

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (ministry's) reconsideration decision dated March 1, 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 on February 23, 2015 in which the appellant acknowledged that failure to comply with the conditions of his EP would render him ineligible for income assistance (IA), and in which he agreed to:

- Take part in the contractor program activities as agreed to with the Employment Plan of B.C. (EPBC) contractor;
- Complete all tasks given to him, including any actions set out in his EPBC action plan
- Call the contractor if he cannot take part in services of complete steps that the appellant agreed to, or when he finds work.

February 26, 2015 - EPBC reports that the appellant failed to attend his scheduled appointment on February 25, 2015.

March 18, 2015 – EPBC reports that the appellant failed to attend his scheduled appointment on this date. Voicemail message and a letter issued by an EPBC worker that April 2015 benefits will be withheld until compliance with EPBC was confirmed and to contact the ministry no later than March 25, 2015.

March 27, 2015 – appellant attended an appointment with EPBC and the worker communicated again the consequences of non-compliance. April 2015 benefits were released to the appellant.

April 17, 2015 – EPBC confirmed that the appellant had completed an Action Plan.

May 4, 2015 – EPBC reports that the appellant has failed to attend scheduled appointments as required and mailed the appellant a letter advising of his need to make contact by May 15, 2015.

May 14, 2015 – EPBC reports that the appellant has failed to make contact and will be mailed a letter advising of pending file closure effective May 14, 2015.

July 10, 2015 – an EPBC worker mails the appellant a letter advising the need for him to contact the ministry to discuss his non-compliance with EPBC confirming that the appellant has not attended for months and places a hold on the appellants August benefits.

July 14, 2015 – an EPBC worker makes contact with the appellant and discusses his non-compliance, his need to contact the ministry, confirmation that it is his responsibility to ensure contact and compliance with EPBC, and to schedule a new appointment.

July 15, 2015 – the appellant contacted the ministry and advises that he has scheduled an appointment with EPBC for July 16, 2015 at 9:00 a.m.

July 16, 2015 – EPBC reports that the appellant attended his scheduled appointment 40 minutes late. The EPBC worker was unable to see the appellant and rescheduled for July 20, 2015 at 10:00 a.m.

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September 2, 2015 – EPBC reports that the appellant failed to attend a scheduled appointment.

November 13, 2015 – EPBC reports that the appellant has failed to attend and participate as required and mailed a letter to the appellant scheduling an appointment for November 20, 2015 at 10:30 a.m.

November 24, 2015 – EPBC reports that the appellant failed to attend his scheduled appointment on November 20, 2015 at 10:30 a.m. The EPBC worker and the appellant rescheduled the appointment to December 1, 2015 at 12:00 noon.

December 2, 2015 – EPBC reports that the appellant attended his scheduled appointment and the EPBC worker and the appellant agree to an appointment to be held every Wednesday at 3:00 p.m. and should the appellant fail to attend, his file would be closed.

December 23, 2015 – EPBC reports that the appellant failed to attend a scheduled appointment.

December 30, 2015 – EPBC reports that the appellant failed to attend a scheduled appointment.

January 7, 2016 – EPBC reports that the appellant failed to attend a scheduled appointment on January 6, 2016 and continues to be non-compliant with the program.

February 24, 2016 – an EPBC worker contacts the appellant to advise that he has been deemed ineligible for income assistance due to non-compliance with his EP.

February 26, 2016 - Request for Reconsideration was submitted by the appellant stating that he was in Alberta because his mother was in hospital and stating that he has a drinking problem.

March 1, 2016 – Reconsideration Decision was issued stating that the appellant is ineligible for income assistance for non-compliance with the conditions of the appellants EP.

March 15, 2016 – the appellant files a Notice of Appeal stating he disagrees with the ministry's reconsideration decision because there is no work and he needs to keep a residence so he can even look for work.

At the hearing:

The appellant stated that:

- He could not attend the scheduled meetings with his EP because he was out of province for a month visiting his sick mother. He was uncertain as to when he was out of the province. He further stated that he has an addiction problem and did not think it was too important to contact his EPBC worker.

- When the consequences of non-compliance were explained to him, he then understood that it was important to comply with the conditions of his EP.

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- With his addiction problem, he has lost his family and all of his possessions. He further stated that he has taken steps to get treatment for his addiction, starting the day of this hearing, so that he can get his life back.

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

- At reconsideration the ministry did not have any medical or related documentation or evidence on file that indicates that the appellant has a medical reason for ceasing to participate in his EP.

- Several days before the date of this hearing, the ministry received information of the appellant's actions to seek treatment for his addiction; however, the ministry has not yet received any documentary evidence to support the appellant's argument his addiction problem has resulted in him not participating in his EP.

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 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 position is that he did not comply with his EP because he was out of province for a month and that he has an addiction problem that resulted in him not understanding that in order to receive social assistance benefits he must comply with the conditions of his EP. The appellant agrees that he was non-compliant with the conditions of his EP.

Ministry's position:

The ministry's position is that the appellant participated in an EPBC program in 2015 and he failed to follow through with his EP requirements by consistently not attending scheduled meetings and by not providing required job searches. 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 February 23, 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 and attend scheduled meetings on numerous occasions during 2015 and failed to provide required job searches as set out in his EP. Further, at the time of reconsideration 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.