

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (ministry's) reconsideration decision dated March 2, 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 insufficient 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 August 4, 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 EPBC Contractor if he cannot take part in services or complete the steps that the appellant agreed to, or when he finds work.

September 23, 2015 – the appellant reported that he had started working but would not be paid until the end of September or October.

October 6, 2015 – the appellant reported that he did not attend workshops on August 13th and 14th and did not attend a scheduled appointment on August 28th. The appellant did not respond to requests by the EPBC Contractor to make contact on August 27th, September 9th or 14th.

October 20, 2015 – the Appellant reported that he was working in August but is now out of work and that he would connect with the EPBC Contractor.

October 23, 2015 – the Appellant met with a ministry worker and stated that he had worked in August but not since then. The ministry clearly reminded the appellant that he must maintain contact with his EPBC program workshops and meetings in order to maintain eligibility for assistance. The appellant was further advised that he was responsible for advising EPBC if not able to attend for any reason and to provide verification of any circumstances preventing him from attending. The appellant then contacted EPBC and provided confirmation of appointments scheduled on November 6th, 9th, and 10th.

November 17, 2015 – the EPBC Contractor reported that the appellant had rescheduled many appointments and then did not attend. EPBC stated they had reviewed the appellant's responsibilities of participation in the program with him.

January 29, 2016 – the ministry reviewed the history of non-compliance with Employment Plans with the appellant as well as the multiple opportunities provided to demonstrate compliance. The appellant stated his teeth were problematic and required pulling and that he had the problem for some time and had not taken any steps to address it.

January 29, 2016 – the ministry advised the appellant that further assistance was denied due to repeated non-compliance with the conditions of his employment plan.

February 4, 2016 – a medical report, dated February 3, 2016, was provided by the appellant's dentist stating the appellant's medical condition as severe full mouth caries causing weekly episodes and likely to continue for 6 to 9 months. The restrictions noted are diet and ability to eat during duration of

pain.

February 29, 2016 – the appellant filed the Request for Reconsideration stating that he and his wife are experiencing medical issues and need to care for their children and are unable to attend appointments and stay all day, both he and his wife have been diagnosed with severe depression and all his teeth need to be extracted. The appellant further states that “at the end of the day, ministry trying to put my family on the street, which I feel is wrong.”

March 2, 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 11, 2016 – the appellant files a Notice of Appeal stating he disagrees with the ministry’s reconsideration decision because he will be providing more information from his dentist and his medical state is genetic.

Notice of Appeal dated March 11, 2016, the appellant stated the following:

- He will be providing more information from his dentist.
- His medical state is genetic.

The appellant did not make a submission to the written hearing.

The ministry’s submission to the written hearing:

“The ministry’s submission in this matter will be the reconsideration summary provided in the Record of Ministry Decision.”

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.

Relevant Legislation:

Section 9 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.

(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 did not comply with his EP because he is experiencing medical issues with his teeth and he needs to care for his children and is unable to attend appointments and stay all day.

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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 not reporting when he was not able to attend. The appellant has provided a Medical Report confirming he has severe dental issues. However, the Medical Report does not indicate this condition would prevent the appellant from attending, participating, maintaining contact with EPBC or advising EPBC when he was not able to attend. 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 August 4, 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 medical report provided by the appellant's dentist states that the date of onset of the "full mouth caries" condition is November 1, 2008. The condition was present on August 4, 2015 when the appellant signed his EP. The panel finds that the Medical Report does not indicate the appellant's medical condition would prevent the appellant from attending, participating, maintaining contact with EPBC or advising EPBC when he was not able to attend. 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.