



### PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the “ministry”) reconsideration decision of March 4, 2016 wherein the ministry determined the appellant was not eligible for income assistance as set out in section 9(1)(b) Employment and Assistance Act (“EAA”) because he did not comply with the conditions stated in his Employment Plan (“EP”) as he failed to demonstrate reasonable efforts to participate and follow through with the Employment Program of British Columbia (EPBC) programing as set out in section 9(4)(a) EAA.

### PART D – Relevant Legislation

EAA - section 9

## PART E – Summary of Facts

The evidence before the ministry at the time of reconsideration:

- Employment Plan signed by the appellant on December 18, 2015 with the following conditions:
  - o Meet with the EPBC contractor on or before December 16, 2015.
  - o Must take part in EPBC program activities as agreed to with the EPBC contractor;
  - o Must complete all tasks given to you, including any actions set out in your EPBC Action Plan;
  - o This plan developed by you (the appellant) and the EPBC contractor which set out: the steps, services, and supports that you agree are needed for you to find or become more employable as quickly as possible.
  - o You must call your EPBC contractor if you cannot take part in services or complete steps you agreed to, or when you find work.
  - o If you move, within one week you must ask the EPBC contractor serving your new area to transfer your file case file. To find the EPBC contractor in your new area , call 1-877-952-6914.
  - o Your EP conditions will continue to apply.
  - o If you do not follow this employment plan, the ministry may stop your income assistance payments.
- Letter dated December 2, 2015 from the ministry to the appellant explaining the ministry needs the attached EP signed by the appellant and returned to local ministry office within two weeks. The letter explains that if the appellant fails to sign and return the EP or fails to follow through with the conditions in the EP he will be ineligible for income assistance. The letter also advises that if he has any questions to contact Employment Assistance Worker (EAW) at the number provided.
- Police report regarding the arrest of the appellant on December 30, 2015;
- Request for Reconsideration dated March 1, 2016.

In section 3 of Request for Reconsideration the appellant wrote that he requests the Reconsideration because he was arrested and taken into custody by the police. He explains that he tried to explain to the police that he has an appointment but they were not interested.

On December 11, 2013 an EAW created an EP for the appellant and placed a hold on his January cheque pending him signing the EP. This EP had an expiry date of December 17, 2015. On December 18, 2013 the appellant attended the ministry office and discussed the EP with the EAW. The appellant signed the EP and his January cheque was released. Between December 11, 2013 and November 30, 2015 several holds were placed on the appellant's income assistance cheque because of non-compliance issues, i.e. fail to contact EPBC or attend EPBC programs, fail to submit an action plan and each time the appellant stated that he understood if he was deemed non-compliant he would be ineligible for income assistance.

On December 2, 2015 the EAW noticed the appellant's current EP would be expiring on December 17, 2015 so a new EP was created and mailed to the appellant for signature and return to his local ministry office.

On December 18, 2015 the appellant attended his local ministry office and signed his new EP. The December 16, 2015 appointment with EPBC was re-booked for December 21, 2015.

On December 30, 2015 the appellant was arrested by the police, released on bail with a condition that he leave and move to another community. The police drove the appellant to a nearby community where he stayed in a community shelter.

On January 4, 2016 the appellant went to the local ministry office and indicated that he may be moving to this area. The appellant advised the ministry office that he would submit shelter information once he had found a permanent residence.

On January 29, 2016 an EAW noted that the appellant had moved to another community and had not followed with his employment obligations. A note was added to his file which stated that he had not responded to EPBC and another compliance discussion was required.

On February 18, 2016 EPBC reported the appellant did not attend his appointment on December 21, 2016 and his case file would be closed on January 13, 2016 if no contact is made.

On February 18, 2016 the appellant spoke to an EAW and the EAW inquired why he had not attended EPBC. The appellant told the EAW that he was going there in December 2015 but he was picked up by the police. The EAW inquired if the appellant went to jail and he replied that he had not but had attended court. The EAW then inquired why he had not attended EPBC and he replied that he would now attend. The appellant was advised he was no longer eligible for income assistance due to non-compliance with his EP.

