

## PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (ministry's) reconsideration decision dated June 30, 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 evidence before the ministry at the time of the reconsideration decision included:

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

September 21, 2016 – the appellant signed an Employment Plan (EP) confirming that he had read, understood and agree to the conditions and consequences of not complying. The appellant was required to complete all tasks assigned by the Employment Programs of BC (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.

October 7, 2016 – EPBC reported that the appellant had not made contact. EPBC had sent letters to the appellant on September 21, 2016 and October 3, 2016 to schedule an appointment. The appellant's November 2016 income assistance cheque was withheld by the ministry.

October 20, 2016 - the appellant was reminded that continued eligibility for assistance was dependent on his active participation in the EPBC program.

March 8, 2017 – EPBC reported that the appellant had not made contact with the program for 8 weeks. The ministry sent a letter to the appellant requesting that he contact the ministry. The appellant's April 2017 income assistance cheque was withheld by the ministry. The appellant stated that he missed one appointment because his daughter had been in a car accident and he had phoned EPBC but had not heard back. The appellant confirmed that he had not made another attempt to contact EPBC. The appellant was reminded that continued eligibility for assistance was dependent on active participation in the EPBC program.

March 25, 2017 – EPBC advised the ministry that the appellant had started to attend the program.

June 2, 2017 – EPBC reported the appellant had not been attending or contacting the program. The appellant did not respond to letters or e-mails from EPBC.

June 15, 2017 – the appellant advised that he had gone to another community for work but there was no work when he got there and ended up being stranded for about 3 weeks. The appellant states that he was not able to advise EPBC when he had gone to another community and why he had not attended the EPBC program before he went to another community. The appellant further advises that he had lost his residence while he was gone and was now homeless.

June 15, 2017 – the ministry advised the appellant that he was not eligible for further assistance due to non-compliance with the conditions of his EP.

June 20, 2017 - the minister received the appellant's signed Request for Reconsideration stating that he has attempted to comply with the EP conditions to the best of his ability, that he mentioned several times to his EP worker that he has chronic depression and anxiety disorder, was not able to attend EPBC appointments due to anxiety attacks and was not able to step in the door knowing he would be attending a group workshop. The appellant thought he had found employment, but the job was given to someone else, and then followed a job lead in another community but did not obtain employment there and he would like to see his physician but has not been able to due to anxiety.

June 30, 2017 - a 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.

July 7, 2017 – the appellant files a Notice of Appeal stating “I have tried to comply with the best of my abilities and feel the decision is unfair.”

**At the hearing:**

The appellant stated that he was homeless and needed financial assistance to live. He stated:

- that he tried to attend an EPBC meeting but when he got to the door he had a severe anxiety attack and the ambulance was called, and
- that he understands the conditions of his employment plan but with his anxiety disorder and chronic depression, he finds it very difficult, and
- that he self medicates with street drugs, and
- that he understood the ministry needed verification of his medical condition and he wasn't able to provide the information, and
- that he noted that the very reason he was receiving assistance was because of his condition and a physician's report verifying his condition had been provided as part of his initial application process, and
- that he feels very anxious attending this hearing today.

The ministry relied on the reconsideration decision, as summarized at the hearing. The ministry stated that they have no documentation to support a medical condition that would restrict the appellant from complying with his employment plan.

## 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:**

The appellant argues that he tried to attend an EPBC meeting but when he got to the door he had a severe anxiety attack and the ambulance was called. He understands the conditions of his employment plan but with his anxiety disorder and chronic depression, he finds it very difficult. He self-medicates with street drugs. He argues that he tried to comply with the best of his abilities and feels the decision is unfair.

**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 three occasions. The appellant made no attempt to contact EPBC or the ministry to advise he was not able to attend the program including in June 2017 when the appellant made no attempt to advise the EPBC program before he travelled to another community to find work. The ministry states that there is no documentation to support a medical condition that would restrict the appellant from complying with his employment plan.

**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 September 21, 2016 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. He was reminded three times that his continued eligibility was dependent on his active participation in the EPBC program. The appellant states that he has an anxiety disorder and chronic depression which makes it difficult for him to attend the EPBC program. The panel notes that after the appellant's November 2016 and April 2017 assistance cheques were withheld due to non-compliance with the EPBC program, the appellant was able to comply with the program conditions so that the payments were released to him. The panel also notes that on June 2, 2017 EPBC reported that the appellant had not been attending or contacting the program as required. The appellant states that he was not able to attend the program due to his medical condition. The panel finds that the ministry reasonably determined that the appellant has not provided verification that he has a medical condition or that his medical condition prevents him from attending the EPBC program. 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.