

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the “ministry”) reconsideration decision of June 14, 2017, that denied the appellant income assistance for failing to comply with the conditions of his employment plan as required in the Employment and Assistance Act section 9(1) which required the appellant to enter into an employment plan and to comply with its conditions. The ministry found that the appellant failed to demonstrate reasonable effort to participate in his employment program under section 9(4).

PART D – Relevant Legislation

Employment and Assistance Act Section 9

PART E – Summary of Facts

The appellant received income assistance as a single parent.

The information before the ministry at the time of reconsideration included the following:

- The appellant's signed Employment Plan dated November 12, 2015
- Request for Reconsideration completed June 6, 2017
- An appointment card from Employment Program of BC (EPBC) contractor date stamped July 26, 2016

Employment Plan

The purpose of the Employment Plan (EP) is to outline activities and expectations for the appellant to find employment or to 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 they are required to advise the ministry. If the appellant fails to comply with the EP they will be ineligible for income assistance.

Conditions of the plan

- Terms of plan. October 14, 2015 – October 13, 2017
- appellant must meet with the EPBC Contractor on or before October 28, 2015
- take part in EPBC program activities;
- complete all tasks including any actions set out in the EPBC Action Plan;
- call the EPBC Contractor if unable to take part in services or complete steps that are agreed to or when the appellant finds work;
- if the appellant does not follow this employment plan, the ministry may stop income assistance payments.

In the appellant's Notice of Appeal, he wrote:

- he believes he put in the effort to maintain work, even with continuous health issues
- he has no other options for financial help

In the appellant's Request for Reconsideration, he wrote:

- he would like to be reconsidered due to health reasons
- that he is suffering from Crohn's disease
- he is on meds that weaken his immune system
- for the month of May he had pneumonia
- he has no documentation of his illness as he was never prepared to be sick
- he sincerely depends on services provided
- he definitely is capable of continuing the employment plan as it is helping him

In the reconsideration decision summary of facts, the ministry wrote:

- November 12, 2015 the appellant signed a new Employment Plan (EP)
- June 1, 2016 EPBC reported the appellant's file had been closed in February 2016 due to non-participation. A hold was placed on the appellant's income assistance
- June 21, 2016 the appellant contacted the ministry about his assistance being held. He advised the ministry he was having a CT scan and was told an EP worker would call to discuss his file. The worker attempted to make contact but was unable to reach the appellant so left a message for him to call back.
- July 22, 2016 the appellant attended the Service BC office to obtain the ministry worker's

number.

- July 25, 2016 the appellant spoke to a EP worker. He was reminded of the attendance and participation requirements outlines in his EP, and the consequences of non-compliance. The appellant stated he fully understood. The appellant stated his girlfriend had taken her life in early 2015 and that he had struggled after that but was doing better now. The appellant was advised once he attended EPBC and then submits an appointment card; his cheque could be released to him.
- July 26, 2016 the appellant submitted an appointment card from EPBC and his cheque was released to him.
- September 28, 2016 EPBC reported the appellant had reconnected with the program and had signed a new action plan.
- January 5, 2017:
 - EPBC reported the appellant:
 - had failed to show up for booked appointments on November 8, 2016, November 28, 2016 and December 2, 2016 and the case manager had attempted to reach the appellant by phone and email following each missed appointment
 - made last contact with the EPBC on October 24, 2016
 - attended EPBC December 29, 2016 stating he had medical reasons for missing the previous appointments
 - advised EPBC he need three weeks off from January 4, 2017 through February 2, 2017 to recover from surgery
 - a ministry worker called the appellant to advise he submit a medical report-employability, to confirm his medical condition and associated restrictions.
 - The appellant was advised he must reconnect with EPBC on February 2, 2017.
 - The appellant was advised that if he failed to attend and participate fully in EPBC programming without confirmation of mitigating circumstances, he would be found ineligible for income assistance, the appellant stated he understood.

May 5, 2017 EPBC reported:

- the appellant had not attended appointments or workshops despite EPBC's repeated attempts to connect with the appellant
- the appellant last attended an appointment on February 21, 2017 and his last contact made was on March 10, 2017
- on March 16, 2017 the EPBC had made three attempts to text and email the appellant but that he did not respond
- a letter was mailed to the appellant advising him his file was set to close on March 31, 2017

May 11, 2017:

- the ministry noted the appellant's EPBC file was closed on May 2, 2017
- EPBC reported that on April 12, 2017 the appellant had booked an appointment with them, then received a text message from the appellant advising he had a job interview which was at the same time as the appointment with EPBC; the appointment was rescheduled to April 13, 2017 and the appellant subsequently failed to attend the appointment
- the appellant's file history was reviewed and he was found ineligible for income assistance due to non-compliance with his EP.

