



### PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation's (the ministry) reconsideration decision dated November 24, 2015 which found the appellant ceased to be eligible for income assistance for failure to comply with the terms and conditions of her 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 signed by the appellant July 11, 2014
- Employment Plan signed by the appellant April 23, 2015 (EP)
- Letter from the ministry to the appellant dated September 24, 2015 advising that her cheque will be held until income verification is supplied and her EP is reviewed.
- Medical Report – Employability dated October 2, 2014 (“Medical Report”) indicating that the appellant’s primary medical condition is daily depression/anxiety with date of onset October 2013 and expected duration of one to three months. The physician did not complete the section describing any restrictions resulting from the appellant’s depression and anxiety.
- The appellant’s Request for Reconsideration (“RFR”) form dated November 16, 2015 in which the appellant states that she could not comply with the EP due to anxiety and depression and be as she was having daily anxiety attacks and intense depression. The appellant also states that she is currently in recovery from addiction.

In the Notice of Appeal the appellant states that she disagrees with the reconsideration decision because it “was not how it was set out in these pages” and because she had no idea that this would lead to her ineligibility.

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 her employment plan as required by section 9(1)(b) of the EAA because she 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]*.

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The appellant's evidence, as set out in the RFR, is that she has daily anxiety attacks and depression and is recovering from addiction to methamphetamine so she has been unable to comply with the EP. The appellant states that she is trying very hard to stay sober, attend meetings, and raise her children. In the RFR, the appellant states that she wants to work but is unable to until she deals with her issues.

The ministry's position is that by signing the EP, the appellant had read, understood and agreed to the requirements of attendance and compliance with the Employment Program of BC (EPBC) program as well as the consequences of non-compliance. The ministry's position is that EPBC contacted the ministry on September 24, 2015 to advise that the appellant had not been in contact since July 27, 2015, did not attend the meeting scheduled for August 22, 2015 and that attempts to contact the appellant on August 12 and 14, 2015 were not successful. An appointment was rescheduled with EPBC for September 15, 2015 but the appellant did not attend, instead advising that she had obtained part-time employment.

The ministry's position is that although the appellant had a part-time job she had an ongoing requirement to participate in the EPBC program until her work turned into full time, and that on September 25, 2015 the appellant was advised of her obligation to continue in the EPBC program, but she failed to do so. The reconsideration decision states that the appellant scheduled an intake appointment with EPBC for October 2, 2015 but left after 15 minutes and rescheduled another meeting for October 27, 2015, but EPBC advised that the appellant did not attend. The reconsideration decision states that on October 27, 2015 the appellant advised that she did not take the job as it was based on commission and she did not have the tools to do the work.

The reconsideration decision states that on November 2, 2015 the appellant submitted the Medical Report but that as the physician did not indicate any restrictions resulting from the appellant's medical conditions she was advised, on November 3, 2015 that the Medical Report did not exempt her from attending the EPBC program. The appellant advised the ministry that she did not see the point of attending the EPBC program at which time the ministry found her ineligible for further assistance due to failure to comply with the EP.

#### *Panel Decision*

The panel finds that the appellant was aware of the conditions of her Employment Plan, including that she was required to contact and participate in the EPBC program. The evidence established that the appellant did not attend her scheduled appointments at the EPBC program on August 11, 27 or September 15, 2015 and that she did not participate in the EPBC program as required. The panel finds that the evidence does not establish that the appellant made reasonable efforts to comply with the requirements of her EP as required by Section 9(4) of the EAA. In particular, in the RFR the appellant states that her medical issues were preventing her from working or looking for work but the Medical Report does not provide information indicating that the appellant's medical conditions of depression and anxiety result in any restrictions from working, searching for work, or participating in the EPBC program.

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 her EP 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.