

## PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation's (the "ministry") January 31, 2017 reconsideration decision denying the appellant income assistance because the appellant failed to demonstrate reasonable efforts to participate in the employment program as agreed in the employment plan he signed under section 9 of the Employment and Assistance Act (EAA).

## PART D – Relevant Legislation

Employment and Assistance Act ("EAA") Section 9.

## PART E – Summary of Facts

1. For its reconsideration decision, the ministry considered the following evidence:

A. The appellant agreed to and signed an Employment Plan (EP) on September 29, 2016, in which as a condition of continued eligibility for income assistance it states he must:

- Meet with the Employment Program of BC (EPBC) contractor;
- Take part in EPBC programing activities as agreed to with the contractor;
- Complete all tasks given to you (the appellant), including any actions set out in your EPBC Action Plan;
- Call your EPBC contractor if cannot take part in services or complete steps that you agreed to, or when you find work; and
- If you move, contact the contractor within one week and request a transfer to your new area.

B. Information from its records that:

The appellant is a single person designated Employment Obligated who on September 28, 2016 was deemed eligible for income assistance (IA) and was referred to EPBC on that same day. The following day on September 29, 2016 he attended the local office of EPBC and signed the EP.

The ministry record contains the following timeline:

- October 4, 2016 – client (the appellant) called to reschedule October 4<sup>th</sup> appointment to October 6<sup>th</sup>;
- October 6, 2016 – client called to reschedule October 6<sup>th</sup> appointment to October 11<sup>th</sup>;
- October 11, 2016 – client did not attend scheduled appointment;
- October 13, 2016 – EPBC attempts to contact client. Unsuccessful. Voicemail message left;
- October 19, 2016 – EPBC attempts to contact client. Unsuccessful. Voicemail message left. Email sent to client;
- October 24, 2016 – EPBC reports a pending file closure for December 20<sup>th</sup> due to a lack of contact;
- December 30, 2016 – the ministry was unsuccessful in contacting the Appellant and left a voicemail requesting that he contact the ministry and mailed him a letter advising him that the February 2017 assistance would be held pending contact by him;
- December 30, 2016 – later that day the appellant contacted the ministry and advised he had been using the resource room at EPBC but was unaware that he had to make contact with EPBC or that he had an obligation to participate in the EPBC program fully. The ministry worker advised the appellant that; he was required to participate in the plan fully, attend any and all scheduled appointments and workshops as directed by EPBC; that if he did not participate fully he had an onus to provide confirmation of mitigating circumstances, and that failure to do so would result in denial of IA. The appellant allegedly advised he understood and indicated that he could see the Work BC office from his home and would reconnect with them that afternoon.
- January 6, 2017 – EPBC advised the ministry that no contact had been made by the appellant and that he had not utilized the resource room since October 2016;
- January 12, 2017 – the ministry sent the appellant a letter advising him of the denial for IA due to non-compliance with the EP.
- January 23, 2017 – the appellant contacted the ministry to initiate a reconsideration of the decision to deny IA.

C. Appellant's request for reconsideration dated January 31, 2017 in which he stated that:

- He did contact EPBC but that the call went to voicemail and he assumed the person he was dealing with had commenced her holidays (over the Christmas period);

- He continued to actively look for work in nearby communities;
- He had an appointment with another EPBC advisor as well as a job interview for January 31, 2017; and
- He acknowledged that he had missed “a couple” of appointments but that he still needed his assistance.

2. At the hearing:

The ministry relied on the reconsideration decision and was also not in attendance at the hearing.

## PART F – Reasons for Panel Decision

The issue in this appeal is whether the ministry's reconsideration decision denying the appellant income assistance because he failed to comply with the conditions of his employment plan, as required by section 9 of the EAA, was reasonably supported by the evidence and/or was a reasonable application of the applicable legislation in the appellant's circumstances.

### **Applicable Legislation**

The following legislation applies to the Appellant's circumstances in this appeal:

#### ***Employment and Assistance Act, Part 2, Section 9***

##### ***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 Panel's Findings and Decision**

The purpose of an Employment Plan is to outline the specific activities and expectations of someone on income assistance in order to assist them in finding employment or to make them more employable.

Section 9 of the EAA mandates when required by the ministry, each applicant for income assistance must enter into and comply with the conditions of an EP. There is no dispute that the appellant signed an EP near the end of September 2016 which included an acknowledgement that, if he did not comply with the conditions of the plan, income assistance would be discontinued and that participation in an employment plan is not open to appeal.

The appellant provided no evidence of any medical issues which would prevent him from complying with the EP and invoke an exception under section 9(4)(b).

The remaining issue then is whether the appellant made reasonable attempts to fully participate in the EP as required by the ministry and by the EAA.

The appellant's position is that he was actively looking for employment but was not aware he had to make contact with the EPBC contractor. He admits that he missed a couple of appointments but he mistakenly believed that he would be getting a call back from EPBC after he left a voicemail for them to call him, and believed this would happen after the Holiday Season had ended. The ministry's

position is that the appellant was made aware of his obligation to participate fully in the EP as directed by the EPBC worker and as required under the EAA. The ministry adds that the appellant was aware that failure to do so would result in the denial of IA. The ministry submits that by signing the EP the appellant would have agreed to and be aware of his obligations under the EP and the consequences of non-compliance. This was reinforced when he signed the EP and again by a ministry worker on December 30, 2016. The appellant did not provide evidence of any contact with EPBC, in fact his evidence suggests he believed he did not know that he was obliged to participate fully in the program. He submits that he utilized the resource room and that he continued to search for work, but there was no evidence to support these claims. The only contact he alleged was a voice mail message left just before the end of the year in 2016. He admits that he did not follow up when he did not receive a call back after leaving that message. The appellant submits it is not easy to find work in his chosen field when one is searching in small communities and he has to be persistent. His job searching is now on track and he is starting a new job in February 2017. He just needs one last cheque.

In its reconsideration decision, the ministry deemed the appellant in non-compliance with his employment plan. The ministry opined that the appellant had not made reasonable efforts to participate in the employment program and as such the EP. The ministry deemed the appellant did not actively participate in the program over the three months in question and EPBC confirmed that after his file was flagged the appellant had not made contact with nor had he used the resource room available. The ministry responded to the appellant's evidence that he contacted EPBC and left a message but did not receive a call back by stating that there was no record of that call, no record of active participation, and given the proximity of his residence to the EPBC office, he has not made the required reasonable effort to participate in the program hence he is ineligible for IA.

The panel finds in order to be eligible for income assistance the EP creates an onus on the appellant to make reasonable efforts to comply with the EP, a feature of which includes maintaining communication with the EPBC worker. That requires the appellant to reach out to the worker if he has not heard from them within a reasonable period of time. The evidence shows that the EPBC worker reached out unsuccessfully on at least two occasions and despite leaving voicemail messages, did not receive a call back. The appellant's behaviour indicates he only reached out to EPBC when he was about to have his assistance withheld. In the panel's view this does not demonstrate a reasonable effort to comply with the EP.

### **Conclusion:**

The panel finds that the evidence establishes the ministry reasonably concluded the appellant did not make reasonable efforts to participate in the EP, and that he provided no evidence of any medical reason which precluded him from participating as required by section 9 of the Act. The Panel finds that the ministry's decision was a reasonable application of the legislation and supported by the evidence. The panel confirms the ministry's reconsideration decision pursuant to section 24(1)(a) of the EAA. The appellant is not successful in his appeal.