

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (ministry's) reconsideration decision dated April 7, 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 his Employment Plan (EP), due to his failure to demonstrate reasonable efforts to participate in the employment-related program.

PART D – Relevant Legislation

Employment and Assistance Act (EAA), Section 9

PART E – Summary of Facts

The Appellant was not in attendance at the hearing. After confirming that he was notified, the hearing proceeded under s. 86 of the Employment and Assistance Regulation (EAR).

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

The appellant is in receipt of income assistance as a sole recipient since April 2016.

January 5, 2017 – an Employment Plan (EP) was sent to the appellant with a request to sign and return the document to the ministry within 2 weeks. The conditions of the EP required the appellant to meet with Employment Plan of B.C. (EPBC) contractor by January 19, 2017. The appellant was required to complete all tasks assigned by the EPBC contractor, participate fully in the program and to contact the contractor if not able to attend or participate in the program for any reason.

February 8, 2017 – the appellant advised that he did not meet with the EPBC contractor and did not provide a reason for not attending the meeting. The ministry discussed compliance with the appellant and that it is a condition of eligibility for income assistance when he signed the EP. The appellant stated that he understood. The ministry requested the appellant to submit the signed EP and the appellant stated he would attend to office with it the following day. The appellant was advised that there would be a hold on his income assistance cheque for the month of March 2017 for him to submit his signed EP and his Action Plan from EPBC.

February 22, 2017 – the appellant attended the ministry office to sign his EP and to receive his March income assistance.

March 21, 2017 – the appellant contacted the ministry to request a crisis supplement for food and was advised that his income assistance cheque is on hold for him to submit his Action Plan from EPBC.

March 21, 2017 – the appellant contacted the ministry to inform them that he had been away and would attend EPBC on March 23, 2017 and will create his Action Plan at that time. The ministry reminded the appellant that his income assistance cheque would not be released until his Action Plan is submitted.

March 23, 2017 – the appellant attended the ministry office to inquire about his income assistance cheque also stating that he was 15 minutes late for his appointment with EPBC on this date and they rescheduled him to April 4.

March 23, 2017 – the ministry reviewed the appellant's file and determined that he is non-compliant with his employment plan and not eligible for income assistance. The ministry was not successful in contacting the appellant by telephone so a letter was mailed to the appellant advising him that he was no longer eligible for income assistance.

March 31, 2017 – the appellant attended the Service BC office and advised them that he had been incarcerated and was released on this date. The appellant was advised again of the denial of income assistance, the reasons, the reconsideration process and the availability of a reconsideration supplement.

April 4, 2017 - the minister received the appellant's signed Request for Reconsideration providing some reasons for non-compliance with his EP stating he has been going through a lot this month, his father passed away, he was just released from jail, he is seeking counselling for depression, he is late for rent and he needed food.

April 7, 2017 - Reconsideration Decision was issued stating that the appellant is ineligible for income assistance for not demonstrating a reasonable effort to comply with the conditions of his EP.

April 25, 2017 – the appellant files a Notice of Appeal stating “he is suffering depression, he went to jail and his father just passed away and he had to go see family.”

At the hearing:

There was no additional evidence presented on behalf of the appellant.

The ministry relied on the reconsideration decision, as summarized at the hearing.

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 his EP, due to his failure to demonstrate reasonable efforts to participate in the employment-related program, 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:

In the Notice of Appeal the appellant argues that he is suffering depression, he went to jail and his father just passed away and he had to go see family.

Ministry's position:

The ministry's position is that the appellant signed his EP confirming that he had read, understood and agreed to the conditions and consequences of not complying. The EP referred the appellant to the EPBC contractor. He was required to participate fully in the program, complete all assigned tasks and to advise the contractor if not able to participate in the program for any reason. The Appellant was reminded of these obligations on two occasions. The appellant made no attempt to contact EPBC or the ministry to advise he was not able to attend the program. He was requested to provide a copy of the EPBC Action Plan on February 8, 2017 to confirm he had attended the program. He

indicated he did have a meeting scheduled for March 23, 2017 but the meeting was postponed as he was late. The appellant stated that the intake appointment was rescheduled but he did not provide verification.

Panel's decision:

Section 9 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, and 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 signed an EP on February 22, 2017 after being provided with the EP on January 5, 2017 and agreed to the conditions which required the appellant to take part in the employment program activities as agreed to with the contractor, to complete all tasks given to him, including any actions set out in his Action Plan, and call the EPBC contractor if he could not take part in services or complete agreed to steps, or when he found work. The appellant was provided the EP on January 5, 2017 requiring it be signed and returned to the ministry in two weeks. The appellant did not sign and return the EP until February 22, 2017. He did not meet with the EPBC contractor when required and did not attend scheduled meetings. There is no evidence of a medical condition that impacted his non-participation. As such, the panel finds that the ministry reasonably concluded, pursuant to Section 9 of the EAA, that the appellant did not comply with the conditions of his 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 his EP pursuant to Section 9 of the EAA was reasonably supported by the evidence, and therefore confirms the decision.