



### PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the “ministry”) reconsideration decision dated January 3, 2017. The ministry determined that the appellant was not eligible for income assistance because he did not demonstrate a reasonable effort to comply with the conditions of his employment plan in contravention of section 9 of the Employment and Assistance Act (EAA). This section requires a person to enter into and comply with the conditions of an employment plan in order to maintain eligibility for assistance for the family unit.

### 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 the reconsideration included the following:

The appellant signed an employment plan agreement on September 21, 2015 confirming that he had read, understood and agreed to the conditions and consequences of not complying.

The conditions of the employment plan included meeting with the Employment Programs of BC (EPBC) within five business days, participate in program activities, completing tasks assigned including those listed in the EPBC activity plan. The agreement also noted the appellant was to contact the EPBC contractor if he was not able to participate or move to a different location.

On November 10, 2015 EPBC reported the appellant had not been attending the program workshops as scheduled or responded to phone messages or letters. The appellant's next assistance cheque was directed to the local office to ensure contact. The appellant contacted the ministry on November 17, 2015 and advised he had a meeting scheduled with the service provider on November 19, 2015. The appellant was advised to provide confirmation he had attended the meeting and that failure to attend further meetings would affect eligibility for continued assistance. On November 19, 2015 the appellant submitted confirmation he had attended the meeting.

On November 29, 2016 the service provider reported the appellant had been assigned to Job Developer to assist with job search, he had missed appointments on June 20, 2016 and July 28, 2016 and did not make contact until August 22, 2016. The service provider confirmed the appellant was required to make contact every two weeks but the appellant had only made contact approximately every 6-8 weeks. The service provider stated they assisted the appellant to obtain a fork lift ticket and had regularly sent the appellant job postings but the appellant had not yet obtained work.

A ministry worker contacted the appellant on November 29, 2016 to discuss his work search activities. The appellant stated he did not want to work for a specified fast food restaurant. The appellant was reminded that he was expected to seek any and all suitable employment and to maintain participation with EPBC contractors. The appellant stated he had a meeting scheduled for later this date.

On December 6, 2016 EPBC reported the appellant did not bring his work search records when he attended the November 29, 2016 meeting and he had still not submitted to date. EPBC reported the appellant did not attend the December 5, 2016 workshop. The appellant's January assistance cheque was directed to the local office to ensure contact to discuss compliance with the conditions of his Employment Plan.

On December 8, 2016 the appellant was contacted by a ministry worker. The appellant stated he had been dealing with funeral arrangements for his uncle who passed away on November 18, 2016. The appellant stated he did not know why the arrangements were taking so long. The appellant was advised he was not eligible for assistance due to failure to comply with the conditions of his employment plan.

In his notice of appeal dated January 12, 2017 the appellant stated that he has appealed because he was the only family member left when his uncle died and he knew he had missed workshops but it

was because he had “stuff to deal with”.

At the hearing that the appellant reiterated that his uncle had passed away and that he, as the only next of kin, had to “see the body” and have telephone calls with the ministry in respect of his uncle’s affairs.

The appellant stated that he let the “work coordinator” know about his obligations in respect of his uncle’s death and that he telephoned Work BC and left messages in this regard.

In respect of his specific obligations regarding his uncle’s death, the appellant stated that on December 5, 2016 he had to “go to verify the body” and on the same day he had to speak to the ministry regarding his uncle’s finances. He also had to visit his uncle’s apartment and “clean stuff out”.

On December 6, 2016 the appellant had to “go downtown” to collect the death certificate and that therefore “the whole day was shot”.

On December 7, 2016 the appellant had to go to a funeral home. That appointment was at 11 AM. The appellant noted he had a 9:30 AM appointment with the ministry in respect of his job search obligations but he had to miss that appointment due to his subsequent appointment at the funeral home.

The appellant stated that he did not take any steps in respect of his uncle’s affairs between his uncle’s date of death, November 18, 2016, and December 5, 2016 because he was “just waiting” and in particular waiting for the release of his uncle’s body.

