



PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (ministry's) reconsideration decision dated February 24, 2016 whereby the appellant was found to be ineligible for income assistance pursuant to Section 9 of the *Employment and Assistance Act* (EAA) for not complying with the conditions of his Employment Plan (EP), due to his failure to demonstrate reasonable efforts to participate in the employment-related program and with no medical reason for ceasing to participate.

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 the reconsideration decision included: Employment Plan (EP) signed by the appellant and dated March 10, 2015. The terms of the EP include to:

- Take part in the contractor program activities as agreed to with the contractor;
- Complete all tasks given to him, including any actions set out in his EPBC Action
- Call the contractor if he cannot take part in services of complete steps that the appellant agreed to, or when he finds work.
- If he moves, within one week ask the EPBC to transfer his case file to the new area.

The EP Case Manager (CM) attempted to contact the appellant on February 18, 2015, February 23, 2015 and March 2, 2015 and was unsuccessful in each attempt.

April 13, 2015 – the Employment Plan of BC (EPBC) advised the ministry that the appellant failed to make contact with them, and withheld the May 2015 assistance cheque to discuss non-compliance with the appellant.

April 22, 2015 – the appellant made contact and was advised of the consequences of non-compliance with the EP and the appellant stated that he understood the consequences of non-compliance and that non participation in the program may result in further ineligibility of Income Assistance.

The appellant stated that he was starting work the following week and would submit confirmation of employment, however he failed to submit the required confirmation of employment and no employment income was declared to the ministry.

June 22, 2015 – EPBC reported to the ministry that due to non-compliance, the appellant's case will be closed on June 22, 2015. The CM was unable to contact the appellant by phone as the phone number seemed not to be in service.

June 23, 2015 – the ministry withheld the appellant's income assistance cheque for August, due to non-compliance with the appellant's employment plan and issued a letter to the appellant.

July 22, 2015 – EPBC advised that their attempts to contact the appellant were unsuccessful and letters mailed to the appellant were returned undelivered.

July 29, 2015 – the appellant contacted the ministry to discuss the hold on the August assistance cheque. The appellant indicated that he had been attending EPBC on a regular basis, the CM was no longer there and he didn't know who his new CM is. The ministry advised the appellant that his EPBC case would not be closed if he had been attending the program, that the August assistance cheque would only be released if a CM confirmed that the appellant had reconnected, and that the consequences of non-compliance with the EPBC would result in ineligibility for income assistance. The CM contacted the ministry to advise that the appellant had attended an appointment and signed an EPBC Action Plan. The ministry released the August assistance cheque to the appellant along with another non-compliance discussion.

September 14, 2015 – the CM was unable to contact the appellant by phone, and then mailed a non-

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compliance letter to the appellant on September 1, 2015 requiring contact no later than September 11, 2015.

September 16, 2015 – EPBC reports that the appellant made contact on September 16, 2015 and an appointment was scheduled on September 21, 2015.

September 21, 2015 – EPBC confirmed that the appellant attended the appointment and a follow up appointment was scheduled.

December 1, 2015 – EPBC reports that the appellant failed to attend a scheduled appointment on November 19, 2015. The CM was unsuccessful in contacting the appellant by phone on several occasions and then issued a non-compliance letter and received no response. The CM indicated that this was the 3rd time in five months that the appellants file had been closed and re-opened.

February 10, 2016 – the ministry attempted to contact the appellant and was not successful. The appellants Income Assistance cheque for March assistance was withheld and a signal letter was mailed to the appellant.

February 16, 2016 – the appellant contacted the ministry on cheque issue day:

- Non-compliance activity was discussed with the appellant, and
- The appellant stated that he did not have a drivers licence and it made it hard to do anything. He stated that he now had his driver's licence back and was looking for work, and
- The ministry advised that looking for work is required, however, it is only one part of what needs to be done to remain eligible for income assistance, and
- The appellant was advised that his EPBC case was closed for not participating in EPBC services, and
- The appellant presented no medical issues or any further mitigating reasons as to why he did not participate, and
- The appellant was advised that he was denied further income assistance for non-compliance with his employment plan.

February 21, 2016 - Request for Reconsideration was submitted by the appellant.

In his Request for Reconsideration, the appellant wrote that:

- He was out of the region looking for work because looking for work through the computer has had little results.
- He has had a few interviews but was unsuccessful due to no drivers licence.
- Since getting his driver's licence back almost two months ago, he has travelled extensively handing out resumes and making new contacts.
- He has new prospects for employment in the late spring.
- He stated that the ministry should reconsider his position because he has been out there trying to better his situation. He has submitted resumes and has signed up for the military.
- He stated that he does not have a cell phone and his main contact is a land line which is shared, so when there are messages left for him, he never got them until he returned home.
- He stated that he has worked all his life and has never found it so hard to find employment.
- He stated that he would like the ministry to reconsider his continued assistance because it will leave him homeless if he is denied.