The ministry advised the ministry's submission in this matter will be the reconsideration summary provided in the Record of Ministry Decision.

The only written submission related to the appeal made by the appellant is found in the Notice of Appeal under Reasons for Appeal: "cause [because] I got arrested, and tranfered [transferred] my file in January and I came to welfare to get my cheque on Feb [February], nobody told me about my empoyement [employment] plan, until now."

The panel finds the appellant's statement in the Notice of Appeal does not contain any new evidence and is considered argument.

## PART F – Reasons for Panel Decision

The issue under appeal is the reasonableness of the ministry's reconsideration decision of March 4, 2016 wherein the ministry determined the appellant was not eligible for income assistance as set out in section 9(1)(b) EAA because he did not comply with the conditions stated in his EP as he failed to demonstrate reasonable efforts to participate and follow through with the EPBC as set out in section 9(4)(a) EAA.

The legislation considered: EAA

### **Employment plan**

#### Section 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.

(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.

### Ministry's Position

The ministry argued that for a family to be eligible for income assistance the recipient must comply with the conditions in his EP. The ministry argued that when the appellant signed his EP this indicated that he had read and understood the conditions in his EP and that if he did not comply with these conditions that he would no longer be eligible for income assistance. The ministry argued that the appellant did not comply with several conditions set out in the EP; that he did not call EPBC in advance to reschedule his appointments; that he failed to attend appointments with EPBC; that he did not notify EPBC when he moved; and, that he did not complete action plans as required.

### Appellant's Position

The appellant argued that he had been arrested by the police when he was enroute to his December 21, 2015 appointment and was not able to make the appointment. The appellant also argued that no one told him about his EP until he was told he was no longer eligible for income assistance.

### Panel Decision

The evidence is that the appellant missed several appointments with EPBC over the preceding two years, including one that had been re-scheduled for December 21, 2015. The appellant's position is that he was unable to attend the appointment on December 21 because he had been arrested by the police; however, the police report indicates the arrest took place on December 30, 2015. The panel does not accept the appellant's argument as reasonable. The ministry also argued the appellant did not make any contact with EPBC after signing his EP and further, that he failed to notify EPBC that he was intending to move to a new community, both matters a condition in his EP. The appellant did

not argue either point. The evidence is that on January 4, 2016 the appellant did attend the local ministry office to indicate that he may be moving to that community. There is no evidence the appellant made any contact with EPBC between December 18, 2015 when he signed his EP and February 18, 2016 when he spoke to an EAW. There is also no evidence he contacted the EPBC in his new community although contact information for EPBC is provided in the EP. The panel finds that the appellant's explanation that he was arrested on December 30 when his appointment was on December 21 was not reasonable. The panel finds the evidence supports the ministry's position that the conditions in the EP were reasonable and when the appellant signed the EP that is an indication that he was aware of the conditions and also aware of the consequences if he did not comply with those conditions.

The evidence is that the appellant had his income assistance cheque withheld by the ministry on several occasions over the past two years because he was not complying with the conditions in his EP and on these occasions was advised of the consequences – that he would be ineligible for income assistance - if he was deemed non-compliant. The appellant argued in the Notice of Appeal that he was not aware of the EP. The panel does not accept the appellant's argument and there is no evidence from the appellant that would provide an explanation for his non-compliance over the course of the previous two years.

Considering all the evidence, the panel finds the ministry was reasonable in determining the appellant failed to demonstrate reasonable efforts to participate in the program as required in section 9(4) of the EAA and as a result, failed to comply with the conditions in his EP.

The panel finds that the ministry's decision that the appellant was not eligible for income assistance because he did not meet the criteria set out in section 9(1)(b) of the EAA was reasonable. Therefore, the panel finds the ministry's decision was reasonably supported by the evidence and confirms the decision.