

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (ministry's) reconsideration decision dated May 15, 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 her 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 she 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.

August 16, 2016 – the appellant signed her Employment Plan (EP) confirming that she had read, understood and agreed to the conditions and consequences of not complying.

October 18, 2016 – the Employment Programs of BC (EPBC) reported that the appellant had not participated in the program since the initial referral and sent a letter to advise the appellant to contact the ministry to discuss non-compliance.

October 28, 2016 - the appellant advised the ministry that she was not clear about the EP requirements and the ministry reminded her that active participation in the program was mandatory to maintain eligibility for assistance and if not able to attend for any reason she must advise the contractor. The appellant requested to schedule an appointment with EPBC and provide confirmation of the appointment. The appellant provided confirmation that she had scheduled an appointment with EPBC on October 31, 2016.

November 1, 2016 – EPBC reported that the appellant did not attend the October 31, 2016 meeting and did not advise that she was not able to attend.

November 24, 2016 – the appellant advised that she did not attend the October 31, 2016 meeting as she was needed to babysit her sister's children. The appellant states that she had forgotten about the meeting but had rescheduled for November 28, 2016.

April 25, 2017 – EPBC reported they were closing the appellant's file due to no contact with the program and that she had a history of not attending scheduled meetings, the most recent on April 10, 2017. The appellant did reschedule the meeting for April 21, 2017 but she did not attend and did not contact or advise that she would not attend. The appellant was advised she was not eligible for income assistance due to failure to comply with the conditions of her EP.

May 19, 2017 - the minister received the appellant's signed Request for Reconsideration where the appellant submits EPBC was aware she was attending a course from March 7, 2017 to April 30, 2017 and submits EPBC scheduled a meeting on April 21, 2017 but she was unable to attend as she was at the course. She further states "why do you guys give me a hard time."

June 20, 2017 - the appellant files a Notice of Appeal stating "I have been going to my appointments and I do re-book them when I have family emergency. I'm struggling with you guys every month. I've done everything you guys ask. I'm stressed."

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 her EP, due to her 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

The appellant argues that she has been going to her appointments and she does re-book them when she has a family emergency. She states that she is struggling with the ministry every month and has done everything asked of her.

Ministry's position:

The ministry's position is that the appellant signed her EP confirming that she had read, understood and agreed to the conditions and consequences of not complying. The EP referred the appellant to the EPBC contractor. She 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 several occasions and has a history of not attending scheduled meetings. Letters were sent to the appellant on April 10 and 11, 2017 requesting her to

reschedule. A meeting was rescheduled for April 21, 2017 but the appellant did not attend and did not contact to advise she would not attend. The appellant was advised she is not eligible for income assistance due to failure to comply with the conditions of her EP.

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 August 16, 2016 confirming she had read, understood and agreed to the conditions and consequences of not complying. The appellant was required to contact the EPBC contractor within 10 business days which required the appellant to take part in the employment program activities as agreed to with the contractor, to complete all tasks given to her, including any actions set out in his Action Plan, and call the EPBC contractor if she could not take part in services or complete agreed to steps, or when she found work. She did not attend meetings with the EPBC contractor on several occasions and most recently she did not attend a scheduled meeting on April 21, 2017 and did not contact the EPBC contractor to advise she would not attend. The appellant states that she did not attend the April 21, 2017 meeting because she was attending college. The panel finds that there is no evidence provided by the appellant that she did not have the opportunity to contact the EPBC contractor by telephone to advise she would not attend the April 21, 2017 scheduled meeting. There is no evidence of a medical condition that impacted her 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 her employment plan because she failed to demonstrate reasonable efforts to participate in her employment program.

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.