In response to a question from the panel, the appellant stated that he left two messages about his unavailability due to his uncle’s death and his obligations in that regard but received no return calls.

In response to a question from the ministry representative, the appellant stated that the messages he left were for Work BC, not the ministry.

In response to the question from the panel, the appellant stated that he thought that he had missed scheduled workshops for December 5 and 6, 2016 but he could not recall the names of those workshops.

## PART F – Reasons for Panel Decision

The issue on this appeal is whether the ministry's decision that the appellant was not eligible for income assistance because he did not demonstrate a reasonable effort to comply with the conditions of his employment plan in contravention of section 9 of the Employment and Assistance Act (EAA) which requires a person to enter into and comply with the conditions of an employment plan in order to maintain eligibility for assistance for the family unit was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the circumstances of the appellant.

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.
- (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

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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*].

Accordingly, for a family unit to be eligible for income assistance each applicant or recipient in the family unit, when required to do so by the minister, must enter into an employment plan and comply with the conditions in the employment plan: section 9 (1).

Section 9 (4) provides 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 signed an employment plan on September 21, 2015. The issue is whether the appellant complied with that employment plan which required that he attend the Employment Program of British Columbia (EPBC).

The ministry representative relied upon the provisions of section 9 (1) (a) and (b) of the Employment and Assistance Act. The ministry submitted that the appellant had shown a pattern of non-compliance and reviewed the non-compliance noted in the record which included his failure to attend that program workshops prior to November 10, 2015 and his failure to respond to phone messages or letters. The pattern of non-compliance also included missed appointments on June 20, 2016 and July 28, 2016 and a failure to make contact until August 22, 2016 despite his requirement to make contact every two weeks. The ministry also referred to the appellant's indication on November 29, 2016 that he did not want to work at a specified fast food restaurant. The ministry pointed out that the appellant did not bring his work search records with him when he attended a November 29, 2016 meeting and had still not submitted those documents by December 6, 2016. The ministry noted that the appellant failed to attend a workshop on December 5, 2016.

In the appellant's request for consideration he stated that he missed his workshops because his uncle passed away November 18, 2016 and he had been going through a rough time. The appellant stated that he told "Work BC what was going on and so they were aware of this". The appellant stated that he had been getting lots of calls about his uncle's funeral arrangements and calls from the ministry because his uncle was on disability. The appellant stated that he could not defer the December 5-7, 2016 appointments in connection with his uncle's death because the appointments were fixed. He was asked whether he made any efforts to rearrange the appointments and he answered that he did

not because he “just wanted to get it done right away”. The appellant stated that notwithstanding his Work BC commitments, he did not make any attempt to reschedule his appointments in connection with his uncle’s death.

While the panel is sympathetic to the obligations the appellant had in respect of his uncle’s death and the administrative details the appellant had to then deal with, the panel notes that the evidence that establishes a pattern of non-compliance was not adequately explained.

The appellant failed to explain his non-compliance with his obligations prior to December 5, 2016 and failed to adequately explain why he was not able to comply with his December 5 and December 7, 2016 obligations by rescheduling or working around the matters he had to attend to as a result of his uncle’s death. The appellant confirmed he made no efforts in that regard.

The appellant did not complete all tasks in connection with EPBC such as attending workshops, keeping in touch with a job developer biweekly and submitting job search records.

Taken as a whole, and taking into account the entirety of the appellant’s pattern of non-compliance, the panel concludes that the appellant had not demonstrated a reasonable effort to comply with the conditions of his employment program as per section 9(4) EAA. There was no evidence presented that the appellant was prevented from participating due to medical reasons.

The panel determines the ministry’s decision that the appellant failed to comply with the conditions of his employment plan and is thus not eligible for income assistance as per section .9(1) EAA is reasonably supported by the facts as a condition of the employment plan was to participate in a specific employment program and he failed to demonstrate reasonable efforts to participate in that program.

Accordingly the panel confirms the ministry’s decision that the appellant is no longer eligible for income assistance. The appellant is not successful in his appeal.