



### PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (ministry) reconsideration decision dated January 30, 2017, which held that the appellant is not eligible for income assistance (IA) due to a failure to comply with the conditions of her Employment Plan (EP) pursuant to Section 9 of the Employment and Assistance Act (EAA).

### PART D – Relevant Legislation

Employment and Assistance Act - section 9

## PART E – Summary of Facts

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

- EP signed and dated January 6, 2017. The conditions of the EP were that she participate in the Employment Program of British Columbia (EPBC), attend her first appointment with EPBC on or before January 12, 2017, participate regularly as directed, work with the contractor to address any issues that may impact her employability, complete all tasks assigned including any activities that may be set out in an action plan; notify the EPBC if unable to attend a session or when she started or ended employment; declare all income and report any changes; and that failure to comply with these conditions will deem her ineligible for assistance.
- Foodsafe certificate in the name of the appellant which is valid until October 12, 2021.
- First Aid certificate in the name of the appellant which is valid until September 21, 2019.
- Class/course schedule which is signed and dated June 27, 2016.
- Request for Reconsideration (RFR), which is signed and dated January 25, 2017 and states the following:
  - “I am unable to fully commit to a job search at the moment. I am in a program to help me become more employable”.
  - The program, which includes a practicum and potentially job placement, will end April 2017 and was paid in full by a family member.
  - “I have been trained in food safe, community care first aid, Microsoft Office, which are valuable skills that would transpire into many work fields”.
  - “If I am unable to find employment in the field I am studying, I will partake in one of the programs offered by the ministry in order to find employment”.
  - “I am able to work weekends” and have been putting in effort to find a job.

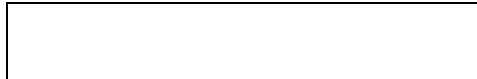
### Evidence On Appeal

- Signed Notice of Appeal (NOA) which states in part:
- “I am a single mom who decided to attend college to have a better future for me and my son”.
- Relatives have been paying into a Registered Education Saving Plan (RESP) since she was a baby for college and not for rent, food or clothing.
- Letter from the appellant’s school confirming that the appellant is enrolled in a program of studies which commenced on June 27, 2016 and will end April 21, 2017. The program is considered to be full-time studies.

### Evidence at the Hearing

The appellant stated the following:

- She is currently taking a program that is normally offered through the ministry’s Single Parent Employment Initiative (SPEI). However, rather than have the ministry pay she is paying for it on her own.
- She participated in multiple courses, each lasting from 1 week to 4 weeks over a 10 month study term. The 10 month term allows for a certificate normally requiring two years of study to be completed in one year.



- Her program is from 8:10 am to 12:20 pm Monday to Friday, which is 20 hours per week.
- In the first meeting, she advised the employment program (EPBC) contractor that she would not be able to satisfy the EP requirements.
- The EPBC contractor expected her to be at workshops Monday to Friday from 8 am to 5 pm.

The ministry relied on its reconsideration decision and added that whether or not a student is considered to be a full time or part time student is determined by the school not the ministry. In this case the letter from the appellant school stated that she is enrolled in full time studies.

## PART F – Reasons for Panel Decision

The issue before the panel is the reasonableness of the ministry's reconsideration decision, which held that the appellant is not eligible for assistance due to noncompliance with her EP pursuant to Section 9 of the EAA.

Section 9 of the EAA outline the stipulations of an EP and states that:

### 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].

### *The Appellant's Position*

The appellant argues that she is complying with her EP by participating in a program that is offered by the ministry under the SPEI. However the only difference is that she is paying for it through an RESP that was established by her family.

### *The Ministry's Position*

The ministry argues that the appellant's status as a full time student has caused her to cease to participate in the EP programing. Therefore she has not complied with her EP and is ineligible for IA pursuant to section 9 of the EAA.

### *The Panel's Decision*

Section 9(1) of the EAA sets out that to be eligible for assistance, the recipient must, when required to, enter into an EP, and comply with the conditions of the plan. The panel notes that by signing the EP the appellant acknowledges that she was aware of the requirements of her EP and aware of the consequences of not complying with the EP, and the appellant does not dispute this. A condition of her EP was to participate in an EPBC program, and to notify the EPBC worker if she was unable to attend a session. The appellant admits that on January 12, 2017 in her first meeting with the EPBC worker, she stated that she would not be able to participate in the required workshops due to her school schedule. In the reconsideration decision the ministry stated that the appellant ceased to participate in the EP program. The panel finds that though the ministry's use of the word 'ceased' is incorrect, it did apply the applicable legislation. Section 9(4)(a) of the EAA sets out that if a recipient has failed to demonstrate reasonable efforts to participate in the EP program, he or she has not met the conditions of the EP. In the case of the appellant, she stated that she could not participate at all in her EP programing due to her school obligations without considering or offering any alternatives. The panel finds that the ministry therefore reasonably determined that the appellant failed to demonstrate reasonable efforts to participate in her EP programing.

The panel finds that the ministry's decision to deny the appellant income assistance due to the failure to comply with the conditions of her EP pursuant to section 9(1) of the EAA was a reasonable application of the legislation in the circumstance of the appellant. Since a condition of her EP was to participate in an employment program (EPBC) under section 9(4) EAA, the appellant failed to demonstrate reasonable efforts to participate and she did not demonstrate that there were medical reasons that prevented her participation.

### **Conclusion**

The panel finds that the ministry decision which found that the appellant is ineligible for IA due to failure to comply with her EP pursuant to section 9 of the EAA was a reasonable application of the applicable legislation and a reasonable interpretation of the evidence. The panel confirms the ministry's decision and the appellant is not successful in the appeal.