



### PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the ministry) reconsideration decision dated March 30, 2016, in which the ministry found that the appellant failed to comply with conditions of employment plan (EP) when directed under the statutory requirements of Section 9 of the Employment and Assistance Act (EAA), and was thus ineligible for ongoing income assistance (IA). The ministry found the appellant had not made a reasonable effort to comply with the conditions of her EP by participating fully in Employment Program of BC (“EPBC”) programs.

### PART D – Relevant Legislation

Employment and Assistance Act (EAA), Section 9

## PART E – Summary of Facts

With the consent of the parties, the appeal hearing was conducted in writing in accordance with s 22(3)(b) of the Employment and Assistance Act.

The appellant has been designated as a recipient of income assistance under the EAA.

### **Additional Evidence Submitted on Appeal:**

The appellant submitted her Notice of Appeal on April 25<sup>th</sup>, 2016. Under Reasons for Appeal, she stated “I have a severe learning disability and I tried to complete on my own and ran out of time. I have help now can you please give me one more chance.” The appellant provided additional written submissions for the hearing consisting of a self-written report describing her medical conditions to support her appeal, and a Medical Report – Persons With Persistent Multiple Barriers dated April 21, 2016, from a general practitioner.

The panel determined that the appellant’s self-written report was acceptable as it provided no new evidence not previously before the minister, and was in support of her appeal. The panel finds that medical report is new information that was not before the minister at reconsideration, and is inadmissible under Section 22 (4)(b) of the Employment and Assistance Act.

The information before the ministry at reconsideration consisted of the following:

March 3, 2015 – EP was created and mailed to appellant, and a signal was placed on her May 2015 assistance cheque. It was noted that the appellant was in receipt of daycare subsidy which would not be a barrier to employment.

April 28, 2015 – EP was signed by appellant in which she agreed to participate fully and to the best of her ability in an EPBC program offered by a contractor.

November 3, 2015 – Appellant had not sent in completed medical report therefore ministry sent appellant a letter advising to contact EPBC on or before November 15, 2015.

January 7, 2016 – The EPBC reported appellant not willing to participate in the EPBC and failed to attend workshop.

January 13, 2016 – The EPBC stated the appellant was not willing to participate and quoted appellant stating “didn’t care if welfare cut off my 200.” The February 2016 assistance cheque was held to address non-compliance with the EP. The appellant advised the ministry she wanted to stay home with her son and that she was on disability. The appellant was advised to reconnect with EPBC and work towards compliance of the EP.

January 15, 2016 – The appellant contacted the ministry and advised that she would like to work with the Abbotsford EPBC since the location was closer.

January 25, 2016 – The EPBC reported that the appellant attended an appointment and stated that she would comply with EP.

January 27, 2016 – Appellant submitted an EPBC Action Plan and signed it on January 26, 2016 showing that a workshop was scheduled for January 28<sup>th</sup>.

January 29, 2016 – EPBC reported that the appellant did not attend the scheduled workshop, and when contacted the appellant stated “I won’t be going, I can’t do it.” EPBC explained compliance, and the appellant stated she would not be able to attend due to anxiety. The ministry determined the appellant was not eligible for assistance due to non-compliance with the conditions of her EP. The appellant requested a reconsideration of this decision.

February 16, 2016 – EPBC reported the appellant did not attend her appointment that was rebooked with her for February 19, 2016.

February 26, 2016 – EPBC reported appellant did not attend her appointment.

February 29, 2016 – Ministry received the signed request for reconsideration requesting an extension as she was awaiting doctors’ appointments. An extension was granted until March 30, 2016.

March 29, 2016 – The ministry called appellant to advise that the extension ended the following day and the appellant advised she would try and get doctors information to the ministry on March 29<sup>th</sup>.

March 30, 2016 – Minister reviewed the appellants request for reconsideration and no additional information was received.

The ministry, in a letter dated May 27<sup>th</sup>, 2016, stated that its submission is the reconsideration summary provided in the Record of Ministry Decision. In addition, the supplementary information submitted by the appellant was reviewed regarding her medical condition, and its impact on her employability. The ministry stated that the supplemental information regarding her employability was not before the ministry at the time of the reconsideration decision. The ministry further stated that if the appellant has a change in circumstances, she may have eligibility for assistance reassessed based on the new information.

## PART F – Reasons for Panel Decision

The issue in this appeal is whether the ministry was reasonable in denying the appellant income assistance for non-compliance with the conditions of her EP as required under Section 9 of the EAA. Specifically, the issue is with the ministry's determination, which denied the appellant income assistance, is reasonably supported by the evidence or is a reasonable application of the legislation in the circumstances of the appellant.

### **Relevant Legislation:**

#### **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]*.

### **Position of parties:**

#### **Ministry:**

The position of the ministry, as set out in the reconsideration decision, is that the appellant is ineligible for income assistance since the appellant has not complied with her EP. Based on the appeal record, the ministry maintains that having signed the EP, the appellant read, understood and agreed to the conditions specified in the plan. The ministry determined that the appellant did not attend all the appointments and workshops with the contractor and did not notify the contractor each time she was unable to attend.

The ministry had been advised by the appellant that she had multiple reasons why she was unable to attend, specifically one was anxiety. The ministry had no information on file that demonstrated that the appellant was not able to participate in the EPBC due to medical conditions. The last medical note the ministry had on file was from 2013 which listed anxiety as one of the conditions but expected duration was 2 years which would conclude in 2015.

The ministry also notes that the appellant had booked an appointment on January 28, 2016 with the EP contractor; however, given her history of booking appointments and subsequently not attending those appointments, the ministry determined that this is not indicative of a reasonable effort to participate in the EP. The ministry's position is that the conditions of the appellant's EP were reasonable. As the appellant has missed appointments, failed to make contact with the contractor and has not followed through with the EP program, the minister finds that she has not complied with the conditions of her EP; therefore, she is not eligible for income assistance under the legislation.

#### **Appellant:**

The appellant's position, as explained in her correspondence with the ministry, is that she has a severe learning disability and anxiety and is unable to work.

#### **Panel Decision:**

Section 9(1)(b) EAA states that for a family to be eligible for income assistance, they must comply with the conditions in their employment plan. Section 9(4) EAA stated that if an employment plan contains a conditions requiring participation 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. The panel finds that the ministry's decision that the appellant failed to demonstrate reasonable efforts to participate had not been demonstrated as she did not attend workshops and appointments as agreed on. Evidence indicates the appellant's continuous lack of participation, specifically to take part in the EPBC program activities as agreed on with the EPBC contractor such as completing all tasks given

and contacting and advising the contractor when unable to attend.

The appellant stated that she wanted to stay at home and was not willing to participate as she suffered from anxiety. While the appellant argued she had medical reasons for not participating, she did not submit an updated Medical Report – Persons with Persistent Multiple Barriers to the ministry at reconsideration. On file was a 2013 Medical Report which listed anxiety as a medical condition and indicated the duration to 2015 and so the ministry was reasonable to determine there were no medical reasons for ceasing to participate in the program.

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 Section 9 of the EAA was a reasonable application of the legislation in the circumstances, and therefore confirms the ministry's reconsideration decision.