



### PART C – Decision under Appeal

The decision under appeal is the reconsideration decision of the Ministry of Social Development and Social Innovation (the “ministry”) dated May 2, 2016, which denied the appellant Income Assistance (IA), as the Ministry determined that he was non-compliant with the conditions of his employment plan, (EP), contrary to Section 9(1) and (4) of the Employment Assistance Act (EAA). Specifically the ministry determined that the appellant has not demonstrated he has made reasonable efforts to comply with the conditions of his EP, or that he has any mitigating circumstances that prevented him from complying with the conditions of his EP.

### PART D – Relevant Legislation

Employment and Assistance Act (EAA) Section 9(1) and (4)

## PART E – Summary of Facts

A summary of the evidence before the Ministry at the time of the reconsideration is as follows:

1. A copy of the appellant's employment plan (EP) signed by the Appellant on January 22, 2016. The appellant's EP included the following components:

### Plan Conditions

Conditions of the EP require that the appellant participate fully to the best of his ability in the activities required by the ministry or Employment Programs of British Columbia (EPBC) contractor as set out in sections 3(a) to (f) of his EP.

Section 3(a) sets a start date of January 22, 2016; (b) lists the name of the Program/ Service as EPBC; (c) provides the name of the contractor and a telephone number; (d) states that the appellant must meet with EPBC coordinator on or before February 1, 2016, and must take part in EPBC programming activities as agreed to with EPBC Contractor. The appellant must complete all tasks given to him, including any actions set out in his EPBC Action Plan. This is a plan developed by the appellant and the EPBC Contractor which sets out the steps, services and supports that the appellant agrees are needed for him to find work or become more employable as quickly as possible.

The appellant agreed to contact the EPBC Contractor if he can not take part in service, or complete steps that he agreed to or when he finds work. If he moves, within one week he must ask the EPBC Contractor in his new area, to transfer his EPBC case file. A contact phone number is provided and the appellant's Employment Plan conditions will continue to apply. If the appellant does not follow the Employment Plan the ministry may stop his income assistance payments.

### Section 5: Compliance with EP and Actions for Non-Compliance

To be eligible for assistance, each applicant or recipient in a family unit must, when required to do so, enter into an EP, and comply with the conditions set out in the EP. The purpose of an EP is to help a person a) find employment, or b) become more employable. Assistance will be discontinued if a person a) fails to demonstrate reasonable efforts to participate in a program in which he is required to participate or b) ceases except for medical reasons, to participate in the program.

### Section 6: Acknowledgments

The appellant acknowledges that it is a condition of eligibility that he sign his EP and that he comply with the conditions set out in his EP, including any conditions to participate in a specific employment-related program. The appellant understands that ministry contractors have the ability to report back on his activities. He also understands that he may be required to provide verification of his compliance with the conditions of his EP, including proof of active work search and/or records of attendance or participation in an employment related program as required by the ministry.

The appellant further agrees that he acknowledges and understands that, if the ministry refers him to a specific employment-related program that he must participate fully and to the best of his ability in the activities required by the ministry contractor.

In accordance with the conditions of the EAA the appellant acknowledges that he understands that if he does not comply with the conditions of his EP, the assistance issued to him will be discontinued. The appellant also acknowledges that he understands that participation in an EP is not open to appeal.

2. A copy of the appellant's Request for Reconsideration signed by the appellant April 22, 2016.

In Section 3 of the Request for Reconsideration the appellant is asked to provide his reasons for making his request. In this section the appellant reported that he is fighting this decision because if he has no income he

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will not have a place to stay and he and his young child don't want to be homeless. He reports that he has made another appointment with job search for May 5<sup>th</sup> at 3 PM and that the reason he missed the other appointment was because he had funerals to attend and had to help out families. Both he and his child need to eat and he has no income. He further reports that he does not have a cell and provides two numbers where messages can be left for him.

3. A copy of the appellant's Work Activity Report signed by the appellant February 11, 2016, which listed 17 employment related activities undertaken by the appellant starting January 5, 2016, and concluding February 16, 2016.
4. Ministry records report among other things the following:
  - The appellant is in receipt of income assistance a sole recipient.
  - On January 26, 2016 the appellant entered into an EP with conditions
  - On January 27, 2016 the appellant contacted the EPBC program and scheduled an appointment for February 15, 2016. The appellant did not attend that appointment or contact EPBC to advise he could not attend. The appellant also did not attend an appointment scheduled for March 2, 2016, and again did not contact EPBC to advise he were not able to attend.
  - On March 14, 2016, the appellant reported that he did not attend his March 2, 2016, EPBC appointment because he had attended three funerals that week. The appellant was advised he was not eligible for further income assistance do to failure to comply with the conditions of his EP. The appellant then requested the minister reconsider the decision.

