



PART C – Decision under Appeal

The decision under appeal is the reconsideration decision dated May 3, 2016 made by the Ministry of Social Development and Social Innovation (the ministry) which determined that the appellant was found to be ineligible for income assistance pursuant to Section 2 and 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 2 and 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 11, 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 or complete steps that the appellant agreed to, or when he finds work.

November 27, 2015 – Ministry advised appellant to contact EPBC contractor.

December 29, 2015 – Appellant completed first assessment with EPBC.

February 11, 2016 - EPBC reported that the appellant had continually failed to attend scheduled appointments as required therefore has closed the file due to non-participation. The appellant advised EPBC that he was interested in pursuing own work search.

February 16, 2016 – Ministry worker communicated again the consequences of non-compliance with the EP and participation with EPBC to the appellant. The appellant agreed to full participation with EP and EPBC's file was re-opened.

February 17, 2016 – Appellant confirmed appointments with EPBC for February 24th at 9:00am and March 1st at 2:30pm.

February 24, 2016 – EPBC reported that the appellant failed to attend a scheduled appointment.

February 25, 2016 – EPBC reports that the appellant made contact and rescheduled appointments for March 14th and March 16th.

March 14, 2016 – Appellant re-booked appointment to March 15th.

March 15, 2016 – Appellant re-booked appointment to March 16th.

March 16, 2016 - EPBC reported that the appellant failed to attend a scheduled appointment.

March 17, 2016 – EPBC reported that the appellant failed to attend his scheduled appointments and EPBC had made multiple attempts to contact without success.

March 29, 2016 – Ministry worker sent appellant a letter advising that the appellant was no longer eligible for income assistance due to non-compliance with the EP.

April 18, 2016 – Request for Reconsideration was submitted by the appellant.

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In his Request for Reconsideration, the appellant wrote that:

- He phoned WorkBC to advise that he had been ill and then ended up in the hospital.
- He was very ill for 3 weeks, lost 20lbs, and developed an abscessed tooth.
- He contacted WorkBC when he was well but never heard back.
- He and his son will be evicted if assistance is discontinued.

The appellant was not in attendance at the hearing. After confirming he had been notified, the hearing proceeded under section 86(b) of the Employment and Assistance Regulation.

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 had a medical reason for ceasing to participate in his EP.
- The appellant had continually failed to attend scheduled appointments as required by EP.
- Many attempts were made by the ministry and EPBC to accommodate rescheduling.
- The EPBC file was re-opened after the appellant had acknowledged that he understood the consequences of non-compliance.
- The appellant advised EPBC that he was interested in pursuing own work search.

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 2 and 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.

The relevant legislation is as follows:

Eligibility of family unit

2 For the purposes of the Act, a family unit is eligible, in relation to income assistance, hardship assistance or a supplement, if

- (a) Each person in the family unit on whose account the income assistance, hardship assistance or supplement is provided satisfies the initial and continuing conditions of eligibility established under this Act, and
- (b) The family unit has not been declared ineligible for the income assistance, hardship assistance or supplement under this Act.

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 couldn't attend his appointment because he was ill for three weeks and then developed an abscessed tooth. He contacted WorkBC to advise he had been ill but never heard back.

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Ministry's position:

The ministry's position is that the appellant agreed to participate in an EPBC program in 2015 and he failed to follow through with his EP requirements by consistently not attending scheduled meetings. 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 2016.

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. Section 2 of the EAA states, for a family unit to be eligible for income assistance or hardship assistance, each applicant or recipient in the family unit, the initial and continuing conditions of eligibility established under the EAA must be satisfied. The appellant signed an EP on February 11, 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 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 failed to communicate with the EPBC contractor on numerous occasions during 2016, supported by the evidence that his file was closed and re-opened due to non-compliance in February 2016, and subsequently failed to attend numerous appointments, including those he had rescheduled. Further, on those occasions, the appellant did not advise the EPBC contractor that he was ill and has not provided verifying evidence of a medical condition that impacted his non-participation.

The panel finds that he was aware of the consequences of not complying with the conditions of his EP having signed the EP and having been reminded of the consequences by the ministry. 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 because he failed to demonstrate reasonable efforts to participate in his employment plan as required by subsection (4).

Examining and considering 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.