



PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the “ministry”) reconsideration decision of November 12, 2015 wherein the ministry determined the appellant was not eligible for income assistance as set out in section 9(1)(b) Employment and Assistance Act (“EAA”) because she did not comply with the conditions stated in her Employment Plan (“EP”) as she failed to demonstrate reasonable efforts to participate in her employment program and did not cease to participate in the program for medical reasons as set out in section 9(4) EAA.

PART D – Relevant Legislation

EAA - section 9

PART E – Summary of Facts

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

- Employment Plan (“EP”) dated August 8, 2014 signed by the appellant;
- Request for Reconsideration signed by the appellant on November 4, 2015;

On August 7, 2014 a ministry worker (“EAW”) discussed the obligations of the EP with the appellant. The appellant stated she understood her obligations regarding her EP because in 2013 she was found non-compliant and denied income assistance. She told the EAW she also understood that if she required a change in her EP for medical reasons that she must notify the contractor, Employment Program of British Columbia (“EPBC”) and the EAW immediately. On August 8, 2014 the appellant signed an EP referring her to EPBC and acknowledging that she knew it was a condition of eligibility for income assistance that she comply with the conditions set out in her EP.

Specifically, in her EP, she agreed:

- to attend the EPBC orientation session;
- to attend and participate in EPBC program regularly as directed by the EPBC contractor;
- to work with the EPBC contractor to address any issues that may impact her employability and complete all tasks assigned including any activities that may be set out in the action plan;
- to notify the sub/contractor if she is unable to attend a session or when she starts or stops any employment;
- to declare all income and report any changes to the ministry;
- to attend all ministry review appointments;
- that she understands that if she fails to comply with the conditions of her EP, that she will be ineligible for income assistance under EAA.

A review of the appellant’s file showed:

- On June 26, 2015 the contractor reported that the appellant had not connected with them since January 20, 2015; that the case manager had tried to but her phone was not in service and she had not provided an updated number.
- On August 28, 2015 the appellant advised the EAW that she was planning to start school in the fall and that it was not through the contractor. The EAW requested the appellant submit all information regarding her schooling so that the ministry could determine how this would impact on her eligibility for income assistance. A hold was placed on her next assistance cheque.
- On September 25, 2015 the appellant advised she had not started school. Her assistance cheque was released and a hold was placed on her next cheque.
- On October 27, 2015 the appellant an EAW regarding her November assistance cheque. The appellant was advised there was a hold on her November cheque to review her school activity and that she needed to speak with an EAW regarding her non-compliance. The appellant told the EAW that she had been having visitation with kids, et cetera so she had not been attending EPBC.
- On October 28, 2015 the appellant advised the EAW that she was aware of her EP requirements for EPBC but she chose to do other things instead. The appellant stated she was registered for school and was in the process of applying for a student loan. The appellant told the EAW she was aware of the consequences for non-compliance because of her experience in 2013. The appellant was advised she was no longer eligible for further income assistance because she had been non-compliant with her EP.

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In the Notice of Appeal dated and signed by the appellant on November 18, 2015 she stated, "I phoned almost every month to find out what I had to do to make sure my cheque wasn't held not once was I told I wasn't complying with the ministry".

At the hearing the appellant stated that she had done everything that she was asked to do and was confused when she was told in October 2015 that she was no longer eligible for income assistance because she had not complied with the conditions of her EP. In October 2015 when her cheque was held she called to inquire and was told she needed to speak to an EAW. The appellant stated that she told the EAW she was registering for school and was told she needed to provide those documents which she did. The appellant stated that she was then told that she was non-compliant with her EP and therefore was not eligible.

In response to questions from the panel the appellant stated:

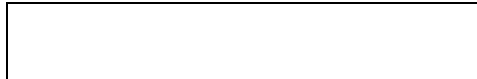
- that she didn't remember signing the EP in August 2014 because she has a poor memory;
- that she did attend the EPBC program every day from August 2014 to the end of January 2015 and discontinued because her parents were ill and she needed to care for them. Later in the hearing the appellant stated that she no longer attended the program because the worker for the contractor (EPBC) told her she did not have to attend the program and could look for work on her own.
- that the contractor (EPBC) wanted me to do upgrading and I couldn't do that, "I wanted to do nails and hair" but I didn't have that option.
- that she did not have any medical reason not to attend to the program (EPBC).

In response to questions from the ministry the appellant stated:

- that the contractor only requested her to be actively looking for work but she did not have to submit job search reports.
- that she did not re-connect with the EPBC contractor after her October 2015 meeting with the EAW because she was told that she was not eligible for income assistance but could do Reconsideration.
- that her phone may have been disconnected or was not working because her daughter dropped her phone (cellphone) and it quit working which may be why the contractor (EPBC) could not contact her;
- that she didn't inform the ministry or the contractor that her phone was disconnected or not working.

The ministry relied on the facts as stated in the reconsideration decision. In response to questions from the panel the ministry stated:

- EP is a process and the EPBC contractor has the authority to vary the EP on whether the person attends daily; does independent work search by submitting job search reports; the EP is suspended for medical reasons.
- In this case the contractor had not had contact with the appellant since January 2015 and reported this to the ministry in June 2015.
- When the contractor tried to contact the appellant the recording on the phone was that "the phone was no longer in service".
- that the appellant's file was not reviewed by an EAW until October 2015.



