



### PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the “ministry”) reconsideration decision of June 9, 2016, that denied the appellant income assistance for failing to comply with the conditions of his employment plan as required in the Employment and Assistance Act section 9(1) which required the appellant to enter into an employment plan and to comply with its conditions. The ministry found that the appellant failed to demonstrate reasonable effort to participate in the program under section 9(4).

### PART D – Relevant Legislation

Employment and Assistance Act Section 9

## PART E – Summary of Facts

The information before the ministry at the time of reconsideration included the following:

- The appellant's signed Employment Plan dated November 19, 2015
- Request for Reconsideration dated June 1, 2016
- Medical Report- Employability dated May 11, 2016
- A doctor's noted dated May 11, 2016

### **Employment Plan**

The purpose of the Employment Plan (EP) is to outline activities and expectations for the appellant to find employment or to become more employable. The EP has specific timelines for activities and is reviewed regularly. If the appellant is unable to follow through with the activities they are required to advise the ministry. If the appellant fails to comply with the EP they will be ineligible for income assistance.

Conditions of the plan

- Terms of plan. November 17, 2015 - November 16, 2017
- appellant must meet with the EPBC Contractor on or before November 30, 2015 (typo on document not brought forward by the ministry or the appellant and is assumed should have read "November 30, 2016");
- take part in EPBC program activities;
- complete all tasks including any actions set out in the EPBC Action Plan;
- arrange suitable child care so the appellant can seek employment;
- call the EPBC Contractor if unable to take part in services or complete steps that are agreed to or when the appellant finds work;
- if the appellant does not follow this employment plan, the ministry may stop income assistance payments.

In the appellant's Request for Reconsideration, he wrote:

- He did not agree as he was a single father of two children
- He was going to comply
- "He really wasn't explained to why he was being denied properly."

In the appellant's Notice of Appeal, he wrote:

- He disagreed with the decision because he was told by Work BC that he would get help with a child subsidy but he never had anyone get the child subsidy going
- He had no family to watch his kids
- He is willing to comply with Work BC as he wants to get a trade
- He is a single father of two boys

At the hearing, the appellant stated that:

- He had attended a few appointments where he discussed program workshops, resume writing, and his responsibilities of the EP.

- Was told about child care but was not told how to start it and was not given any forms or documentation for child care.
- He did not discuss child care issues with the ministry or EPBC.
- He never attended any workshops as he did not have child care arranged for his two children.
- He did not completely understand his responsibilities of the EP and that further non-compliance discussions with the ministry personal did not help his understanding.
- His last contact in relation to the EPBC was when he was informed his file was being closed.
- He did not understand how a decision to stop his income assistance was possible as he was a single father of two.

In the reconsideration decision summary of facts, the ministry wrote:

- The appellant has been in continuous receipt of income assistance since July 2014 as a single parent of two dependent children
- On November 19, 2015 the appellant signed an EP
- The appellant was required to contact the Employment Program of BC (EPBC) contractor by November 30, 2015, complete all assigned tasks including activities set out in his EPBC Action Plan and to arrange for suitable daycare for his children.
- On March 8, 2016 EPBC reported the appellant had not participated in the program which included three workshops. Jobs 101 from Jan. 18<sup>th</sup>-21<sup>st</sup>; iChoices from Jan 25<sup>th</sup>-26<sup>th</sup>; and World Host on Jan.29<sup>th</sup>.
- On January 18<sup>th</sup> the appellant contacted the program to advise he was leaving town for about 3 weeks as his grandmother had passed.
- The appellant was rescheduled to attend iChoices on Feb. 16, 2016. The appellant did not attend or contact the program to advise he was not able to attend.
- On March 16, 2016 the appellant was contacted by the ministry and was reminded of the requirement to attend the EPBC program. The appellant was advised further assistance was dependent on confirmation he had re-established connection with EPBC. The appellant stated he had attended a funeral in Miami for three weeks and then had spent one week in Vancouver with a family member diagnosed with cancer. The appellant was advised he was rescheduled to attend the Jobs 101 workshop from April 4<sup>th</sup>-7<sup>th</sup>. The appellant confirmed contact March 23<sup>rd</sup>
- On April 1<sup>st</sup> the appellant advised the EPBC he was not able to attend the workshop on April 4<sup>th</sup> as he was scheduled for a CT scan
- On April 4<sup>th</sup> the appellant left a message with the EPBC he had no strength in his leg and ankle and was waiting for the results of his CT scan.
- On April 22<sup>nd</sup> EPBC requested approval to close the appellant's file as he had not attended the program during April.
- On April 27<sup>th</sup> the appellant stated he had not attended the program due to an illness. The appellant was requested to provide a report from his physician.
- On May 11, 2016 the appellant submitted a note from his nurse practitioner dated May 11, 2016 stating he had an acute condition with an onset of April 30<sup>th</sup> that is now resolved and is again able to resume work search
- On May 27<sup>th</sup>, the appellant confirmed he had not reconnected with EPBC.
- On May 30, 2016 the appellant was advised he was not eligible for further assistance due to failure to comply with the conditions of his EP.

