

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the “ministry”) reconsideration decision of December 31, 2015, that denied the appellant income assistance for failing to comply with the conditions of his employment plan as required in the Employment and Assistance Act section 9(1) which required the appellant to participate in a specific employment-related program. The ministry found that the appellant failed to demonstrate reasonable effort to participate in the program and that there were no medical reasons that prevented him from participating as per EAA section (9)(4).

PART D – Relevant Legislation

Employment and Assistance Act Section 9

PART E – Summary of Facts

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

- Medical Report- Employability dated December 23, 2015
- Employment Plan dated March 18, 2015
- Employment Program of British Columbia Action Plan dated December 15, 2015
- Request for Reconsideration dated December 15, 2015
- Hand written note from the appellant explaining issues related to noncompliance to Employment Plan

Employment Plan

The purpose of the Employment Plan (EP) is to outline activities and expectations for the appellant to find employment or become more employable. The EP has specific timelines for activities and is reviewed regularly. If the appellant is unable to follow through with the activities he is to advise the ministry. If the appellant fails to comply with the EP he will be ineligible for assistance.

Conditions of the plan:

- The appellant will participate fully and to the best of his ability in the activities required by the ministry or contractor.
- Terms of the plan. February 5, 2015 – February 4, 2017
- Appellant must meet with the EPBC Contractor on or before February 13, 2015;
- Take part in EPBC program activities;
- Complete all tasks including any actions set out in the EPBC Action Plan;
- Call the EPBC Contractor if unable to take part in services or complete steps that are agreed to or when the appellant finds work.
- If the appellant does not follow this employment plan, the ministry may stop income assistance payments.

In the reconsideration decision, Summary of Facts, the ministry wrote:

- The appellant has been in continuous receipt of income assistance since March 2012.
- On March 17, 2015 the appellant signed an EP
- On November 28, 2015 the EPBC reported that the appellant had not responded to several attempts made to reach him
- On December 1, 2015 the appellant's employer confirmed he had worked minimal hours earning \$203 in October and \$103 in November
- On December 2, 2015 the appellant advised the ministry he had not been attending the EPBC program as he was working part time. The appellant did not respond when queried about the number of hours he had worked, and had not declared income. The appellant stated he had not worked since March 2015 but did not respond when asked why he was not attending the EPBC program. The appellant was advised he was not eligible for further assistance. The appellant requested the minister to reconsider the decision.
- On December 12, 2015 the appellant stated he had medical issues preventing him from attending the EPBC program. He was advised to provide confirmation from a physician that the medical condition prevented attendance at the program.

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- On December 17, 2015 the appellant submitted a completed Request for Reconsideration submitting he did not have reliable access to a telephone until recently, mail was delayed by the land lord, a recent death of a family member has resulted with depression and that he had hepatitis C.
 - A medical report signed by Dr. Scott on December 23, 2015 confirmed the appellant has moderate hepatitis C resulting in poor appetite and stamina, weight loss and that treatment is being arranged

In the reconsideration decision, the ministry wrote: In reviewing the information relevant to the appellant's request for reconsideration the minister was not able to approve a request for income assistance as the appellant;

- Did not participate in the program Employment Plan (EP)
- Did not maintain contact with the EPBC contractor
- Did not advise when unable to attend

The doctor's report confirming the appellant has moderate hepatitis C had insufficient evidence to justify an inability to participate in the program, maintain contact or advise the contractor he was unable to attend as required by the Employment Plan.

In the appellant's Request for Reconsideration, he wrote:

- A new employment plan had started
- He did not understand he was in non-compliance

At the hearing, the appellant stated that he was not aware he was in noncompliance with his EP as his mail had been delayed for five weeks, he had no phone to be contacted, that a family member had died and that his hepatitis C was worse at the time which made it difficult to follow the EP. The appellant stated he did not contact the EP contractor as required but he felt he had completed at least three quarters of the EP requirements; noting he had completed a resume and had made visits to the EP contractor. He was hopeful he could be given a fine instead of being denied income assistance.

At the hearing, the ministry reiterated the statements found in the reconsideration decision that the appellant did not follow the requirements of Section 9 of the Employment and Assistance Act by:

- Not participating in the EP program
- Not contacting the EPBC contractor
- Not advising the EPBC when unable to attend

The ministry also noted that the medical documentation supplied did not give evidence that would indicate the appellant suffers from a medical issue that would impact his ability to participate in the employment program.

PART F – Reasons for Panel Decision

The issue on appeal is whether the ministry's reconsideration decision, which found that the appellant was ineligible for income assistance, was reasonably supported by the evidence or was a reasonable application of Section 9 of the Employment and Assistance Act. In particular, was the ministry reasonable in determining that

- the appellant did not comply with the EP
- the evidence did not establish the appellant made a reasonable effort to participate in the program
- there were no medical reasons for this failure to participate

The relevant legislation is 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.
- (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.

The appellant was required to enter an employment plan and was required to comply with the conditions of the employment plan to be eligible for income assistance. A condition of his employment plan was that he participate in an employment program and as per 9(4) EAA, that condition is not met if the person does not demonstrate reasonable efforts to participate, unless there was a medical reason

The Appellant's Position

The appellant has stated he was not aware he was noncompliant in addressing his EP as he was not receiving mail for five weeks, had no phone until recently, was depressed due to a death of a family member and that he had medical issues which made it difficult for him to participate in the EP.

The Ministry's Position

On March 18, 2015 the appellant signed an employment plan (EP). One condition of the plan was to participate in employment programming through Employment Program of BC (EPBC). The appellant agreed to take part in the EPBC program activities and to complete all tasks given including actions set out in his EPBC Action Plan. By signing the plan, the appellant indicated he understood that if he did not follow his plan, the ministry may stop income assistance payments.

On November 28, 2015 the EPBC reported that the appellant had not responded to several attempts made to reach him. On December 2, 2015 the appellant advised the ministry he had not been attending the EPBC program as he was working part time. The appellant did not respond when queried about the number of hours he had worked, and had not declared income. The appellant's employer confirmed he had worked minimal hours earning \$203 in October and \$103 in November.

The appellant stated he had not worked since March 2015 but did not respond when asked why he was not attending the EPBC program.

A medical report confirmed the appellant has moderate hepatitis C resulting in poor appetite and stamina, weight loss and that treatment is being arranged but did not give evidence that the medical issue would impact the appellant's ability to attend the EP.

The ministry found that the appellant had not demonstrated a reasonable effort to comply with the conditions of his employment plan or that he had any mitigating circumstances that prevented him from complying with the conditions of the employment plan. It was therefore determined that the appellant was not eligible for assistance, as per Section 9 of the Act.

**Panel Decision**

The legislation- section 9(1) of the Employment and Assistance Act states if income assistance is to be given to the applicant, the applicant must comply with the conditions of an employment plan. Participation in the EP, contacting the EPBC contractor and advising the EPBC contractor when unable to attend were conditions of the EP. As no mitigating circumstances or medical reason for non-attendance were given, the ministry's decision that he failed to comply with his EP was reasonable as he failed to demonstrate reasonable efforts to participate in the employment program as per s. 9(4) and thus as per section 9(1) was ineligible for income assistance.

Conclusion

Having reviewed and considered all of the evidence and relevant legislation, the panel finds that the ministry's reconsideration decision which determined that the appellant was not eligible for income assistance for failure to comply with his EP pursuant to Section 9 of the EAA was reasonably supported by the evidence, and therefore confirms the decision. The appellant is not successful in his appeal.