



## PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the “ministry”) reconsideration decision of January 24, 2017, that denied the appellant income assistance for failing 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 Section 9

## PART E – Summary of Facts

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

- The appellant's signed Employment Plan dated July 12, 2016
- Request for Reconsideration completed January 23, 2017
- Letter from the appellant dated January 20, 2017

### **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. July 12, 2016 – July 12, 2018
- appellant must meet with the EPBC Contractor on or before July 22, 2016
- 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 does not follow this employment plan, the ministry may stop income assistance payments.

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

- The reason they are noncompliant is they are very involved with the Ministry of Children and Family Development (MCFD) in order to have their son remain in their care.
- She has had multiple interviews at different home support agencies and assisted living facilities with no success
- Recently was successful in obtaining an on call job at the hospital but hasn't been called.
- She is always looking for work.

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

- They did not realize how important it is to comply with the conditions of the employment Plan.
- They take full responsibility for their actions and promise to read, sign and comply with any employment plan in the future.
- They don't have any excuses for missing these appointments or keeping in contact with their EPBC contractor.
- Never realized what a big impact not receiving social assistance would have on her family
- Her partner has just started a program at the local college
- Please take into account her younger son will not be able to remain home with the hardships they are facing.

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

- The appellant is in receipt of income assistance with a spouse and son as dependents. Her file opened in July 2016.
- The appellant signed an EP on July 12, 2016 confirming she had read, understood and agreed to the conditions and consequences of not complying with the conditions.
- September 26, 2016, the Employment Programs of BC (EPBC) contractor reported the appellant had missed appointments on August 17 and 30 and had not made contact.
- October 14, 2016, the appellant stated she had obtained "on call" employment. She was advised to contact the contractor case manager to provide details of the employment. The appellant was advised she was required to stay connected with the contractor if she did not work 20 hours per week. The appellant was requested to confirm contact with her case manager.
- December 12, 2016 the appellant's case manager reported the appellant had missed 8 appointments without making contact, she did not respond to several letters sent by the case manager requesting the appellant make contact and that her EPBC file would be closed.
- December 21, 2016, the appellant's case manager reported the appellant had been reluctant to participate in the program and refused to attend.
- January 11, 2017 the appellant was advised she was not eligible for assistance due to non-compliance with the conditions of her EP.

In the reconsideration decision, the ministry wrote:

- Under Section 9 of the EAA, a person is required to enter into and comply with the conditions of an EP in order to maintain eligibility for assistance for the family unit.
- The appellant signed her most recent EP July 12, 2016 confirming she had read, understood and agreed to the conditions and consequences of not complying.
- The responsibilities and possible consequences of not complying were reviewed with the appellant when she signed the EP and again on October 14, 2016.
- The EPBC contractor reported the appellant did not consistently attend, participate and did not make contact with the program when not able to attend.
- While taking care of one's son is important, it does not preclude the appellant from maintaining contact with her case manager and the EPBC program to develop an Action Plan to accommodate both the need to work with MCFD and comply with the conditions of her EP.
- In the opinion of the minister the appellant did not demonstrate a reasonable effort to comply with the conditions of her EP.

## 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 her failure to participate

The relevant legislation is as follows:

Section 9 of the Employment and Assistance Act.

### **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 states in her reconsideration request she had been noncompliant as she had to care for her son and that she was searching for work. In her appeal she stated she did not participate in the EPBC program as she did not realize how important it was to comply and that she would in the future.

### **Ministry's Position**

The appellant consistently did not attend or participate in her Employment Program and did not make contact with the EPBC contracted; therefore she did not comply with the conditions of the EP and it was determined she was not eligible for income assistance.

**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 Employment Program activities, contacting the EPBC contractor and advising the EPBC contractor when unable to attend were conditions of the Employment Plan. The appellant did not make contact with the EPBC contractor explaining why she did not participate in the program nor did she attempt to resolve her stated problem of finding time to care for her youngest child. There was no evidence brought forward by the appellant to demonstrate there were any mitigating circumstances or medical reasons for not participating in the EPBC program. In the appellant's written appeal, she states she didn't participate in the program as she didn't realize the importance.

The ministry's decision that the appellant failed to comply with her Employment Plan was reasonable as she failed to demonstrate reasonable efforts to participate in the employment program as per s. 9(4) and thus as per section 9(1) was ineligible for income assistance.

**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 Employment Plan 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.