In the reconsideration decision, the ministry wrote:

- The appellant had signed the EP agreement agreeing to comply with the conditions of the EP. The EP agreement clearly explained that continued eligibility for assistance was dependent on compliance with conditions of the EP.
- The EP stipulated the appellant was to participate in the EPBC programs or to contact the program to advise if he was not able to attend.
- The appellant did not attend for approximately 4 weeks in January/February as he had decided to go to Miami and Vancouver.
- The appellant did not contact EPBC until March after being reminded by the ministry that continued eligibility for assistance was dependent on participation in the EPBC program.
- The appellant did contact EPBC on April 1<sup>st</sup> and 4<sup>th</sup> to advise he had some medical concerns preventing him from attending the scheduled workshop. The appellant's nurse practitioner confirmed his issues were resolved by May 11<sup>th</sup>.
- There is no indication of why his medical conditions prevented the appellant from attending the EPBC programs.
- The appellant did not re-connect with EPBC after April 4<sup>th</sup>.

At the hearing, the ministry noted the appellant has had an EP for about seven months. The ministry member reviewed appendix A- Summary of Facts allowing input from the appellant for correctness of the document. The appellant accepted the information of Appendix A as being correct noting the following additional information;

- He was not able to attend the February 16<sup>th</sup> workshop as he had returned from Miami/Vancouver, February 27 he did not contact EPBC as he had forgotten.

At the hearing the ministry also noted the following;

- The EPBC standard process would include an explanation of the availability of assistance for child care.

## PART F – Reasons for Panel Decision

The issue on appeal is whether the ministry's reconsideration decision, which found that the appellant was ineligible for income assistance, was reasonably supported by the evidence or was a reasonable application of Section 9 of the Employment and Assistance Act. In particular, was the ministry reasonable in determining that

- the appellant did not comply with the EP
- the evidence did not establish the appellant made a reasonable effort to participate in the program
- there were no medical reasons for his failure to participate

The relevant legislation is as follows:

### **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. The appellant was required to enter an employment plan and was required to comply with the conditions of the employment plan to be eligible for income assistance. A condition of his employment plan was that he participate in an employment program and as per 9(4) EAA, that condition is not met if the person does not demonstrate reasonable efforts to participate, unless there was a medical reason

### **Appellant's Position**

During the appeal, the appellant stated he was not able to comply with his EP as he did not have child care arranged for his two children. Documentation indicated other reasons for non-compliance included family issues and medical reasons.

### **Ministry's Position**

On November 19, 2015 the appellant signed an employment plan (EP). One condition of the plan was to participate in employment programming through Employment Program of BC (EPBC). The appellant agreed to take part in the EPBC program activities and to complete all tasks given including actions set out in his EPBC Action Plan. By signing the plan, the appellant indicated he understood that if he did not follow his plan, the ministry may stop income assistance payments.

The appellant did not attend program workshops for approximately 4 weeks in January/February as he had travelled to Miami and Vancouver. He did not contact the EPBC until mid-March after being reminded by the ministry that continued assistance was dependent on participation in the EPBC program.

The appellant did contact EPBC on April 1<sup>st</sup> and 4<sup>th</sup> to advise he had some medical concerns preventing him from attending the schedule workshops. Medical documentation of May 11, 2016 confirmed the appellant had an acute medical issue which was resolved but there was no indication why the appellant's medical conditions prevented him from attending the EPBC programs.

The appellant did not re-connect with EPBC after April 4<sup>th</sup>.

The minister found that the appellant had not demonstrated a reasonable effort to comply with the conditions of his employment plan or that he had any mitigating circumstances or medical conditions that prevented him from complying with the conditions of the EP. It was therefore determined that the appellant was not eligible for assistance, as per Section 9 of the Act.

### **Panel Decision**

The legislation- section 9(1) of the Employment and Assistance Act states if income assistance is to be given to the applicant, the applicant must comply with the conditions of an employment plan. Participation in the EP, contacting the EPBC contractor and advising the EPBC contractor when unable to attend were conditions of the EP. The appellant did make contact with the EPBC explaining his lack of participation in workshops during January/February but did not give evidence of mitigating

circumstances or medical reason for not contacting EPBC and non-attendance of the workshops offered in April. There was no evidence brought forward to support the appellant's claim that the lack of child care caused his non-attendance to the EP workshops and the issue of child care was not raised by the appellant during discussions with the EPBC contractor or the ministry. The ministry's decision that he failed to comply with his EP was reasonable as he failed to demonstrate reasonable efforts to participate in the employment program as per s. 9(4) and thus as per section 9(1) was ineligible for income assistance.

### **Conclusion**

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 his EP pursuant to Section 9 of the EAA was reasonably supported by the evidence, and therefore confirms the decision. The appellant is not successful in his appeal.