because she did not attend her appointments with the EPBC contractor, did not notify the contractor when she was unable to attend and did not notify the contractor or Ministry of any mitigating or medical circumstances that prevented her from attending. Therefore, the Ministry determined that the Appellant failed to demonstrate reasonable efforts to participate in the employment plan program and pursuant to section 9 of the *EAA* was no longer eligible for assistance.

The Panel's Findings and Decision

There is no dispute that the Appellant signed an employment plan on July 23, 2014 which included an acknowledgement that, if she did not comply with the conditions of the plan, income assistance would be discontinued. There is also no dispute that, on September 9, 2014, September 30, 2014, November 4, 2014, November 26, 2014 and January 2, 2015, the Appellant failed to attend appointments with the EPBC contractor. She provided no notice or reasons for her failure to attend to either the contractor or the Ministry. The Panel notes that the missed November 4, 2014, November 26, 2014 and January 2, 2015 appointments were rescheduled dates made at the Appellant's request.

The Appellant submitted that her attendance at her son's school and her medical conditions interfered with her ability to comply with the employment plan conditions. The Panel notes that the Appellant stated that she started volunteering at her son's school in late November 2014, which is after she had already missed appointments. Also, the letter from her son's school and the school plan regarding her son's issues are dated April, 2015, well after the contractor appointments the Appellant failed to keep. As for her medical conditions, the Appellant did not advise the contractor or the Ministry about them until April 2015. She provided no information from her doctor about her conditions or any treatment she was receiving. In fact, she admitted that she failed to do what was required in her employment plan and the plan had not been a priority for her.

Based on all the evidence, the Panel finds that the Ministry reasonably determined that the Appellant failed to demonstrate that she made reasonable efforts to participate in her employment program and she provided no medical evidence for not participating as required. The Panel further finds that, for these reasons and in accordance with section 9 of the *EAA*, the Ministry reasonably determined that the Appellant was not eligible for income assistance. The Panel therefore confirms the reconsideration decision.