

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Social Innovation (the "Ministry") reconsideration decision dated March 21, 2017 which held that, the appellant was not eligible for income assistance due to non-compliance with his employment plan ("EP"), and specifically, due to a failure to show reasonable efforts to participate in the Employment Program of British Columbia ("EPBC") requirements. The Ministry found that the appellant did not provide adequate medical reasons for failing to participate in the EPBC.

PART D – RELEVANT LEGISLATION

Sections 9(1) and 9(4) Employment and Assistance Act ("EAA")

PART E – SUMMARY OF FACTS

With the consent of both parties, the hearing was conducted as a written hearing, pursuant to section 22(3)(b) of the EAA.

The evidence before the Ministry at reconsideration included:

The appellant is a single person in receipt of Income Assistance ("IA"). On September 16, 2016 the appellant entered into an EP with the Ministry. The EP referred the appellant to the EPBC which required participation on or before September 20, 2016.

On December 7, 2016 the Ministry received a report from EPBC that the case manager attempted to contact the appellant by phone but the phone number was not in service. The Ministry signaled the appellant's January IA.

On December 15, 2016 the Ministry advised the appellant that his file had been signaled and advised him to contact an EP worker. The signal was resolved when the appellant explained to the Ministry that he didn't understand his EP conditions and that he would make an appointment with EPBC that day. The Ministry explained to the appellant that if he was non-compliant with his EP and if he did not participate in EPBC he may no longer be eligible for IA.

On December 20, 2016 the appellant attended the EPBC office and completed the Employment Readiness Information Questionnaire ("ERIQ") and booked an orientation for January 6, 2017.

On January 6, 2017 the appellant rescheduled his orientation with EPBC to January 17, 2017. On January 18, 2017 EPBC reported that the appellant did not attend his orientation on January 17, 2017 and on January 19, 2017 the Ministry sent the appellant a signal letter and left a message on the appellant's voicemail. The EPBC notified the Ministry that the appellant was non-compliant and sent the EPBC case for closure.

On February 22, 2017 the appellant contacted the Ministry office to pick up his March IA but the Ministry informed him that his cheque would not be released until the EP signal was dealt with. The appellant contacted the EP worker and explained that he had a bad stomach ache on the date of the rescheduled orientation. The appellant explained that he would attend EPBC that day to get an appointment for an orientation. The appellant confirmed that he received the January 19, 2017 signal letter but did not contact the EP worker. The worker advised the appellant that he was denied IA for non-compliance with his EP. The EP worker informed the appellant that even if he attended orientation it would not change the decision.

On February 27, 2017 the appellant contacted the EP worker and stated that he had completed his orientation with EPBC. The EP worker advised the appellant that this did not affect the decision to deny IA and the EP worker reviewed the reconsideration process with him.

On March 3, 2017 the appellant submitted a request for reconsideration. His reasons for reconsideration were that he had the stomach flu from January 17, 2017 to January 21, 2017 and that during that time his friend was taking care of him. The appellant confirmed that he had completed his orientation with EPBC.

On March 3, 2017 the appellant's friend wrote a letter advising the Ministry that she took care of the appellant from January 17, 2017 to January 26, 2017 when he was ill. The letter states that the doctor told the appellant that he had the stomach flu and that the appellant should take Gravol.

The appellant's submission to the written hearing includes:

Reasons for appeal in his Notice of Appeal, dated March 28, 2017, state "I have reconnected with my job coach and will be meeting with her weekly and keep an active job search and records of all jobs searched."

The ministry's submission to the written hearing includes:

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

Ruling on additional evidence:

The panel determined the additional evidence, being the statement in the appellant's notice of appeal that "I reconnected with my job coach and will be meeting with her weekly and keep an active job search and records of all jobs searched" was admissible pursuant to s. 22(4) of the EAA as it was in support of the evidence concerning the appellant's desire to continue working with EPBC even if his ability to obtain IA was uncertain, such evidence being before the Ministry at reconsideration.

PART F – REASONS FOR PANEL DECISION

The issue is whether the Ministry's reconsideration decision, which denied the appellant IA due to the appellant's non-compliance with his EP, and specifically, due to his failure to show reasonable efforts to participate in the EPBC, is reasonably supported by the evidence or a reasonable application of the applicable legislation in the circumstances of the appellant.

The legislation provides:

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.

...

(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.

In the reconsideration decision, the Ministry wrote that given that the appellant failed to make contact during the period specified in the appellant's EP, failed to respond to EPBC's efforts to make contact, failed to attend his orientation, failed to call in advance of missing his orientation, and failed to make contact with EPBC after recovering from illness, the appellant did not comply with his EP and he failed to participate in EPBC. The Ministry found that the medical issues of the appellant were temporary and not adequate reasons for his 16-week non-participation in EPBC.

The appellant argues he missed his orientation scheduled for January 17, 2017 due to the stomach flu that he had from January 17, 2017 to January 21, 2017. He argues that during that time his friend was taking care of him. The appellant argues that he has now completed his orientation with EPBC.

The panel finds that the appellant signed an EP on September 16, 2016 and was referred to EPBC on that date. The Ministry was not advised by EPBC about the appellant's non-compliance with the EP or EPBC until December 7, 2017. On December 15, 2017 the Ministry made contact with the appellant and during that contact the appellant explained to the Ministry that he did not understand the conditions of his EP. The Ministry clarified the conditions to the appellant on December 15, 2017, namely the Ministry informed the appellant that if he did not comply with his EP or EPBC he may be denied IA. The panel finds that during the period from September 16, 2016 to December 15, 2016 the Ministry reasonably accepted that the appellant didn't understand what his obligations under the EP or EPBC were, and that he was not previously aware that his participation with EPBC is a condition of his eligibility for IA.

The appellant successfully scheduled his orientation for January 17, 2017 and he does not dispute that he failed to show up to the orientation. The panel finds that the Ministry reasonably accepted the appellant's evidence that he was ill during the orientation and continued to be ill up until January 21, 2017. The appellant did not dispute that he received correspondence regarding a hold on his IA due to non-compliance with his EP and EPBC (specifically a failure to attend the January 17, 2017 orientation). The appellant did not dispute that he did not follow up with the January 19, 2017 correspondence, despite a telephone message also left by the Ministry that day, until he contacted the Ministry on February 22, 2017. The panel finds that the Ministry reasonably determined that, in failing to follow up with the correspondence for period of more than one month, the appellant was not compliant with the conditions of his EP as he was not demonstrating reasonable efforts to participate in his EPBC. Further, the panel finds that the Ministry reasonably concluded that the appellant's temporary illness for the period of January 17, 2017 to January 21, 2017 was not adequate medical reasons for ceasing to participate in the program.

In his Request for Reconsideration dated March 3, 2017, the appellant wrote that he has now completed his orientation with EPBC and other dates are scheduled. Additional information was provided by the appellant in his Notice of Appeal dated March 28, 2017 that he reconnected with his job coach and will be meeting with her weekly and he will keep an active job search and records of all jobs searched. While the appellant wrote that he has attended the orientation with the EPBC and that he is currently participating in his EP, the panel finds that the Ministry reasonably considered the efforts made by the appellant to participate in the program to the date of the Ministry's original decision on February 22, 2017.

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), due to a failure to demonstrate reasonable efforts to participate in the EPBC and with no medical reason for ceasing to participate pursuant to section 9(4) of the EAA, was reasonably supported by the evidence and therefore confirms the Ministry's decision. The appellant is not successful in his appeal.