



PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (ministry) reconsideration decision dated August 13, 2015, which held that the appellant is not eligible for income assistance due to a failure to comply with the conditions of her 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 her employment program which is part of her EP or that she ceased to participate due to medical reasons.

PART D – Relevant Legislation

Employment and Assistance Act (EAA) section 9

PART E – Summary of Facts

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

1. Employment Plan signed and dated January 14, 2014. The conditions of the EP were that she participate in the Employment Program of British Columbia (EPBC), attend her first appointment with EPBC on or before January 21, 2014, participate regularly as directed, work with the contractor to address any issues that may impact her employability, complete all tasks assigned including any activities that may be set out in an action plan; notify the EPBC if unable to attend a session or when she started or ended employment; declare all income and report any changes; and that failure to comply with these conditions will deem her ineligible for assistance; and
2. Request for reconsideration signed and dated July 31, 2015, which stated that she has 23 emails confirming that she was in contact with her case worker, for medical and personal reasons she has been unable to attend her appointments and that she can provide a note from her doctor if required to do so.

In her Notice of Appeal, signed and dated August 26, 2015, the appellant states that she feels that she has complied and communicated with her employment counselor, and that she has medical reasons as well.

At the hearing the appellant stated that she:

- Is ready to proceed with the hearing and represent herself. She was unable to obtain representation from an advocate;
- Disagrees with the ministry that she did not maintain contact with the EPBC worker because she was in contact to reschedule appointments and discuss childcare, often through email;
- Attended workshops, and when asked, the appellant stated she attended about 4 workshops but did not remember when;
- Faced a lot of barriers such as illness and the deaths of her father and step-father. When asked she stated that her son was ill from mid-January to mid-February of 2015, that she too was ill but did not state when she was ill, and she did not know the dates that her father and step-father passed away;
- Worked for 2 weeks from mid-February to March of 2015 so she could not attend workshops or appointments during this time;
- Is a single mom who is trying and is ready and willing to try again since everything is good now;
- When asked if she had a note from her doctor in regards to the illness she and her son faced she stated that she could get but did not have it at the time of the hearing.

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

- The EPBC workers are contractors and have an obligation to make a concerted effort to keep individuals that are in the program on track;
- If they are unsuccessful and report back to the ministry that a program participant is not compliant with the conditions of the program then the ministry will make an effort to facilitate compliance;
- If there is no success the ministry is bound by the legislation and that in the case of the appellant this process was followed.

PART F – Reasons for Panel Decision

The issue before the panel is the reasonableness of the ministry's reconsideration decision dated August 13, 2015, which held that the appellant is not eligible for assistance due to noncompliance with her EP pursuant to Section 9 of the EAA. The ministry determined that the appellant failed to meet the requirements of her EP by not demonstrating reasonable efforts to participate in the employment program which is a part of her EP or that she 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

The appellant argues that she faced multiple barriers that prevented her from participating fully in the EPBC. However despite these barriers, she attended about 4 workshops that she would have been required to sign in at and she was in contact with the worker to reschedule missed appointments. She also argues that she was faced with her son's month-long illness and that she was also ill.

The Ministry's Position

The Ministry's position is that the appellant did not comply with the conditions of her EP; specifically the appellant did not attend her January 26 appointment with the EPBC worker or any of the rescheduled appointments on February 16, March 9 or April 13, 2015; and there is no evidence that she contacted the worker to advise that she would be absent or that she had mitigating circumstances.

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 by signing the EP the appellant acknowledges that she was aware of the requirements of her EP and aware of the consequences of not complying with the EP, and the appellant does not dispute this. A condition of her EP was to participate in an employment program (EPBC), and to notify the contractor if she was unable to attend a session. The appellant argues that she attended 4 workshops and was in contact with the worker via email. However there is no record of her attending any of the 4 workshops she mentioned, the appellant could not remember the dates of the workshops she attended and in her request for reconsideration she stated that she "understood that she was to attend workshops on a couple of occasions but was unable for medical, personal reasons". Furthermore, though the appellant stated that she has a record of 23 emails between her and the worker, no evidence was presented to demonstrate that the appellant was in contact with her worker to advise of her impending absence.

The appellant also argues that the mitigating circumstances of her father's death prevented her from participating in the EPBC. However, the appellant was unable to recall the date of her father's passing thus unable to substantiate that her father's death prevented her from participating in the EPBC. The appellant argues that her son was ill from mid-January to mid-February 2015 and therefore could not attend her scheduled appointments during this time. The panel notes that the appellant stated in her request for reconsideration that she could provide a note from the doctor to establish that her son was ill at this time, but failed to do so. The panel finds that the evidence

demonstrates that that ministry was reasonable in determining that the appellant did not show reasonable efforts to participate in her employment program and therefore did not comply with the conditions of her EP pursuant to section 9(4) (a) of the EAA.

The appellant has argued that her son was ill and mentioned that medical reason prevented her from attending her workshops. It is unclear as what that medical reason is and she has provided no evidence to demonstrate that she ceased to participate in the EPBC due to a medical reason. The panel finds the ministry's decision that the appellant has not demonstrated medical reasons for not participating in her employment program, and thus not complying with her EP, to be reasonably supported by the evidence.

Conclusion

The panel finds that the ministry's decision to deny the appellant income assistance due to failure to comply with the conditions of her EP pursuant to s. 9(1) of the EAA was a reasonable application of the legislation in the circumstance of the appellant as a condition of her EP was to participate in an employment program (EPBC) under s. 9(4) EAA which she failed to do and she did not demonstrate that there were medical reasons that prevented participation. The panel therefore confirms the ministry's reconsideration decision.