



### PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the ministry) reconsideration decision of September 22, 2016 in which the ministry denied further income assistance to the appellant for failure to comply with the terms of her employment plan (EP) pursuant to Section 9 of the Employment and Assistance Act (EAA) because she missed numerous appointments and did not follow through with the EPBC programming.

### PART D – Relevant Legislation

Employment and Assistance Act (EAA), Section 9

## PART E – Summary of Facts

The appellant was not in attendance at the hearing. The panel confirmed that the appellant did receive the Notice of Hearing on October 17, 2016 so the hearing proceeded under section 86 (b) of the Employment and Assistance Regulation.

The appellant is a single parent with two dependents, aged 4 and 7.

The evidence before the ministry at the time of reconsideration consisted of the following:

- EP signed by the appellant on October 29, 2015 in which the appellant acknowledged that failure to comply with the conditions of her EP would render her ineligible for income assistance (IA), and in which she agreed to:
  - attend a first appointment with her Employment Program of BC (EPBC) contractor no later than November 3, 2015;
  - take part in EPBC program activities as agreed to with the EPBC Contractor;
  - complete all tasks given, including any actions set out in the EPBC Action Plan which sets out: the steps, services and supports that you agree are needed to find work or become more employable as quickly as possible; and
  - call the EPBC contractor if you cannot take part in services or complete steps that were agreed to, or when you find work;
- September 12, 2016 letter from the appellant asking for a reconsideration outlining the reasons why she was not able to keep appointments: no public transit and a taxi ride that costs \$28; no money to pay a babysitter nor could she find a sitter that did not ask for money in advance; walking to the employment office with children in winter is too hard on them and takes half an hour. The appellant noted that she made it to some of the appointments and will do her best to keep all appointments and continue to look for help, and is trying to save money to take a driving course so she can be a reliable employee.
- Undated letter from Job Search and Support Services (JSS) indicating dates appellant had been in their office

The reconsideration decision is summarized as follows:

- On October 21, 2016, a new EP was created.
- On October 28, 2015 the EP was reviewed with the appellant and the worker explained the expectations outlined in the EP and of the requirement for compliance and consequences of non-compliance with the EP. The appellant stated she understood and would sign and return the EP.
- On October 29, 2015 the appellant signed the EP that referred her to the EPBC employment contractor.
- On July 29, 2016 EPBC reported that attendance has not been consistent since the case opened in November 2015. EPBC advised in recent month appellant had been non compliant on a number of occasions, and that due to the inconsistency in attendance the EPBC case would be closed.
- On September 1, 2016 the appellant contacted the ministry office stating her EPBC case was closed, and was advised that her case was closed due to non-participation and non-

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compliance. The appellant stated to the ministry she did not comply with EP because of having two children and did not want to hire a babysitter and could not leave her children with anyone. When asked about any other mitigating circumstances the appellant stated that she refuses to drive all over town in winter and no longer has a driver's license. The appellant told the ministry worker she should be able to remain on income assistance and care for her children without looking for work.

- The ministry noted that the appellant failed to attend multiple appointments and did not call in advance to advise she was unable to attend several appointments. Additionally she did not respond to requests for contact from EPBC. As a result it was found that she did not make reasonable efforts to participate in EPBC programming, so she was ineligible for assistance.

In her Notice of Appeal dated October 3, 2016 the appellant stated that she needs help with rent to keep a roof over her children, and to keep them in school, that she can't afford anything and has to get help.

At the hearing, the ministry representative reviewed the Reconsideration Decision and emphasized that the Appellant was in non-compliance with her EP due to non-attendance at scheduled appointments.

He noted that some of the reasons given for not attending were that she refused to walk in the winter to the employment agency, however it's not winter now; that she does not have a driver's license, nor the money for a taxi. The panel inquired about whether public transportation was available in the community, and he believes there is not. She does not have money for babysitters and also refuses to leave her children with just anyone.

The ministry representative indicated that single parent initiatives are available which provide funding for babysitters and transportation where needed. He also explained it to be a common procedure for the EPBC agency to explain the single parent initiatives on the second appointment along with the establishment of an Action Plan. However he did not see any record of either on the appellant's file.

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The appellant's written letter of September 12, 2016 was reviewed.

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## PART F – Reasons for Panel Decision

The issue under appeal is the reasonableness of the ministry decision of September 22, 2016 in which the ministry denied further income assistance to the appellant for failure to comply with the terms of her employment plan (EP) pursuant to Section 9 of the EAA because she missed numerous appointments and did not follow through with the EPBC programming.

The relevant legislation is as follows:

### **EAA:**

#### ***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.
- (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's position, according to her written letter in the reconsideration decision, is that she has two children and finds it difficult to get to the employment office as she does not drive, cannot afford the taxi ride, and that there is no public transportation and has no one to drive her.

The Ministry's position is that the appellant signed an employment plan and agreed to work with the contracted agency however, over a 10 month period she failed to attend multiple appointments and would re-schedule appointments that she would subsequently miss. They believe that the conditions of the EP were reasonable, and that because she did not follow through with EPBC programming they find she did not comply with the conditions of the EP, so is therefore ineligible for income assistance under section 9 of the EAA.

#### Panel 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. The appellant signed an EP on October 29, 2015 and agreed to the conditions which required her to take part in the employment program activities as agreed to with the contractor, to complete all tasks given to her, including any actions set out in her Action Plan, and to call the EPBC contractor if she could not take part in services or complete agreed to steps, or when she 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 did not demonstrate reasonable efforts to participate in the EPBC when she failed to keep scheduled appointments with the EPBC contractor on numerous occasions during 2015 and 2016. Further, there is no evidence of a medical condition that impacted her non-participation. 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 her employment plan.

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 the conditions of her EP pursuant to Section 9(1) of the EAA, was a reasonable interpretation of the legislation, and therefore confirms the decision.