

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the ministry) reconsideration decision of May 2, 2017, that denied the appellant income assistance for failing to demonstrate a reasonable effort to comply with the conditions of his employment plan as required in 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 information before the ministry at the time of reconsideration included the following:

- Employment Plan dated December 13, 2016.
- Request for Reconsideration dated April 27, 2017.

Employment Plan (EP)

The purpose of the EP is to outline activities and expectations for the appellant to find employment or become more employable. The EP has specific timelines for activities and is reviewed regularly. If the appellant is unable to follow through with the activities she/he is to advise the ministry. If the appellant fails to comply with the EP he/she will be ineligible for assistance.

Conditions of the EP:

- The appellant will participate fully and to the best of his/her ability in the activities required by the ministry or contractor.
- Terms of the plan: December 13, 2016 to December 13, 2018.
- The appellant must meet with the EPBC Contractor on or before December 30, 2016.
- The appellant must take part in EPBC program activities;
- The appellant must complete all tasks given to him/her including any actions set out in her/his EPBC Action Plan.
- The appellant must call the EPBC Contractor if he/she cannot take part in services or complete steps that she/he agreed to, or when the appellant finds work.
- If the appellant moves...
- If the appellant does not follow this EP the ministry may stop income assistance payments.

From ministry records:

- The appellant was in receipt of income assistance as a single parent of one dependent child.
- On December 13, 2016, the appellant signed an EP.
- On January 9, 2017, EPBC reported that the appellant had not attended the meeting scheduled on December 22, 2016, and did not contact EPBC. A letter was sent to the appellant by the ministry requesting him/her to make contact to discuss attendance at the EPBC program.
- The appellant contacted the ministry on January 16, 2017; she/he was reminded that continued eligibility for assistance was dependent on active participation in the EPBC program. The appellant confirmed that he/she understood these obligations.
- On February 9, 2017, EPBC reported the appellant had attended the meeting on January 25, 2017.
- On April 20, 2017, EPBC reported that the appellant had not made any contact since January 25, 2017, despite attempts to reach him/her - they had tried to contact the appellant 3 separate times -, and that she/he was “a no show” for the last scheduled appointments. The ministry called the appellant who advised that she/he thought he/she had an appointment in March but her/his car had broken down. The appellant stated he/she had rescheduled the meeting but was sick on the appointment date. The appellant was advised she/he was not eligible for further assistance.

In the appellant's request for reconsideration she/he wrote that he/she

- still has not found employment;
- had car issues and medical issues that prevented her/him from attending his/her appointment;
- is without funds and has a son and herself/himself to feed;
- is very aware of the non-compliance that got her/him into this current situation and will not miss appointments again as this assistance is what keeps him/her and her/his son fed and able to live.
- his/her cell phone got disconnected which was why she/he did not receive emails

In the appellant's Notice of Appeal dated May 8 2017 he/she writes that she/he may be evicted without assistance.

Upon confirming that the appellant was notified the hearing proceeded in accordance with section 86(b) of the Employment and Assistance Regulation.

PART F – Reasons for Panel Decision

The issue on appeal is whether the ministry's reconsideration decision which found the appellant ineligible for income assistance for failing to demonstrate a reasonable effort to comply with the conditions of his EP was reasonably supported by the evidence or was a reasonable application of Section 9 of the EAA.

The relevant legislation is as follows:

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.

The appellant's position:

The appellant argues that he/she should be eligible for employment assistance because she/he still has not found employment, is without funds, has a son and himself/herself to feed, and may be evicted without assistance. He/she had car issues, phone issues and medical issues that prevented her/him from receiving emails and attending appointments but is aware of the non-compliance and will not miss appointments again.

The ministry's position:

The ministry argues that the appellant has not demonstrated a reasonable effort to comply with the conditions of his EP and is therefore not eligible for assistance as per section 9 of the EAA. The appellant had confirmed that she/he had read, understood and agreed to the conditions and consequences of not complying when he/she signed the EP.

The EP had referred the appellant to the Employment Programs of BC contractor in whose program she/he was required to fully participate, complete all assigned tasks and advise the contractor if not able to participate for any reason. The appellant had missed several appointments and had been reminded on 2 occasions that continued eligibility for assistance was dependent on complying with the conditions of the EP including meeting with the EPBC contractor and participating fully in the EPBC programs. While the appellant indicated she/he did not attend the program due to illness and car issues he/she did not provide verification and did not contact EPBC to report she/he was not able to attend.

Panel Decision:

Section 9(4) of the EAA holds that if an EP includes a condition requiring a recipient to participate in a specific employment-related program, that condition is not met if the person fails to demonstrate reasonable efforts to participate in the program. As the appellant had missed several appointments, failed to inform the EPBC contractor of the reasons thereof, and did not respond when contacted by the contractor, the panel finds that the ministry reasonably concluded that the appellant failed to demonstrate reasonable efforts to participate in the employment program as per section 9(4). The panel further finds that as a result of the appellant's lack of participation in the program she/he failed to comply with the conditions of his/her EP as set out in section 9(1) of the EAA. Participation in the program, contacting the EPBC contractor and advising the EPBC contractor when unable to attend were conditions of the EP.

As there is insufficient evidence of mitigating circumstances or medical reasons for non-compliance the panel finds that the ministry reasonably determined that the appellant failed to comply with the conditions of his/her EP and is therefore ineligible for income assistance as set out in section 9(1).

Conclusion:

Having reviewed and considered all of the evidence and the 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 his/her EP pursuant to section 9 of the EAA was reasonably supported by the evidence, and therefore confirms the decision. The appellant is not successful in her/his appeal.