



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 August 11, 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 participate in the Program (EPBC), or that he has any medical reason that prevented him from participating.

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 but undated. 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 February 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 Contractor on or before March 7, 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 EP conditions will continue to apply. If the appellant does not follow the EP 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 July 29, 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 was not accepted into the EPBC programming because he

[REDACTED]

is an alcoholic and has been one since the age of 15. The appellant reports that he hands out resumes and has made use of the EPBC Contractor job board. The appellant further reports that he does not know why he has been denied by the EPBC Contractor.

3. A copy of a note from the EPBC Contractor which reports that the appellant attended an appointment with the case manager May 25, 2016. The note states that the appellant reported that he has been doing an independent job search and has been using the EPBC Contractor's job board and self serve resource room. The case manager suggested that the appellant continue to do an independent job search. The appellant believes he may get work again with an employer in late June. The Case Manager did not re-open the appellant's file at Work BC. Job search log sheets were provided.
4. A copy of the appellant's Job Search Record which listed 4 employment related activities undertaken by the appellant on May 17, 2016.
5. A copy of a letter from the ministry to the appellant dated April 27, 2016, informing him that the next Employment and Assistance cheque issue day is May 25, 2016, and that his cheque will be held at the ministry office until an EP review is completed. The letter also states that his EPBC Contractor has reported that he has not been in contact or attended the Employment Services Center. The appellant was provided with a contact name and telephone number at the ministry and asked to make contact as soon as possible to discuss his EP and his continued eligibility to receive income assistance. The letter informed the appellant that a decision on eligibility will be determined once all documentation is reviewed.
6. A copy of a letter from the ministry to the appellant dated June 23, 2016, informing him that the next Employment and Assistance cheque issue day is July 27, 2016, and that his Employment and Assistance cheque will be held at the ministry office until income verification and an EP review is completed. The letter informed the appellant that a decision on eligibility will be determined once all documentation is reviewed and that he should contact the ministry as soon as possible in order to resolve the issues listed above and to avoid having his cheque held.
7. Ministry records report among other things the following:
 - On February 22, 2016, the appellant signed a new EP in which he agreed to take part in EPBC programming and participate regularly as directed by EPBC. The appellant was required to attend the EPBC Contractor on or before March 7, 2016. Additionally, the appellant was required to complete all tasks given to him and comply with their program and notify them if he was unable to attend his appointments.
 - On March 1, 2016, the EPBC Contractor reported no contact from the appellant despite several letters having been mailed to him.
 - On March 29, 2016, the EPBC Contractor reported there had been no contact made with the appellant to date.
 - On April 27, 2016, the ministry placed a hold on the appellant's June cheque and mailed him a letter advising that he was in non-compliance with his EP. The appellant was advised to attend a meeting at the ministry office to address this issue.
 - On May 24, 2016, the appellant contacted the ministry. He stated that despite signing his EP he was unaware that he was supposed to attend EPBC for case management. The appellant reported that he had been handing out resumes and accessing the EPBC Contractor's job board on his own. The appellant was advised that he was required to attend and participate with EPBC programming. The appellant agreed to do this and said that he understood that if he failed to connect with his EPBC Contractor that he would be found ineligible for income assistance due to non-compliance with his EP.
 - On June 24, 2016, a cheque hold letter was mailed to the appellant advising that he was non-compliant with his EP and it was noted that at that time he did not have an open file with EPBC.

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- On July 26, 2016, the EPBC Contractor reported that the appellant had been focusing on self-directed work search and that his case remained closed with them.
 - On July 27, 2016, the EPBC Contractor reported that the appellant had attended their office and requested a "card" to give to the ministry. The appellant's EPBC case manager reported that he had not been accepted into case management because he does not attend EPBC for anything, including his self-directed work search and that he has not followed through with any planned actions. The appellant's case manager reported that the appellant had repeatedly told them that he was working and would continue working. The appellant was therefore denied income assistance for non-compliance with his EP and requested a reconsideration of this decision.

In the appellant's Notice of Appeal dated October 11, 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 should have been given a second chance. He reports that he is an alcoholic and trying his best to stay sober. He hopes his apology will be accepted and also reports that he is couch surfing, winter is around the corner and he is hoping someone will help 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 income assistance, 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 participate in EPBC, or that he has any medical reason that prevented him from participating. 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 and in his Notice of Appeal that he is an alcoholic and has been one since the age of 15. He does his best to stay sober; hands out resumes and makes use of the EPBC Contractor job board. The appellant further argues that he should be given a second chance and that he does not know why he has been denied by the EPBC Contractor.

The ministry argued in their Reconsideration Decision and at the hearing that the appellant has not demonstrated he has made reasonable efforts to participate in the in his program, or that he has any medical reasons that prevented him from participating as per s 9 4 of EAA. As this was a condition of his EP, he is therefore ineligible for IA as set out in s. 9(1) EAA.

Panel Decision

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.

On February 22, 2016, the appellant entered into an EP. 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 income assistance issued to him would be discontinued.

While the appellant argued in his Notice of Appeal that he should be given a second chance the panel finds that he was given several opportunities to comply with the conditions of his EP after missing the required contact date with his EPBC Contractor on March 7, 2016. For example, a letter sent to him by the ministry dated April 22, 2016, informed him he was in non-compliance with his EP and directed him to make contact with the ministry as soon as possible to review his EP and to determine his continued eligibility to receive income assistance. Ministry records show it took until May 24, 2016, for the appellant to contact the ministry at which time he argued that despite signing his EP he was unaware that he was supposed to attend his EPBC Contractor for case management. The appellant also argued that he had been looking for work and handing out resumes and accessing the EPBC Contractor's job board on his own. At this time he was advised once again by the ministry that he was required to attend and participate with EPBC programming, which he confirmed that he understood and that if he failed to connect with his EPBC Contractor he would be found ineligible for income assistance due to non-compliance with his EP.

On June 24, 2016, a letter of non-compliance was sent to the appellant directing him to contact the ministry for both an income verification and EP review. The letter also informed him that he did not have an open file with his EPBC Contractor.

On July 27, 2016, ministry records show that the EPBC Contractor reported that the appellant had attended their office and requested a "card" to give to the ministry. The appellant's EPBC case manager reported that he had not been accepted into case management because he did not attend EPBC for anything, including his self-directed work search and that he has not followed through with any planned actions. The case manager reported that the appellant had repeatedly told them that he was working and would continue working.

For these reasons the panel finds the ministry reasonably determined that the appellant failed to make reasonable efforts to participate in the employment program as set out above in s.9(4)(a) of EAA and there were no medical reasons for non participation. While the appellant argued he is an alcoholic, and has been one since the age of 15 and is doing his best to stay sober, no medical documentation was submitted by the appellant verifying that he suffers from any medical issues that would impact his ability to attend an employment program. 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.

The panel also finds the ministry decision that the appellant failed to comply with the conditions of his EP as per 9(1)(b) of EAA because participation in an employment program this was a condition of his EP was reasonably supported by the evidence. As the appellant failed to comply with the conditions of his employment plan, the ministry decision that he is ineligible for income assistance as per s. 9(1) EAA was a reasonable application of the legislation.

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