May 26, 2017 the appellant was advised he was denied income assistance. At this time the appellant requested a reconsideration of this decision.

In the reconsideration decision, the ministry wrote:

- Section 9(1) of the EAA states that for a family unit to be eligible for income assistance, the recipient must comply with the conditions in the EP
- by signing the EP, the appellant entered into a legal agreement with the ministry to comply with the conditions of the EP and that the appellant by signing, acknowledged that if he did not comply, he would be found ineligible for assistance
- the appellant states he has a medical condition (Crohn's disease) and that he was sick with Pneumonia but that the appellant does not have medical confirmation of any of this
- a ministry worker provided the appellant with a medical report- employability, but the appellant did not have it completed by his doctor nor did he submit it for review by the ministry
- at the time of reconsideration, the appellant had not provided any confirmation of his medical condition or the restrictions associated with it
- while the appellant indicates he has medical conditions that causes limitations, the appellant has not provided any confirmation of this and as he has stated he is "definitely capable of continuing" with EPBC, the minister is not satisfied that the appellant ceased to participate in EPBC programming for medical reasons

During the hearing, the appellant stated:

- he did not have the appeal package with him but that he had read it
- after reading the document he felt the ministry had been reasonable in it's decision
- he felt his case was different as he was sick off and on
- he has no documentation to verify his illnesses and/or medical appointments
- that he should have tried harder to participate in the EP program
- he was to be sent a medical verification form but did not receive it
- he did not take the EP seriously and thought it was more a check in process
- he did not attend some sessions as they did not relate to his area of employment (construction)
- he did not call in when he was going to miss an appointment

During the hearing the ministry representative stated:

- the appellant had an ongoing issue since November 12, 2015 of missed appointments without contact to rebook
- no confirmation was given to verify illness has been a contributing factor for missed appointments
- medical verification forms can be mailed to or picked up by the client

PART F – Reasons for Panel Decision

The issue on appeal is whether the ministry's reconsideration decision, which found that the appellant was ineligible for income assistance, was reasonably supported by the evidence or was a reasonable application of Section 9 of the Employment and Assistance Act. In particular, was the ministry reasonable in determining that:

- the appellant did not comply with the EP
- the evidence did not establish the appellant made a reasonable effort to participate in the program
- there were no medical reasons for his failure to participate

The relevant legislation is as follows:

Section 9 of the Employment and Assistance Act.

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.

Appellant's Position

The appellant stated the ministry was reasonable in their action to deny income assistance but that he felt his illnesses contributed to his missed appointments and hoped this could be considered.

Ministry's Position

As the appellant failed to attend multiple appointments with EPBC, failed to attend scheduled workshops, failed to respond to EPBC efforts to make contact with him, he did not call in advance to advise EPBC that he would be unable to attend or to rebook appointments, and that he had failed to provide any documentation to confirm he was unable to attend due to medical reasons the minister found the appellant failed to demonstrate reasonable efforts to participate in EPBC programming.

Panel Decision

The legislation Section 9(1) of the Employment and Assistance Act states if income assistance is to be given to the applicant, the applicant must comply with the conditions of an employment plan. Participation in the Employment Program activities, contacting the EPBC contractor and advising the EPBC contractor when unable to attend were conditions of the Employment Plan. The appellant missed multiple appointments, missed workshops, failed to call in advance to advise he would not be able to attend or to reschedule his appointments and failed to respond to the EPBC's efforts to make contact with him. There was insufficient evidence, including the lack of confirming documentation, brought forward by the appellant to demonstrate there were any mitigating circumstances or medical reasons for not participating in the EPBC program. In the appellant's teleconference statement, he states he didn't participate in the program as he didn't take it seriously but now realizes he should have.

The ministry's decision that the appellant failed to comply with his Employment Plan was reasonable as he failed to demonstrate reasonable efforts to participate in the employment program as per s. 9(4) and thus as per section 9(1) was ineligible for income assistance.

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 his Employment Plan pursuant to Section 9 of the EAA was reasonably supported by the evidence, and therefore confirms the decision. The appellant is not successful in his appeal.