



PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the “ministry”) reconsideration decision of December 14, 2016, determined the appellant was ineligible for income assistance as she failed to comply with the conditions of her 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 (EAA) Section 9

PART E – Summary of Facts

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

- A letter from the Employment Services dated December 17, 2015 confirming the appellant attended an intake appointment.
- An appointment note from the Employment Services dated December 23, 2016.
- The appellant's signed Employment Plan dated July 7, 2015.
- Employment and Assistance Request for Reconsideration date stamped November 30, 2016.
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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. June 17, 2015 - June 16, 2017;
- appellant must meet with the EPBC Contractor on or before July 2, 2015;
- take part in EPBC program activities;
- complete all tasks including any actions set out in the EPBC Action Plan;
- 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 moves, within one week they must ask the EPBC Contractor to transfer their case file;
- if the appellant does not follow this employment plan, the ministry may stop income assistance payments.

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

- She missed her appointment as she was in an abusive relationship;
- Her self-esteem and self-worth were shut down and she was physically abused.
- The last missed appointment was due to a physical altercation which placed her in the hospital with a concussion.
- She had tried calling her BC Worker but the worker was away for a few days.
- Since then, she has been concentrating on her safety and the care of her disabled son.
- She has included a police file number and medical records from the hospital.

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

- She was in a very abusive relationship and was physically hurt on a regular basis.
- She missed her Work BC appointment due to this (being physically hurt).
- The day of her last appointment she had been told to stay in bed by hospital staff and her doctor. The appointment slipped her mind as she was hurt and distraught.
- The abuse took a huge toll on her self-worth and anxiety which interferes with being able to make appointments.

The appellant did not connect or participate in the teleconference.

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

- June 17, 2015 -an EP was created for the appellant.
- June 30, 2015 -the appellant signed her EP.
- September 8, 2015 -the appellant had not attended EPBC as required by the EP. A hold was placed on October assistance.
- September 11, 2015 (typo 2016) - appellant attended a meeting with ministry, advising she missed her appointment because she was in hospital. The appellant stated she had made contact with the EPBC and an appointment had been booked. The ministry worker requested confirmation of the appointment and the appellant hospital bracelet as she had stated she still had it. The appellant returned with an appointment card showing she had an appointment booked for September 18, 2015 (typo 2016).
- November 16, 2015- EPBC reported the appellant failed to attend her orientation appointment with the contractor, and the ministry attempted to contact the appellant but were not able to connect. A hold was placed on the appellant's January assistance.
- December 16, 2015- when asked why the appellant was not participating with EPBC the appellant stated her son was not feeling well. The appellant did not have an explanation for why she had not attended the program since September. The appellant was advised she must schedule and attend an appointment with the employment contractor before receiving January assistance. The appellant stated she was prepared to participate.
- December 17, 2015- the appellant submitted confirmation of an appointment being booked for December 22, 2015. The appellant was advised she must attend the appointment before receiving January assistance. The appellant submitted a letter confirming she attended the employment program and a cheque was released.
- March 30, 2016-EPBC reported the appellant did not show up for booked appointments; December 22, 2015, January 8, 2016, and January 13, 2016. The contractor attempted to contact the appellant several times but the appellant did not respond. EPBC closed the appellant's file.
- April 26, 2016- the appellant spoke to a ministry worker stating she has left an abusive relationship in January, 2016, police were called on numerous occasions, she was working with family services, and she was actively using drugs until January 2016. The ministry worker switched the appellant's file to "no employment obligations" until June 2016. The appellant was aware the ministry would contact her in June, 2016.
- July 4, 2016- a ministry worker determined the appellant needed to contact EPBC to create a new EP. Attempts to contact the appellant were unsuccessful and her August cheque was placed on hold.
- July 18, 2016- the appellant contacted the ministry stating she was willing and able to work. The appellant was advised to contact EPBC and schedule an appointment.
- July 25, 2016-EPBC reported the appellant had attended an appointment and that four appointments were scheduled (July 26, August 2, August 9, and August 16). Appointments were scheduled on the same day and time to make it easier to remember. The appellant stated she understood that if she missed any of these appointments, her EPBC file would be closed.
- October 17, 2016- EPBC reported the appellant had not remained connected to the program. The appellant's case manager sent a letter after she had missed her appointment on

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September 14, 2016. The case manager called and left an appointment for contact. The appellant called back and left a message. The case manager called the appellant numerous times but was not able to reach her.

- October 20, 2016-the appellant was found ineligible for income assistance for non-compliance with her EP.
- October 25, 2016- the appellant requested a reconsideration of the decision.
- November 30, 2016- the ministry received a Request for Reconsideration.
- December 8, 2016 the reconsideration officer attempted to contact the appellant to request additional information. The appellant contacted the ministry and stated she would submit the information. On December 14, 2016 no additional information was submitted and the minister reviewed appellant's Request for Reconsideration.

At the hearing, the ministry noted:

- The appellant on July 30, 2015 had signed an Employment Plan which is a legal document which required the appellant to participate in the program activities and to call when unable to take part in services or complete steps agreed to. By signing the EP, the appellant acknowledged the ministry may stop income assistance payments for non-participation of the program.
- Through July 2015- April 2016 the appellant struggled with meeting the requirements of the EP. Holds on monthly assistance cheques were placed on three different occasions and five appointments were missed.
- Due to the appellant's report of an abusive relationship, the ministry granted "no employment obligations" from January 2016 until June 2016.
- On July 2016, the appellant informed the ministry she was willing and able to participate in the EP program. The appellant attended an appointment July 25, 2016 but failed to attend four follow-up appointments.
- In the appellant's Request For Reconsideration she stated she had been hospitalized and had filed a police report for abuse as reasons why she was unable to attend the EP appointments. The ministry attempted to acquire evidence from the appellant to confirm these statements but evidence was not submitted.
- On October 20, 2016, the ministry found the appellant ineligible for income assistance as per section 9 (4) EAA as the appellant had failed to demonstrate reasonable efforts to participate in the program and did not have evidence of any medical reasons for not participating.

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.

Appellant's Position

The appellant's position is she was unable to comply with the conditions of the EP as she had been in an abusive relationship which had physically caused her to miss appointments as well; the abuse had taken a toll on her self-worth and anxiety which also interfered with her being able to make appointments.

Ministry's Position- see page 11

On July 30,, 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 she did not follow the plan, the ministry may stop income assistance payments.

As the appellant had failed to book and attend appointments, did not respond to the contractor's efforts to make contact and did not work with the contractor to overcome the barriers to employment, the ministry found the appellant had not complied with the conditions of the EP and therefore was ineligible for income assistance under section 9 of the EAA.

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 was given many opportunities to comply with the conditions of the EP but failed to do so. No evidence was given that would establish that the appellant had made a reasonable effort to participate in the program. Although the appellant stated she had missed appointments due to physical abuse, which would give a medical reason for her failure to participate, the appellant did not supply any evidence to support this statement. As well, the claim of abuse would not explain the lack of participation from July 2015 to October 2016.

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 her 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 her appeal.