



PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation's (the ministry) reconsideration decision dated August 26, 2015 which found the appellant ceased to be eligible for income assistance for failure to comply with the terms and conditions of his employment plan as required by section 9(1)(b) of the *Employment and Assistance Act (EAA)* because the appellant failed to demonstrate reasonable efforts to participate in an employment related program as required by section 9(4) of the EAA.

PART D – Relevant Legislation

EAA section 9

PART E – Summary of Facts

The information before the ministry at the time of reconsideration included the following:

- Employment Plan dated July 24, 2013 and signed by the appellant October 28, 2013 (“EP”)
- Employment Program of British Columbia Action Plan dated November 24, 2014 (the “Action Plan”)
- Letter from the ministry to the appellant dated January 15, 2015 advising that the appellant is expected to follow through with the condition of the EP and because he had not attended with the EPBC provider every two weeks as required, his cheque is held until he is participating with the EP or provides verification of a valid reason not to be participating.
- Document titled “Your Guide to the Employment Plan”
- Letter from the ministry to the appellant dated July 9, 2015 advising the appellant that he is not eligible for income assistance as he has failed to comply with the condition of the EP.
- The appellant’s Request for Reconsideration (“RFR”) form dated August 18, 2015 in which the appellant states that this is the only income he has right now, that he does not have a good excuse for not complying with the employment plan but that he has had lots of family issues and stuff to deal with in the last year and he asks for one more chance to change his ways. The appellant states that he will comply with everything the ministry wants him to do.

In the Notice of Appeal the appellant states that he is at risk of being homeless and now has the support of the friendship center that is helping him deal with the family matters that have happened in the past year.

Prior to the hearing the appellant provided the following documentation:

1. Letter from an employment services centre confirming that the appellant had attended a resume building workshop on August 25, 2015
2. EPBC Action Plan dated September 18, 2015 signed by the appellant on August 19, 2015 (“Action Plan 2”)
3. Request for Reconsideration Form dated August 27, 2015 (“RFR2”) indicating that the appellant has been participating in programming and is now recommitted to making a plan. The form indicates that the appellant has substance use, undiagnosed depression and limited education making it difficult to communicate effectively but now has the support of the friendship centre to help support any future planning. The form indicates that the appellant is now at risk of homelessness. The panel notes that the RFR 2 appears to have been completed by someone other than the appellant as the handwriting is different than the previous documents submitted by the appellant. Although it appears that the appellant has signed the RFR2, it is written in the third person referring to the appellant as the “client”. In the space for a telephone number there is a number and word advocate but no name of the advocate is provided.

The ministry did not object to the letter from the employment services centre or the action plan dated August 19, 2015. The ministry did object to the RFR2 on the basis that the information regarding the appellant’s substance use and undiagnosed depression is new information and there is nothing in the record before the ministry regarding those issues.

The panel has admitted the letter from the employment services centre and the Action Plan 2 into

evidence as they are in support of information and records that were before the ministry at the time of reconsideration, in accordance with section 22(4) of the *Employment and Assistance Act*. In particular, the new information relates to the appellant's circumstances and his efforts to comply with the EP and tends to corroborate the information available at reconsideration.

The panel has not admitted the RFR2 into evidence as there is no information in the record of the ministry decision relating to the appellant's substance use, undiagnosed depression or limited education.

The appellant did not attend the hearing. Having confirmed that the appellant was notified of the hearing, the panel proceeded with the hearing pursuant to EAR section 86(b).

The ministry relied on the reconsideration decision.

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PART F – Reasons for Panel Decision

The issue to be determined at appeal is whether the ministry reasonably concluded that the appellant ceased to be eligible for income assistance for failure to comply with the terms and conditions of his employment plan as required by section 9(1)(b) of the EAA because he failed to demonstrate reasonable efforts to participate in an employment related program as required by section 9(4) of the EAA.

The relevant sections of the EAA are as follows:

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.

(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 evidence as set out in the RFR is that he has had lots of family issues and stuff to deal with in the past year with people passing away and he asks for one more chance to comply with the EP and change his ways. The appellant states that he has no good excuse for failing to comply with the EP and that he will comply with everything the ministry wants him to do. The RFR states that this won't happen again and that he wants to get a job and get off welfare.

The ministry's position is that by signing the employment plan, the appellant had read, understood and agreed to the requirements of attendance and compliance with the program as well as the consequences of non-compliance. The ministry's position is that the appellant has a pattern of advising the ministry that he is going to comply with the EP but then does not follow through. For example, the reconsideration decision states that the appellant was accepted into EPBC for case management on July 19, 2013, met with the ministry on July 24, 2013 and signed the EP on October 28, 2013. EPBC advised the ministry that the appellant had an appointment set for October 31, 2013 but on March 14, 2014, EPBC advised the ministry that they had attempted to contact the appellant but his phone was out of service, he had not responded to their letter, and they would be closing his file. On June 6, 2014 EPBC advised that the appellant was re-accepted for services and that he had signed up for a workshop, but on September 26, 2014 EPBC advised the ministry that the appellant had not attended the workshop and they had made 3 attempts to contact the appellant with no response.

The ministry relies on the reconsideration decision, which details the ministry's numerous communications with the appellant regarding his eligibility for income assistance and importance of complying with the EP. For example the appellant booked an appointment with EPBC for November 14, 2014 but did not attend so another appointment was scheduled for December 9, 2014 and the appellant was provided with bus tickets to attend and complete a job search but he did not attend or provide a job search. In January 2015 the ministry withheld the appellant's income assistance and gave him another opportunity to comply with the conditions of the EP but he did not do so. As of July 9, 2015 the appellant had still not complied with the conditions of the EP, had never provided any completed job search and had not advised as to why he was unable to comply with the conditions of the EP, therefore, they advised him that he was ineligible for income assistance. The ministry's position is that the appellant has been given ample opportunities to comply with the EP and has not done so, nor has he provided any information demonstrating that he ceased to participate for medical reasons.

Panel Decision

The panel finds that the appellant was aware of the conditions of his Employment Plan, including that he was required to contact the employment-related program and attend appointments. The evidence established that the appellant did not attend his scheduled appointments at the employment-related program as required. The panel finds that the evidence does not establish that the appellant made reasonable efforts to comply with the requirements of his Employment Plan as required by Section 9(4) of the EAA. In particular, in the RFR the appellant states that he did not have a good excuse for failing to comply with the conditions of the EP and the appellant has not provided information demonstrating that he ceased to participate in the EP due to medical reasons.

Although the appellant states that he wants one more chance and the letter from the service provider dated August 25, 2015 indicates that the appellant has now attended a resume building workshop, the panel finds that the ministry gave the appellant multiple opportunities to comply with the conditions of the EP and he failed to do so. The panel finds that the ministry's decision that the appellant ceased to be eligible for income assistance for failing to comply with the terms and conditions of his Employment Plan as required by Section 9 of the EAA was reasonably supported by the evidence and was a reasonable application of the legislation in the circumstances of the appellant.

The panel therefore confirms the ministry's reconsideration decision.