



PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the ministry) reconsideration decision of February 23, 2017 in which the ministry denied further income assistance (IA) to the appellant for failure to comply with the terms of his employment plan (EP) pursuant to Section 9 of the Employment and Assistance Act (EAA) because the appellant did not follow through with scheduling follow-up meetings with, and did not participate fully 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 is an employable, single parent of one dependent child.

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

- EP dated May 13, 2016 and signed by the appellant on June 16, 2016, in which the appellant 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:
 - meet with the Employment Program of BC (EPBC) contractor on or before May 26, 2016;
 - 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 he agrees are needed to find work or become more employable as quickly as possible;
 - call the EPBC contractor if he cannot take part in services or complete steps that were agreed to, or when he finds work; and
 - call the local EPBC contractor within one week, if he were to move, to have his case file transferred.
- Request for Reconsideration completed by the ministry on February 8, 2017 and signed by the appellant on February 21, 2017, which outlines their record of contacts regarding the appellant, including those already noted above, as well as:
 - November 1, 2016 EPBC informed the ministry of the appellant's failure to attend appointments and that attempts for contact were made May 31 and September 19, 2016. An appointment was made for September 22, 2016, that the appellant did not attend.
 - November 23, 2016 the appellant informed the ministry he had been actively job searching but was having difficulties scheduling an appointment with his new EPBC Case Manager. The ministry reviewed the conditions around compliance and eligibility with the appellant and requested the appellant submit verification of attendance of his next appointment.
 - January 31, 2017 the ministry notes the appellant had failed to submit verification of attendance at EPBC.
 - February 8, 2017 the ministry informed the appellant he was ineligible for income assistance.

In his Notice of Appeal dated February 24, 2017 the appellant stated he is homeless and he has always done what he was supposed to do up until recently and that he is trying his best to keep his family together.

At the hearing, the appellant informed the panel that he did not have the appeal package in front of him. He stated that he viewed it at the ministry office but was informed that they needed it for their records so he does not have a copy in front of him. The appellant confirmed he would like future correspondence from the Tribunal to continue to be sent to the same ministry office for him to pick up there. The appellant requested that the hearing proceed.

The appellant told the panel that he had been without an address since January 31, 2017 and that he,

his son and now his spouse, who is expecting a child, have all been couch surfing and that this was the reason why he was not complying, as he had been looking for a place to live. He noted that he is very stressed and that it is hard to look for work while being homeless, having no doctor for his spouse so that they have to attend the hospital two to three times a week. The appellant apologized for not making his appointments with EPBC regarding his job search however it was very difficult when he has nowhere to stay and that he would do everything in his power to make things right. When asked about the time period from September to December he noted that he had shown up at EPBC to speak with his case worker in October. The appellant indicated that his Action Plan was for him to do a job search, research and to keep in touch with his case-worker 2-3 times per week.

When asked when he had last attended at EPBC, the appellant mentioned that he had attended one day, December 7, 2016, of an EPBC workshop on resume writing and how to conduct a job search and that he because had brought his resume and work search in at that time he did not return to the workshop that he believed was expected to last for 2 or 3 days. One of the EPBC workers assisted him with sending in his resume to a local company so that he could take a course, which would then allow him to apply for a possible job in the future. The appellant told the panel that he attended this course from December 18, 2016 for a week, then there was a break for Christmas, and he then returned to it January 2, 2017 until he completed it at the end of February. He advised the panel that the course was from Monday to Friday for an average of 5-7 hours daily. The appellant indicated that he did not check in with EPBC during this time period.

The ministry reviewed the reconsideration decision that had found the appellant ineligible for assistance as he had not demonstrated a reasonable effort to comply with the conditions of his EP. The ministry notes that the appellant had missed several appointments from June 2016 to November 2016 and that the ministry spoke with the appellant on November 23, 2016 to review his EP conditions, and the consequences of not complying with them, and to request that he bring in confirmation of future attendance at EPBC. The ministry confirmed with EPBC that the appellant had attended an appointment with them on November 24, 2016 and that he had attended one day of an EPBC workshop on December 7, 2016, however he had not been in to the EPBC agency since that time.

The ministry indicated that they were unaware of any training being undertaken by the appellant and that this is new information to them. The ministry noted that an Action Plan is usually signed during the first week of attendance at an EPBC agency, and that Action Plans can be modified by the EPBC agency as needed. The ministry noted they do not have a copy of the appellant's Action Plan in their records.

Admissibility of New Information

The panel admits the appellant's oral testimony regarding his homelessness and his spouse's pregnancy as being in support of what was before the ministry at reconsideration. However, the panel does not admit the part of the appellant's oral testimony regarding the training course from December 18, 2016 to the end of February, as this was not addressed in the reconsideration decision, nor is there evidence of this in the appeal package. The ministry indicated that this was new information to them. As this information is not in support of information or records referred to in the reconsideration decision, it is inadmissible pursuant to section 22(4) of the EAA.

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PART F – Reasons for Panel Decision

The issue under appeal is the reasonableness of the ministry decision of February 23, 2017 in which the ministry denied further income assistance to the appellant for failure to comply with the terms of his EP pursuant to Section 9 of the EAA because the appellant did not follow through with scheduling follow-up meetings with, and did not participate fully 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 is that he has been under a lot of stress over the past 3 months due to being homeless and not having a doctor for his spouse who is expecting, and that this is why he hadn't checked in with the EPBC agency as he had agreed to do.

The Ministry's position is that the appellant signed an employment plan and agreed to work with the EPBC agency, however he had a history of not attending appointments and specifically had not contacted the agency from December 7, 2016 to February 8, 2017. They believe that the conditions of the EP were reasonable and that because he did not follow through with EPBC programming, they find he 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 June 16, 2016 and agreed to the conditions which required him 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 to call the EPBC contractor if he could not take part in services or complete agreed to steps, or when he found work or if he were to move. The Action Plan was not part of the appeal record and neither the appellant nor the ministry was able to produce a copy of it at the hearing.

Section 9(4) of the EAA stipulates that if an EP 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. Although the appellant has been without his own home since January 31, 2017, the EPBC workshop was scheduled for two or three days in December, of which he attended only one day, and he confirmed that he did not check in with EPBC during December or January, which are months prior to him being homeless. Although the appellant's spouse is expecting a child and having to attend the hospital for physician services, there is no evidence that confirms that the appellant ceased to participate in programming for medical reasons. The appellant did not demonstrate reasonable efforts to participate in the EPBC program when he failed to complete the EPBC workshop in December and did not check in with them from December 8, 2017 to February 8, 2017.

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 a reasonable interpretation of legislation in the circumstances of the appellant, and therefore confirms the decision.