

## PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation ("ministry") reconsideration decision dated March 10, 2017, which held that the appellant was not eligible for income assistance due to failure to demonstrate a reasonable effort to comply with the conditions of his Employment Plan ("EP") as required by Section 9 of the *Employment and Assistance Act*.

## PART D – Relevant Legislation

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

## 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 information before the ministry at reconsideration included the following:

- The appellant has been a sole recipient of income assistance and is Employment Obligated.
- The appellant entered into his initial EP in April 2014. This EP required that the appellant contact the specified Employment Plan of BC (EPBC) contractor and complete all tasks and programs assigned. As well, the EP required the appellant to contact the EPBC contractor if he was unable to participate for any reason.
- The EPBC contractor reported in August 2014 and March 2015 that the appellant was not participating in the EPBC program. The appellant was advised on both occasions that his eligibility depended on his participation in the EPBC program.
- In July 2016 the appellant entered into a new EP as the previous one had expired.
- In September 2016 the EPBC contractor reported that the appellant was not participating in the EPBC program. The appellant was advised that his continued eligibility depended on his participation in the EPBC program.
- In February 2017 the EPBC contractor reported that the appellant was not participating in the EPBC program and had not attended 11 appointments/workshops since September 2016.
- The appellant stated in February 2017 that he had not participated in the EPBC program because he does not have a phone and has lost access to his email account. The appellant was advised that he was not eligible for income assistance.

The documents before the ministry at reconsideration included the following:

- An Employment Plan signed by the appellant on April 9, 2014.
- A letter from an EPBC contractor dated April 22, 2015, indicating the appointments the appellant had attended and missed.
- An Employment Plan signed by the appellant on July 27, 2016.
- The appellant's EPBC Action Plan, submitted September 28, 2016.
- A Request for Reconsideration, dated March 8, 2017, in which the appellant wrote "My reason for request of reconsideration is if I am unable to pay my half of the rent this month, all of us that are staying here will be kicked out and no place to stay."

### **Notice of Appeal**

In the Notice of Appeal dated April 3, 2017, the appellant wrote as reasons for appeal, "As of April 1, 2017, I now have a newborn I have to support. Rent and hydro are behind, and are now on our 2<sup>nd</sup> strike for rent fees."

The appellant did not make an appeal submission.

The ministry indicated that its appeal submission would be the reconsideration summary provided in the Record of Ministry Decision.

### **Admissibility of Additional Information**

The panel determined that the information provided by the appellant in the Notice of Appeal was admissible under s. 22(4) of the EAA as it was in support of the information and records before the minister at reconsideration. Specifically, the information in the Notice of Appeal speaks to the appellant's expenses and supports the information provided in his Request for Reconsideration.

## PART F – Reasons for Panel Decision

The issue under appeal is whether the ministry's reconsideration decision of March 10, 2017, in which the ministry determined that the appellant was not eligible for income assistance due to his failure to demonstrate a reasonable effort to comply with the conditions of his EP as required by Section 9 of the EAA, is reasonably supported by the evidence or a reasonable application of the applicable legislation in the circumstances of the appellant.

### The applicable 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.
- (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*].

In the reconsideration decision, the ministry found that the appellant is not eligible for income assistance because he had not demonstrated a reasonable effort to comply with the conditions of his EP. The ministry considered that the appellant had signed EPs in April 2014 and July 2016 confirming that he had read, understood and agreed to the conditions as well as the consequences of non-compliance. The minister noted that the appellant was required to participate fully in the EPBC program and contact the EPBC contractor if he was unable to participate for any reason. The ministry considered that the appellant had been reminded in August 2014, March 2015 and September 2016 that continued eligibility for income assistance was dependent on compliance with the conditions of his EP and participation in the EPBC program. The ministry determined that the appellant had continued to not participate in the program despite having been provided with the opportunity to establish participation on both occasions. The ministry also considered the appellant's argument that he does not have a phone and had lost access to his email account, but determined that this did not explain why he had not actively participated in the EPBC program since August 2014.

In his Request for Reconsideration and Notice of Appeal the appellant provides arguments relating to his rent and other expenses. The appellant has not addressed his non-compliance with the EP or failure to participate in the EPBC program in his arguments. He does not provide reasons or explanation for the 11 missed appointments/workshops since September 2016 in either the Request for Reconsideration or Notice of Appeal.

The panel finds that by signing EPs in April 2014 and July 2016, the appellant agreed to the conditions of these EPs and indicated his understanding of the consequences of non-compliance. The panel further finds that the appellant was advised on several occasions by the ministry and the EPBC contractor that his continued eligibility for income assistance depended on his compliance with the terms of his EP and his participation in the EPBC program. The appellant does not dispute that he has not participated, but has asserted that the reason is that he does not have a phone and has lost access to his email account. The panel finds that this assertion does not explain the appellant's failure to comply with the conditions of his EP. The panel finds that the Ministry reasonably determined that the appellant is not eligible for income assistance because he has not demonstrated a reasonable effort to comply with the conditions of his EP as required by Section 9 of the EAA.

### **Conclusion**

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, was reasonably supported by the evidence and a reasonable application of the legislation in the circumstance of the appellant. The panel confirms the Ministry's decision. The appellant is not successful in his appeal.