

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (ministry's) reconsideration decision dated February 15, 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), and more particularly, for failing to maintain contact with the Employment Programs of BC (EPBC) contractor and for failing to inform EPBC of her place of residence.

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 sole recipient with a file opened in August 2015.

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

September 28, 2016 – an Employment Plan (EP) was created for the appellant specifying that the appellant must agree to work with the contractor for the Employment Program of BC (EPBC). The EP states: “To be eligible for assistance, each applicant or recipient in a family unit must, when required to do so, enter into an employment plan, and comply with the conditions set out in the employment plan. The purpose of an employment plan is to help a person a) find employment, or b) become more employable. Assistance will be discontinued if a person a) fails to demonstrate reasonable efforts to participate in a program in which he or she is required to participate, or b) ceases, except for medical reasons, to participate in the program. The appellant must meet with the EPBC contractor on or before October 12, 2016.

October 19, 2016 – the appellant signed the EP.

December 8, 2016 – EPBC reported to the ministry that the appellant had contacted them and advised that she moved from one community to a neighbouring village.

December 29, 2016 – EPBC reported to the ministry that they again received information that the appellant had moved to a neighbouring village. A signal letter was added to the appellant’s file.

January 13, 2017 – the ministry sent a letter to the appellant. The appellant responded by telephone advising the ministry that she had not moved and had not informed EPBC that she had moved, and when asked why she did not attend the program, she did not have a reason. The ministry advised the appellant that she was not eligible for further assistance as she is in non-compliance with her EP.

February 10, 2017 – the appellant states that the EPBC meetings were booked in a city she did not live in so she did not attend.

February 14, 2017 – the appellant signed the Request for Reconsideration submitting that the reason for employment plan not being completed is she lives in one community but the file kept getting sent to a different community where she visits but has never lived. The appellant states “I have lived in the same community since 2015, my kids are in ministry care and I visit them time to time. I’ve submitted shelter info.”

Notice of Appeal dated February 28, 2017, the Appellant stated the following:

“Wondering why my file kept getting sent to a different community when I explained that I’ve lived in another community since 2015. Landlord has filled out 3 shelter information sheets. I was only in a neighbouring community a short time to visit with my children. How could I go to employment office in a different community when I don’t live there?”

The appellant’s submission to the written hearing:

The appellant did not provide additional information to the written hearing.

The ministry’s submission to the written hearing:

The ministry’s submission in this matter will be the reconsideration summary provided in the Record of Ministry Decision.

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, and more particularly, for failing to maintain contact with the Employment Programs of BC (EPBC) contractor and for failing to inform EPBC of her place of residence 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 did not follow through with her EP because she lives in another community and how could she go to the employment office in a different community when she does not live there

Ministry's position:

The ministry's position is that the appellant agreed to participate in an EPBC program when she signed her EP on October 19, 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 did not make any attempt to communicate with EPBC. 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.

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 October 19, 2016 and agreed to the conditions which required the appellant to take part in the employment program activities as agreed to with the contractor, and call the EPBC contractor if she could not take part in services or complete agreed to steps, or when she found work. The EP states that if the appellant moves, within one week she must ask the EPBC contractor serving in the new area to transfer her EPBC case file.

Section 9(4) of the EAA 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 states that she did not follow through with her EP because she lives in another community and could not participate with the EPBC contractor, who is from a different community, when she does not live there. The panel notes that the appellant had the opportunity to communicate this information on January 13, 2017 in her telephone conversation with the ministry when she advised that she had not moved and had not informed EPBC that she had moved, and when asked why she did not attend the program, she did not have a reason. The appellant did not demonstrate reasonable efforts to participate in the EPBC when she failed to communicate with the EPBC contractor. Further, there is no evidence of a medical condition that may have prevented the appellant from participating in her employment program. 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.