Admissibility of Additional Oral Information

The oral statements by the appellant tended to reiterate or corroborate information that had been before the ministry at reconsideration with the exception that the appellant had been told by the contract worker what she was not required to attend the program as long as she was actively looking for work. The panel accepted these statements as being oral testimony in support, in accordance with section 22(4) of the EAA.

The oral statements by the ministry corroborated information that had been before the ministry at reconsideration. The panel accepted these statements as being oral testimony in support, in accordance with section 22(4) of the EAA.

PART F – Reasons for Panel Decision

The issue under appeal is the reasonableness of the ministry's reconsideration wherein the ministry determined the appellant was not eligible for income assistance as set out in section 9(1)(b) EAA because she did not comply with the conditions stated in her EP as she failed to demonstrate reasonable efforts to participate in the employment program and did not cease to participate in the program for medical reasons as set out in section 9(4) EAA.

The legislation considered:

Section 9 EAA

- (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 ministry's position is the appellant failed to comply with the conditions stated in her EP. The ministry argued that after signing the EP on August 8, 2014, the appellant complied with her EP from August 2014 until January 2015 but then ceased to participate in the EPBC program. The ministry argued that when the EAW spoke to the appellant the appellant stated that she was doing "other things", such as having visitation with her children and applying for student loan. The ministry argued the contractor tried to contact the appellant by phone and received a message "the phone is no longer in service" and that the appellant failed to provide the contractor or the ministry with any changes to her contact information. The ministry also argued the appellant did not provide any mitigating circumstances nor did she provide any medical information that prevented her from participating in the program from January 2015 to October 2015.

The appellant argued that she contacted the ministry monthly to make sure her assistance cheque would be deposited and did not know that she was not being compliant with her EP until she was advised by the EAW in October. The appellant argued "I did everything the ministry asked". The appellant argued that she did not attend EPBC from January 2015 to October 2015 because she was told she by the contractor that she could look for a job on her own and did not have to attend the program on a daily basis.

Panel Decision

The evidence before the panel is that the appellant was aware of the consequences of being non-compliant with her EP as she had been advised of the consequences prior to signing her EP on August 8, 2014 and further, because she had been denied income assistance in 2013 because she was non-compliant and declared not eligible to receive income assistance. The evidence shows that the appellant did attend the EPBC contractor's program on a daily basis from August 2014 to January 2015 in compliance with her EP but was not compliant from February 2015 to June 2015 because she failed to maintain contact with the EPBC contractor and failed to provide the contractor with her current contact information. The panel finds the evidence from the appellant and the ministry provide conflicting statements regarding whether the appellant was required to attend the contractor's

program. The appellant's position is that she was told by the EPBC contractor that she did not have to attend the program; that she could look for work on her own and did not have to submit monthly work search reports. The ministry's position is that the contractor tried to make contact with the appellant but found her phone "was no longer in service" and the contractor did not have any updated or current contact information on file. The ministry stated the contractor does have the authority to change the conditions of an EP to suit a client's needs (the appellant), however the contractor did not report any changes to the appellant's EP to the ministry and on June 26, 2015 reported that they had not had any contact with the appellant since January 20, 2015 and could not make contact with the appellant because the appellant failed to notify the contractor of any updated contact information. The panel gives added weight to the ministry's position and accepts the evidence that the appellant failed to comply with the condition in her EP that requires her to update the contractor if her contact information changes or if she is not able to attend the EPBC program for any reason. The panel does accept the appellant's testimony that the EPBC contractor advised her that she could look for work on her own but does not accept the appellant's testimony that she was not required to maintain contact with the EPBC contractor.

The panel finds the appellant gave conflicting testimony when she stated that she did not tell the EAW on October 28, 2015 that she didn't attend the EPBC program because she was doing "other things". In the initial stages of the hearing, the appellant told the panel that she didn't make that statement (that she was doing other things) to the EAW on October 28, 2015 and she told the panel that she stopped attending the EPBC program because her mother was sick and she had to care for her; and, then later in the hearing, the appellant stated that she stopped attending the EPBC program because she was told by the EPBC contractor that she did not have to attend the program, that she could look for work on her own. Also, the panel notes the appellant did not inform the EAW on October 28, 2015 that the EPBC contractor told her she did not have to attend the program.

The panel notes there was certainly some time lapse between the EPBC contractor reporting the appellant's no contact and the ministry's file review which resulted in the appellant being told she was not compliant, however, the panel finds the onus is on the appellant to know if she is compliant with her EP or not; and, the panel does not accept that phoning the ministry to determine if her income cheque is being deposited and asking if there is anything else she can do from someone who is not familiar with her file is not sufficient action understanding that she had been found non-compliant and declared ineligible for income assistance in the past.

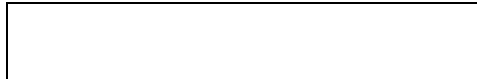
The panel finds that the ministry's determination that the appellant failed to demonstrate reasonable efforts to participate in the EPBC program was reasonable.

In reference section 9(4)(b) EAA – ceases, except for medical reasons, to participate in the program. The ministry argued that the appellant did not provide the ministry with any medical evidence to support that she could not participate in the program because of medical reasons.

The appellant testified that she did not have any medical reasons for not participating in the program.

The panel finds that the ministry's determination that appellant did not cease to participate in the program because of medical reasons was reasonable.

The panel finds that the ministry's decision that the appellant did not comply with her EP and is



therefore not eligible for income assistance, as set out in section 9 of the EAA, was a reasonable application of the legislation in the circumstances of the appellant, and confirms the ministry's decision pursuant to section 24(1)(b) EAA and section 24(2)(a) EAA.