

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (ministry's) reconsideration decision dated January 30, 2017 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 her Employment Plan (EP), due to her failure to demonstrate reasonable efforts to participate in the employment-related program.

PART D – Relevant Legislation

Employment and Assistance Act (EAA), Section 9

PART E – Summary of Facts

The appellant is in receipt of income assistance as a single parent of one dependent child with a file opened in February 2016.

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

September 16, 2016 – the appellant signed an Employment Plan (EP) agreeing to work with the contractor for the Employment Program of BC (EPBC). The EP states: “You must meet with the EPBC Contractor on or before September 21, 2016. You must take part in EPBC program activities as agreed to with the EPBC contractor. You must complete all tasks given to you, including any actions set out in your EPBC Action Plan.” It also states: “in accordance with the conditions of the Employment and Assistance Act and/or the Employment and Assistance for Persons with Disabilities Act, I understand that if I do not comply with the conditions of this employment plan, the assistance issued to me and/or my family will be discontinued.”

September 19, 2016 – the appellant advised the ministry that she had applied for retro-active Child Tax Benefits (CTB) and GST for the last 5 years. The ministry advised the appellant that the income would be exempt from the calculation of the amount of income received but may impact eligibility in the following months if the amount of her assets remained over the allowable limit of \$4,000. The appellant was advised to report the income if received in order that eligibility could be determined at that time.

October 26, 2016 – the EPBC contractor reported that the appellant had an appointment scheduled for October 7th but rescheduled it to October 26 due to illness. The appellant did not attend the October 26 appointment.

November 15, 2016 – EPBC reported that the appellant had missed appointments scheduled in September, October 7th and October 26th. The ministry placed a hold on the appellant’s next assistance cheque to discuss the appellant’s non-compliance with EPBC.

November 16, 2016 – the ministry had two discussions with the appellant regarding non-compliance and that the appellant was aware that if she did not attend the next appointment with EPBC she would not be eligible for January income assistance benefits. The appellant advised that she had scheduled a meeting with EPBC for November 25th.

November 23, 2016 – the appellant informed the ministry that her next appointment with EPBC was scheduled for November 29th at 10am.

November 29, 2016 – the appellant contacted the ministry to advise that she did not attend the meeting but would schedule another meeting. The ministry advised the appellant that she would not be eligible for further assistance if she did not attend the program.

November 29, 2016 – the ministry placed a hold on the appellant’s next income assistance cheque and advised the appellant of this action in a letter.

December 12, 2016 – the ministry verifies that CRA data match tapes indicated the appellant received \$1,622.77 in December 2016.

December 12, 2016 – EPBC reported that the appellant did not attend the meeting and had not engaged in the program services since the first appointment. A letter was sent to the appellant

advising that she was not eligible for income assistance due to non-compliance with the conditions of her EP.

January 11, 2017 – the appellant advised the ministry that she did not follow through with the conditions of her EP as she thought she would not be eligible for assistance once she received the retro-active CTB and now wished to comply. The appellant requested a reconsideration of this decision to deny assistance.

January 27, 2017 – the appellant signed the Request for Reconsideration submitting that she was misinformed by the ministry as she was advised in October 2016 she would not be eligible due to receipt of retro-active payment of CTB and was told not to bother going to WorkBC or to submit monthly reports.

In the Notice of Appeal dated February 26, 2017 the appellant states: “I disagree because I was responsible for getting all documents required but was one day late. I have severe lower back pain which I am medicated for and have a doctors note indicating inability to work.

At the hearing:

The appellant stated that on October 16, 2016 she contacted the ministry using the 800# and explained that she was expecting to receive a large retro-active lump sum payment of CTB and was then advised that the receipt of that lump sum payment would result in her being ineligible to receive income assistance. After this information was provided to her, it was her understanding that there would be no point in continuing with her employment plan and contacted the WorkBC contractor to thank her for all her work. She stated she missed a few meetings prior to the October 16, 2016 date because she was called out of town to attend a family members’ funeral.

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 her EP, due to her failure to demonstrate reasonable efforts to participate in the employment-related program and 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 she was misinformed by the ministry as she was advised on October 16, 2016 she would not be eligible to receive income assistance due to receipt of retro-active payment of CTB and it was her understanding to not bother going to WorkBC or to submit monthly reports. She also states in her Notice of Appeal: "I disagree because I was responsible for getting all documents required but was one day late. I have severe lower back pain which I am medicated for and have a doctors' note indicating inability to work."

Ministry's position:

The ministry's position is that the appellant agreed to participate in an EPBC program when she signed her EP on September 16, 2016 and she failed to follow through with her EP requirements by

consistently not attending scheduled meetings and not reporting when she 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 she was not able to attend. The consequences for not complying with all the conditions of her 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 September 16, 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 her, including any actions set out in her Action Plan, and call the EPBC contractor if she could not take part in services or complete agreed to steps, or when she 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 she failed to communicate with the EPBC contractor, supported by the evidence that she failed to attend appointments from September to December 2016. Further, although on appeal the appellant states that severe back pain prevents her from working, as the ministry notes, no Medical Report or other information confirming a medical condition that may have prevented the appellant from participating in her employment program was provided. 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 reasonably supported by the evidence, and therefore confirms the decision.