



### PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the ministry) reconsideration decision of December 21, 2016 in which the ministry denied further income assistance (IA) 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 the appellant missed numerous appointments and did not follow through with the Employment Program of BC (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 was notified of the hearing so the hearing proceeded pursuant to section 86 (b) of the Employment and Assistance Regulation.

The appellant is designated as a single, employable person.

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

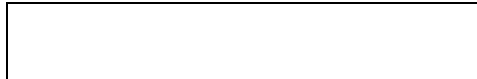
- EP with a term of February 24, 2015 to February 23, 2017, signed by the appellant on March 5, 2015, in which the appellant acknowledged that failure to comply with the conditions of her EP would render her ineligible for income assistance (IA), and in which she agreed to:
  - attend a first appointment with her Employment Program of BC (EPBC) contractor no later than March 4, 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;
  - call the EPBC contractor if you cannot take part in services or complete steps that were agreed to, or when you find work; and
  - call the local EPBC contractor within one week, if she were to move, to have her case file transferred.
- Action Plan signed by the appellant on March 4, 2015 which noted:
  - traffic control flagging ticket and other safety tickets are needed.
  - in the employment needs section that she requires assistance with job search and that she requires funding for several courses.
  - the box was ticked for “research of relevant Labour Market Information had been completed and it has been determined that it supports the noted employment objective”.
  - the sections titled Services and Activities to be completed and Goal Name Relating to Employability were not completed.
- Letter from the EPBC contractor to the ministry dated March 4, 2015 confirming attendance and informing the ministry that an Action Plan had been developed.
- Letter from the EPBC contractor to the ministry dated March 4, 2015 informing that they have requested a case file transfer from another community.
- Letter from the ministry to the appellant dated October 21, 2016 indicating that an EP review is required.
- Request for Reconsideration completed by the ministry on November 21, 2016, which outlines their record of contacts regarding the appellant, including those already noted above, as well as:
  - August 3, 2015 the appellant moved to a new community.
  - November 26, 2015 the new EPBC contractor notified the ministry that the appellant attended their program on October 28, 2015, that an Action Plan had been completed on November 10, 2015, and the appellant started a contracted session on November 23, 2015.
  - June 15, 2016 the EPBC contractor notified the ministry that the case had been closed

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- due to non-participation
  - September 28, 2016 the EP worker contacted the appellant to review compliance conditions. The appellant stated that she would make an appointment with EPBC and acknowledged that she would need to comply with EP otherwise she would not be eligible for IA.
  - September 30, 2016 the appellant notified the ministry that she had twisted her ankle but would be able to attend the EPBC program by October 3 as she had an appointment scheduled.
  - October 13, 2016 the appellant notified the ministry that she would be completing an Action Plan with the EPBC contractor on October 20, 2016.
  - October 21, 2016 the ministry noted that the EPBC case had been closed due to non-contact and a letter was sent.
  - October 31, 2016 the appellant was advised that she was not eligible for further IA pending attendance at the EPBC program. It was noted that the appellant had had several opportunities over the past year to comply with the EPBC program but had not done so. The appellant again acknowledged that she was aware of the consequences of failing to comply and that she had a sore ankle and a cold. The appellant was advised that the IA file would be closed if she was not in compliance with EP by November 30, 2016.
  - November 4, 2016 the appellant notified the ministry she had not attended the program because she was sick.
  - November 17, 2016 the appellant contacted the ministry EP worker and stated she had slept in and missed EPBC appointment. She was advised to contact the EPBC program to schedule another appointment.
  - November 21, 2016 the appellant informed the ministry she had completed a questionnaire but could not schedule an appointment with the contractor until November 30, 2016. The ministry asked the appellant about her sore ankle and she informed them it had been sore for a year and would be going to the hospital to have it checked out. The ministry advised her to submit any medical information from the examination and again advised that further IA was denied due to non-compliance with EP, and of her right to a reconsideration of the decision.
  - December 6, 2016 the appellant noted in the Reason for a Request for Reconsideration that she has been sick for a very long time and in a lot of pain and that her rent is due for November and December. She also notes that she needs help, counseling or treatment.

In her Notice of Appeal dated December 28, 2016 the appellant stated she has been sick and has problems going anywhere.

At the hearing, the ministry representative reviewed the reconsideration decision and emphasized that there had been many contacts with the appellant to discuss her non-participation with the EPBC contractor and that, when the appellant mentioned she had medical issues, she was advised to submit a doctor's letter. However nothing was ever submitted so the appellant was denied due to non-compliance with the terms of her EP.

The appellant's comments regarding her health issues in the request for reconsideration and in her Notice of Appeal were reviewed. The comment in the Notice of Appeal that she has been sick for a



long time is the same as noted in her request for reconsideration so this is not considered new information.

## PART F – Reasons for Panel Decision

The issue under appeal is the reasonableness of the ministry decision of December 21, 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, based upon her written reason for requesting a reconsideration, is that she has been sick for a long time, that she is having a hard time dealing with a lot of death, and is having a hard time dealing with addictions.

The Ministry's position is that the appellant signed an employment plan and agreed to work with the contracted agency however, over a 17 month period from March 2015 to October 2016, 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 and did not provide any confirmation that she ceased to participate for medical reasons, 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 March 5, 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 or if she were to move.

The appellant moved subsequent to signing the EP and did report to the new EPBC contractor as required. The ministry records indicate a new action plan was completed in November 2015 wherein the appellant would be attending a program session starting November 23, 2015. The ministry then noted that on June 15, 2016 that the EPBC contractor had notified them that they had closed their case due to non-participation. The panel notes that there are no supporting documents in the record of appeal specific to the new action plan nor is there a record of missed appointments from the contractor for this time period. However, during subsequent contacts between the ministry and the appellant from September 28, 2016 to November 21, 2016 the appellant acknowledged that she was aware that she needed to comply and again missed several scheduled appointments with the EPBC contractor.

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. Although the legislation does not specifically require a physician confirmation of a medical condition, it is reasonable to seek confirmation of whether the condition affects participation in a program. There is no evidence in the appeal record that supports the appellant's position that she has a medical condition that impacted her non-participation. The panel also notes on September 30, 2016 the appellant notified the ministry that she had twisted her ankle, but that she should be able to attend the EPBC program by October 3, 2016. The EPBC case file closed again on October 21, 2016 due to non-contact.

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.