In the appellant's Notice of Appeal dated May 26, 2016, submitted to the Tribunal office by the appellant after the Reconsideration Decision, and prior to the hearing, he reports that he disagrees with the ministry decision because he has no income and will be kicked out of his place if he doesn't come up with rent money by the end of the month. He reports that his child lives with him every second week and he does not want to be homeless when it's his turn to have his child stay with him.

The appellant did not attend the hearing. After confirming that he was notified of the hearing, the hearing proceeded in accordance with section 86(b) of the Employment and Assistance Regulation.

The ministry stood their Reconsideration Decision. There was no new evidence presented by either party.

## PART F – Reasons for Panel Decision

The issue to be determined is whether the Ministry reasonably denied the Appellant IA, as the Ministry determined that he was non-compliant with the conditions of his EP, contrary to Sec. 9 of the Employment Assistance Act. Specifically the ministry determined that the appellant has not demonstrated he has made reasonable efforts to comply with the conditions of his EP, or that he has any mitigating circumstances that prevented him from complying with the conditions of his EP. In arriving at their decision the ministry relied upon the following legislation:

### *Employment and Assistance Act 9 (1) and (4)*

#### *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.*

*(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.*

### **Argument**

The appellant argued in his Request for Reconsideration that he did not attend his last appointment with his EPBC contractor which was to take place March 2, 2016, because he had three funerals to attend that week and needed to be assisting the families. Furthermore, if he does not receive IA he will lose his rental accommodation and will be homeless and he needs a place to live as his child stays with him every other week

The ministry argued in their Reconsideration Decision and at the hearing that the appellant has not demonstrated he has made reasonable efforts to comply with the conditions of his EP, or that he has any mitigating circumstances that prevented him from complying with the conditions of his EP and is therefore ineligible for IA as set out in s. 9(1) and (4) of EAA

### **Panel Findings**

Under EAA section 9(1), to be eligible for IA, the recipient, when required to do so by the minister, must enter into an employment plan, and comply with the conditions in the employment plan. Under sub-section (4), if an employment plan includes a condition requiring an applicant, a recipient or dependant youth 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 panel finds that on January 26, 2016, the appellant entered into an EP with conditions. One of the conditions required for continued eligibility for IA is that he participates in EPBC programming regularly and as directed by the EPBC contractor. Another condition is that he contacts the contractor at the telephone number listed in part (c) of his EP if he is unable to attend a session or when he starts or ends employment. If the appellant fails to comply with the conditions of his EP he understands that he will be ineligible for IA under the EAA.

The panel finds that by signing his EP the appellant confirmed that he had read, understood and agreed to the conditions specified in the plan and therefore the ministry was reasonable in their determination that he understood that if he did not comply with the conditions of his EP, the assistance issued to him would be

discontinued. Furthermore, the panel finds that the ministry reasonably determined that the appellant failed to meet the conditions of his EP by not attending, or notifying the EPBC contractor that he was unable to attend the two scheduled meetings on February 15, 2016, and March 2, 2016. While the appellant argued in his Request for Reconsideration that he missed his last appointment with the EPBC contractor because he had three funerals that week and needed to be with families, no documental evidence is provided to support this claim and no explanation was provided as to why he failed to advise his EPBC contractor and reschedule as required in his EP.

The panel further finds that while the appellant has argued in both his Request for Reconsideration and in his Notice of Appeal that he needs IA so he will be able to pay his rent and not be homeless when his child comes to stay with him every second week, the appellant's housing is not the subject of this appeal and therefore the panel has no jurisdiction to consider this matter.

For these reasons the panel finds the ministry reasonably determined that the appellant did not comply with the conditions of his EP and failed to make reasonable efforts to participate in the employment program as set out above in s. 9(1) and (4)(a) of EAA.

The panel also finds that no medical documentation was submitted by the appellant verifying that he suffers from any medical issues that would impact his ability to attend employment programming. For this reason the panel finds that the ministry reasonably determined that there were no documented medical reasons presented causing the appellant to cease participation in the program as set out above in s. 9(4)(b) of EAA.

Therefore the panel finds that the ministry's reconsideration decision was reasonably supported by the evidence and is a reasonable application of the legislation based on the circumstances of the appellant and confirms the decision. The appellant is not successful in his appeal.