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- He stated that he is at a point where he wants to be retrained in a different career. He has always regretted not getting his Class 1 drivers licence.
 - He stated that for the last 6 years he has been heavily garnished from family maintenance, having no drivers licence at that time and not being able to renew it because of the arrears. Now he finally got his driver's licence back and everything has been dropped with family maintenance, so he is looking forward to a new start.

At the hearing, the appellant stated that:

- The decision that the ministry made was not unreasonable because he did not take the whole process seriously. He expected to find work because he has always worked, primarily in the mining industry, and has many employable skills.
- He said that he has lost all of his financial resources due to a marriage breakdown and was unable to pay the accumulated family maintenance amounts. This non-payment of family maintenance resulted in him losing his driver's licence, a situation that created a huge problem for him because all of his potential work opportunities required him to have a drivers licence.
- He had several employment opportunities during 2015, but was not successful because he did not have his driver's licence.
- He was able to obtain his driver's licence in December 2015 and, due to the downturn in the economy, was unable to find employment.
- He summarized his position stating that because of the breakdown of his marriage, his inability to pay the family maintenance payments, which had grown to over \$100,000, the loss of his driver's licence and the requirement of a valid driver's licence in all of the job opportunities he applied for, and his misunderstanding of his responsibilities in the Employment Plan, he finds himself in a very difficult financial position.
- He states that he is accepts responsibility for his current situation and is now ready for a career change, but needs the help of the ministry to proceed.

The ministry relied on the reconsideration decision, as summarized at the hearing. At the hearing, the ministry stated that:

- The appellants EPBC file had been closed and re-opened three times in five months due to non-compliance with the appellant's EP. On several occasions, the appellant has acknowledged that he understood the consequences of non-compliance.
- The ministry pointed to the appellant's drivers abstract that states that the appellant was prohibited from driving from October 25, 2014 to December 16, 2015 due to listed violations to November 25, 2014 and noting that there was no evidence that the drivers licence was suspended for non-payment of family maintenance.

PART F – Reasons for Panel Decision

The issue on appeal is whether the ministry's conclusion that the appellant did not comply with the conditions of his EP, due to his failure to demonstrate reasonable efforts to participate in the employment-related program and with no medical reason for ceasing to participate and that, therefore, the appellant is not eligible for income assistance pursuant to Section 9 of the *Employment and Assistance Act* (EAA) is reasonably supported by the evidence or is a reasonable application of the applicable enactment in the appellant's circumstances.

Employment plan

9 (1) For a family unit to be eligible for (1) 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].

Appellant's position:

The appellant's position is that he has always worked, has never had difficulty finding work and believed that his current situation was temporary. As a result, he did not take the EPBC program as seriously as he should have. He had several employment opportunities in 2015, but was unsuccessful because he did not have a drivers licence. After having his driver's licence reinstated in December 2015, the employment opportunities have completely dried up because of the current downturn in the economy. He accepts responsibility for his current situation and is now ready for

training for a career change.

Ministry's position:

The ministry's position is that the appellant participated in an EPBC program in 2015 and his file had been closed and re-opened three times in five months due to non-compliance. The appellant has not provided any evidence of a medical condition that impacted his non-participation. The consequences for not complying with all the conditions of his EP were explained to the appellant several times in 2015.

Panel's decision:

Section 9(1) of the EAA provides that, when the ministry requires, a person must enter into an EP and comply with the conditions in the EP in order to be eligible for income assistance. The appellant signed an EP on March 10, 2015 and agreed to the conditions which required the appellant to take part in the employment program activities as agreed to with the contractor, to complete all tasks given to him, including any actions set out in his Action Plan, and call the EPBC contractor if he could not take part in services or complete agreed to steps, or when he found work.

Section 9(4) of the EAA stipulates that if an employment plan includes a condition requiring a recipient 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, or ceases, except for medical reasons, to participate in the program. The appellant did not demonstrate reasonable efforts to participate in the EPBC when he failed to communicate with the EPBC contractor on numerous occasions during 2015, supported by the evidence that his file was closed and re-opened three times in five months due to non-compliance. Further, there is no evidence of a medical condition that impacted his non-participation. As such, the panel finds that the ministry reasonably concluded, pursuant to Section 9(1) of the EAA, that the appellant did not comply with the conditions of his employment plan.

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 the conditions of his EP pursuant to Section 9(1) of the EAA was reasonably supported by the evidence, and therefore confirms the decision.