

PART C – Decision under Appeal

The decision under appeal is the reconsideration decision of the Ministry of Social Development and Social Innovation (the ministry) dated December 29, 2015 which held that the appellant was not eligible for income assistance because she failed to comply with the conditions of her employment plan as required by section 9(1) of the Employment and Assistance Act (EAA) as she failed to demonstrate reasonable efforts to participate in her employment program as required by subsection (4).

PART D – Relevant Legislation

EAA, section 9

PART E – Summary of Facts

The appellant has been in continuous receipt of income assistance with her spouse and child since June 2008. She signed her most recent employment plan on June 23, 2015.

The employment plan sets out the requirement to take part in Employment Program BC (EPBC) program activities as agreed to with the EPBC contractor and to complete all tasks given to the appellant, including any actions set out in her EPBC Action Plan. The employment plan also includes a statement of “Acknowledgment” that it is a requirement of eligibility to sign the employment plan and to comply with the conditions set out in the plan, including participating in a specific employment-related program fully to the best of the person’s ability and that the contractor has the ability to report back to the ministry on the activities.

EPBC reported that although the appellant was able to communicate well in English, at the appellant’s request an interpreter attended the appellant’s orientation session on July 9, 2015.

EPBC reported that the appellant obtained temporary work from October 1 – 15, 2015.

On November 20, 2015, EPBC reported that the appellant had been referred to an employer for a 6-week unpaid employment experience. The appellant attended an interview preparation appointment with her EPBC case manager. The appellant and an interpreter attended an interview with the prospective employer. The prospective employer advised EPBC that the appellant displayed an uncooperative attitude during the interview, did not answer questions, and was unwilling to participate in a 6-week unpaid employment assignment.

On December 15, 2015, the appellant, with an interpreter in attendance, discussed her employment plan with the ministry. The appellant was advised of the requirement to participate fully in her employment program. The appellant stated that she had previously worked in one field of employment which was the type of work she wanted to focus on, and she was not interested in the type of work involved in the unpaid employment assignment.

The appellant was denied further income assistance.

In her Request for Reconsideration dated December 22, 2015, the appellant states that since the interview at the prospective employer’s business, she has been searching for work and networking to help with getting any job. She states “I know my mistake of not taking unpaid work at [prospective employer’s workplace] because I think [former type of work] would be more suitable for me due to language barrier and lack of experience.” She is now willing to follow EPBC’s direction in order to get any job and is willing to participate in any unpaid or volunteer work.

On appeal, the appellant requests another chance for help getting a job and submitted a January 21, 2016 letter from a manager of a community services society who met with the appellant that day and reviewed the appeal record. With the assistance of an interpreter, the manager determined that the appellant has completed a low beginner level of English (Canadian Language Benchmark Level 1). The manager notes that the information provided in the appellant’s Request for Reconsideration was written by an interpreter and that the appellant’s reading and written literacy skills are extremely low



as demonstrated by her printed signature on the Request for Reconsideration. The manager writes that the appellant also faces many cultural barriers. In the appellant's culture, many questions are answered with only one or two words, facial expressions are rare, and her understanding of unpaid work was marred as she did not fully understand what was being asked of her. The appellant is currently registered with an employment program of the community services agency designed for persons with an English Language Benchmark Level below 4 and began part-time work in January 2016.

The panel admitted the additional information in the January 21, 2016 letter under section 22(4) of the EAA because it substantiated the previous information respecting the appellant's request for and use of an interpreter and was therefore in support of the information available to the ministry at reconsideration.

The ministry did not submit additional information and relied on its reconsideration decision.

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PART F – Reasons for Panel Decision

Issue under appeal

The issue under appeal is whether the ministry's reconsideration decision which held that the appellant was not eligible for income assistance because she failed to comply with the conditions of her employment plan as required by section 9(1) of the EAA as she failed to demonstrate reasonable efforts to participate in her employment program as required by subsection (4), is reasonably supported by the evidence or a reasonable application of the legislation in the appellant's circumstances.

Relevant Legislation – section 9 of the EAA

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.

Appellant's position

At reconsideration, the appellant takes the position that she made a mistake declining the 6-week unpaid employment opportunity and that while she feels her former employment is more suitable due to language barriers and lack of experience, she is now willing to participate in any unpaid or voluntary work. On appeal, advocating on the appellant's behalf, the manager of the community

services society argues that when both cultural and language barriers are taken into account, the appellant has completed all requirements of her employment plan to the best of her ability.

Ministry's position

The ministry's position is that the appellant's employment related obligations were reviewed with her with the assistance of an interpreter and that she was required to fully participate in the EPBC program but did not do so by not accepting the work experience assignment, indicating that she was not interested in that type of work. Consequently, as she did not fully participate in her employment program, she is not eligible for income assistance pursuant to section 9(1) of the EAA because she did not comply with the conditions of her employment plan.

Panel Decision

Section 9(1) of the EAA states that in order to be eligible for income assistance when a person is required to enter into an employment plan, the person must comply with the conditions of the employment plan. Subsection (4) provides that where an employment plan includes a requirement to participate in a specific employment-related program, that condition is not met if the person fails to demonstrate reasonable efforts to participate in the program.

The appellant's employment plan required her to fully participate in an employment program with EPBC. The appellant attended an orientation session explaining her obligations with EPBC with an interpreter. An interpreter also attended the interview respecting the 6-week unpaid employment assignment. That the appellant did not accept the 6-week assignment is not in dispute. The appellant's reconsideration statement, put into writing by a translator, does not indicate that a lack of understanding on the part of the appellant was the reason for refusing the assignment, as argued by the manager of the community services society. To the contrary, the appellant confirms her preference for the type of work she previously held for two weeks in October 2015, which she felt was more suitable given her language barrier and lack of experience. Additionally, she acknowledges that she made a mistake by not taking the unpaid work and that she is now willing to take any work and follow EPBC's direction. This information from the appellant is consistent with the information EPBC reported to the ministry about the appellant's interview with the prospective employer.

Based on the above analysis of the evidence, the panel finds that the ministry reasonably viewed the circumstances surrounding the appellant's refusal to accept the work experience assignment offered by EPBC as failing to fully participate and in turn, demonstrate reasonable efforts to participate in the employment program as required by section 9(4) of the EAA. As demonstrating a reasonable effort to participate in her employment program was a condition of her employment plan, the ministry has reasonably determined that the appellant has not complied with the conditions of her employment plan and is ineligible for income assistance under section 9(1) of the EAA.

As the reconsideration decision was reasonably supported by the evidence, the panel confirms the reconsideration decision.