

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (ministry) reconsideration decision dated June 3, 2015, which held that the appellant is not eligible for income assistance due to a failure to comply with the conditions of his Employment Plan (EP) pursuant to Section 9 of the Employment and Assistance Act (EAA). The ministry found that the appellant failed to demonstrate reasonable effort to participate in his EP and failed to demonstrate that he ceased to participate due to medical reasons.

PART D – Relevant Legislation

Employment and Assistance Act (EAA) section 9

PART E – Summary of Facts

The appellant did not attend the hearing. The panel confirmed that the appellant was notified of the hearing and then proceeded in his absence in accordance with section 86(b) of the EAR.

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

1. Request for Reconsideration, signed and dated May 28, 2015, which is blank;
2. Employment Plan signed and dated February 12, 2014. The conditions of the employment plan (EP) were that he participate in an employment program (EPBC), attend his first appointment with EPBC within 5 business days, participate regularly as directed, work with the contractor to address any issues that may impact his employability, complete all tasks assigned including any activities that may be set out in an action plan and notify the EPBC if unable to attend a session or when he started or ended employment;
3. Confirmation of application for medical services form, signed and dated May 21, 2015; and
4. Medical Report – Employability, dated May 28, 2015 and signed by the appellant's medical practitioner, which states the appellant's medical condition as "chronic addiction to amphetamine". The medical practitioner did not indicate the date of onset, the expected duration of the medical condition is 6-9 months and the restriction listed is "needs to get treatment in rehab facility".

On July 10, 2014 EPBC reported to the ministry that the appellant was not maintaining contact although they sent multiple emails and messages; the last report was due by July 4th but no contact was made; On July 15, 2014 he attended the EPBC office and was said he was booked for a few workshops. The ministry provided another opportunity to comply. On August 1, 2014 he attended a workshop. On October 31, 2014 EPBC reported he was not participating or providing updates on his job search and did not follow up on a suitable lead. On December 18, 2014 his EPBC file was closed due to lack of participation for more than 12 months. On January 22, 2015 the ministry noted the EPBC file has been closed due to non-compliance and asked that he attend the ministry office. On March 13, 2015 the ministry held his April 2015 check for non-compliance with his EP noting there was no contact for 2 months and his EPBC was closed.

In the Notice of Appeal, signed and dated June 5, 2015, which stated "addiction is a recognized disease and I should be exempt from an employment plan".

Prior to the hearing, the appellant submitted a letter signed and dated June 16, 2015, in which he stated that he is homeless and has no phone number. He was unaware of any help he could have received until he met his with his advocate.

At the hearing the ministry relied on its reconsideration decision and added that:

- The purpose of the EP is to help recipients to meet their specific individual needs so that they can become employable or become more employable. To this end, the worker would have provided the appellant with support and services for his addictions. The ministry provided the panel with a brochure from WorkBC which outlines the support services it provides and testimonials from other recipients who received addictions supports and services.

Admissibility of New Information

The panel found that the letter dated June 16, 2015 provided additional detail or disclosed information that was in support of the issues addressed in the reconsideration. Accordingly, the panel has admitted this new information as being in support of information and records that were before the ministry at the time of reconsideration, in accordance with s. 22(4) of the *Employment and Assistance Act*.

The panel found that the WorkBC brochure provided additional detail or disclosed information that was in support of the issues addressed in the reconsideration. Accordingly, the panel has admitted this new information as being in support of information and records that were before the ministry at the time of reconsideration, in accordance with s. 22(4) of the *Employment and Assistance Act*.

PART F – Reasons for Panel Decision

The issue before the panel is the reasonableness of the ministry's reconsideration decision dated June 3, 2015, which held that the appellant is not eligible for assistance pursuant to Section 9 of the EAA. The ministry determined that the appellant failed to meet the requirements of his EP by not demonstrating reasonable efforts to participate in the program and failed to demonstrate that he ceased to participate due to medical reasons.

Section 9 of the EAA outline the stipulations of an EP and states that:

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*].

The appellant's position is that he has an addiction and he should be exempt from EP. He argues that he is homeless and does not have a contact phone number. He also argues that he was not aware that he could receive support and services for his addiction via his EP worker

The ministry's position is that the appellant entered an EP knowing the conditions of the plan as acknowledged by his signature. However, he did not attend the employment program as required by section 9 (4) of the EAA, stay in contact, provide job searches or apply on job leads as directed since October 2014. As a result, pursuant to sections 9 (1) (b) and (4) of the EAA, the appellant is no longer eligible for income assistance. The ministry argues that the appellant stated that he had an addiction but did not provide confirmation of an addiction until May 28, 2015. The ministry also argues that the appellant refused to go to treatment and has not demonstrated that he is actively pursuing or is currently in treatment for his addiction. Finally, the ministry argues that the appellant could have received supports and services for his addiction as a part of the services provided under his EP but he did not address this issue with his EP worker. As a result, pursuant to section 9 (4) (b) of the EAA, the appellant is no longer eligible for income assistance.

The Panel's Decision:

Section 9 (1) of the EAA sets out that to be eligible for assistance, the recipient must, when required to, enter into an EP, and comply with the conditions of the plan. The panel notes that evidence establishes that the appellant was aware of the requirements of his EP and aware of the consequences of not complying with the EP, and the appellant does not dispute this. A condition of his EP was to participate in an employment program (EPBC). He did not dispute that he did not attend his EPBC on a regular basis or complete the tasks assigned. His EPBC file was closed due to lack of participation for more than 12 months. Given this, the panel finds that the ministry's decision that the appellant did not demonstrate reasonable efforts to comply with the conditions of the employment program (EPBC) to be reasonably supported by the evidence.

The appellant argues he has an addiction and should be exempt from the requirement of an EP and provided information from his practitioner that states he has an addiction and requires treatment at a rehabilitation facility. The ministry argues that EPBC has available supports and services for persons dealing with drug addictions yet he did not work with EPBC. Regarding the doctor's recommendation that he attend a rehabilitation facility, he was not willing to go into treatment. Further, he has not provided information that he is seeking medical assistance and the medical practitioner did not describe any other restrictions due to medical reasons. As such, the ministry argues that he has not demonstrated medical reasons for not participating in the employment program.

The panel finds that the ministry's decision that the appellant has not demonstrated medical reasons

for not participating in his employment program to be reasonably supported by the evidence given the he did not work with EPBC to address his addiction problem, stated he would not go into treatment and no other medical reasons were provided for not attending EPBC.

Conclusion:

The panel therefore finds that the ministry's decision to deny the appellant income assistance due to failure to comply with the conditions of his EP pursuant to s. 9(1) was a reasonable application of the legislation in the circumstance of the appellant as a condition of his EP was to participate in an employment program (EPBC) under s. 9(4) EAA which he failed to do and there were no medical reasons that prevented participation. The panel therefore confirms the ministry's decision.