

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (ministry's) reconsideration decision dated December 8, 2016 whereby the appellant was found to be ineligible for income assistance pursuant to Section 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 insufficient medical reason for ceasing to participate.

PART D – Relevant Legislation

Employment and Assistance Act (EAA), Section 9

PART E – Summary of Facts

The appellant is a sole recipient of income assistance with a file re-opened on February 20, 2014.

The evidence before the ministry at the time of the reconsideration decision included:

September 9, 2016 – the minister mailed a copy of the Employment Plan (EP) and a letter explaining the requirements to sign and date the EP and return it to the ministry. The EP advised of the appellant's referral to a neighbouring town's employment services and the requirement to meet with them prior to September 23, 2016.

September 9, 2016 – the EPBC Contractor attempted to contact the appellant by telephone and left a voice mail message to the appellant to contact them prior to September 22, 2016 to schedule an appointment.

September 12, 2016 – the EPBC Contractor attempted to contact the appellant again by telephone and left another voice mail message to contact them prior to September 22, 2016 to schedule an appointment. A letter is mailed to the appellant from EPBC advising the same.

September 18, 2016 – the appellant contacted the EPBC Contractor in the neighbouring town and scheduled an appointment for September 28, 2016.

September 28, 2016 - the appellant did not attend the scheduled appointment. The EPBC Contractor returned the appellant's file to the ministry due to no contact.

October 6, 2016 – the appellant advised the ministry that he did not receive the employment plan and letter that was mailed to him on September 9, 2016 and that he did not have gas money to attend these appointments with EPBC in the neighbouring town. The ministry explained the eligibility requirements for income assistance and the requirement to work with EPBC and suggested that the appellant discuss transportation concerns with EPBC.

October 6, 2016 – arrangements were made for the appellant to meet with an EPBC Contractor in another community (the city) and the ministry explained in detail the appellant's requirement to participate with EPBC.

October 7, 2016 – the ministry referred the appellant to work with EPBC Contractor in the city. The EPBC Contractor advises that they mailed the appellant a letter requesting contact.

October 11, 2016 – the appellant signed his employment plan (EP) in which he 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;
- Call the EPBC Contractor if he cannot take part in services or complete the steps that the appellant agreed to, or when he finds work.

October 31, 2016 – the EPBC Contractor advised that the appellant was not accepted into case

management because he did not have the means to attend EPBC services and he does not have the ability to apply for jobs online.

November 21, 2016 – the ministry mailed a letter to the appellant requesting contact.

November 22, 2016 – the appellant advised that he was willing to attend EPBC appointments but when the EPBC Contractor found out that he did not have internet he would not be accepted in the program. The EPBC Contractor confirmed to the ministry that during the interview with the appellant, that the appellant had managed to borrow a phone and caught a ride to attend a meeting however the appellant would not agree to attend workshops as required.

November 22, 2016 – the ministry determined that the appellant is not eligible for income assistance as a result of failing to comply with the conditions of his EP. The ministry found that the appellant had not submitted work search records in the past and most recently, had demonstrated a lack of commitment to participate with the program upon referral and when interviewed by the EPBC Contractor.

November 30, 2016 – the appellant signed the Request for Reconsideration stating that he has an appointment with Work BC at 1pm on December 2, 2016 and will attend.

December 2, 2016 – the appellant did not attend the appointment with WorkBC.

December 8, 2016 – Reconsideration Decision was issued stating that the appellant is ineligible for income assistance for non-compliance with the conditions of the appellants EP.

December 13, 2016 – the appellant files a Notice of Appeal stating “out of date Employment Plan – because all my tickets have expired – out of date resume.

At the hearing:

The appellant stated that:

- He has been cooperative with both the ministry and the EPBC contractor and, after his file was transferred to the city, he has been willing to attend all meetings and participate in his employment plan as required.
- He stated that the EPBC contractor made incorrect statements in the report to the ministry because he could be in the city 3 times per week and could access the computer at the library.
- He stated that he could not comply with the EP because his resume was out of date and his tickets were expired. So he could not hand out resumes until he could renew his tickets.
- The community he lives in has very poor WIFI and he cannot afford a computer. However, he is in the city three times each week, transporting his father for medical reasons, and has access to the computers located in the library.
- He states that he did receive a telephone call from the ministry on November 22, 2016 and the



conversation did not go well because he objected to the type of questions and information he was being asked to provide and he got very emotional and probably said many things he should not have said.

- He states that the December 2, 2016 meeting was a booking problem and that he did meet with the EPBC Contractor on the following Thursday which is when orientation sessions are held.
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The ministry relied on the reconsideration decision, as summarized at the hearing.

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 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.

Relevant Legislation:

Section 9 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.

(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 states that he has been cooperative with both the ministry and the EPBC contractor and has been willing to attend all meetings and participate in his employment plan as required. While he does not have a computer, he is in the city 3 times each week and has access to the computer at the local library. On November 22, 2016 he states that he received a telephone call from the ministry and admitted that he got very emotional and probably said things he should not have said.

He states that the December 2, 2016 meeting was a booking problem because the orientation is only

held on Thursday's which was a couple of days after the December 2, 2016 meeting. He stated he made an appointment for the following Thursday and attended that meeting.

Ministry's position:

The ministry's position is that the appellant agreed to participate in an EPBC program in 2016 and he failed to follow through with his EP requirements by consistently not attending scheduled meetings and not reporting when he was not able to attend. The appellant has not provided a Medical Report identifying a medical condition that may have prevented the appellant from attending, participating, maintaining contact with EPBC or advising EPBC when he was not able to attend. 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. The appellant signed an EP on October 11, 2016 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, including any actions set out in his Action Plan, 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 did not demonstrate reasonable efforts to participate in the EPBC when he failed to communicate with the EPBC contractor, supported by the evidence that he failed to attend appointments and respond to telephone call messages from September to December 2016. Further, there is no evidence of a medical condition that impacted his 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 his 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 his EP pursuant to Section 9(1) of the EAA was reasonably supported by the evidence, and therefore confirms the decision.