

## PART C – Decision under Appeal

The decision under appeal is the Ministry's reconsideration decision dated June 15, 2017 that held that the appellant was not eligible for income assistance because he failed to comply with the conditions in his employment plan as required by section 9 of the Employment and Assistance Act (EAA). Specifically, the appellant did not demonstrate reasonable efforts to participate in the employment-related program and did not submit a completed Medical Report.

## PART D – Relevant Legislation

EAA section 9

## PART E – Summary of Facts

Neither the appellant or the ministry representative were not in attendance at the hearing. After confirming that both parties were properly notified, the hearing proceeded pursuant to Section 86(b) of the *Employment and Assistance Regulation*.

The documentary evidence before the ministry at reconsideration included the following:

1. An *Employment Plan* for the appellant signed and dated by the appellant on October 14, 2015. The Plan specified that the appellant must contact the Employment Programs of British Columbia (EPBC) contractor, complete all tasks assigned by the contractor, participate fully in the program and contact the contractor if not able to attend or participate in the program for any reason. The Plan also specified that if the appellant did not comply with the conditions of the employment plan that the income assistance would be discontinued.
2. A letter from the ministry to the appellant dated May 19, 2017 advising the appellant that he is no longer eligible for income assistance because he had not been compliant with his *Employment Plan* and had not attended the employment program of BC since February 2017.
3. The appellant's *Request for Reconsideration* dated May 12, 2017. The appellant stated that the reason for his request for reconsideration was that "It is very important that I get my cheque because my roommate is on lifetime disability and can not pay the rent by herself and has done nothing wrong to be evicted." Accompanying the request for consideration was a letter from the appellant dated May 12, 2017 that states that he feels there was a lack of communication between himself and the front desk worker at Jobs B.C. He also states that he missed some classes due to his dad's death. He expresses regret for having missed classes but claims that he is now motivated to participate in the program and is concerned that if he is taken off income assistance this will set him back. He indicates that he has been given a 10 day notice to pay his rent and requests the ministry give him one more chance.

The appellant's *Notice of Appeal* was signed but not dated and stated "*I enclosed note from fellow that I worked for.*" In addition, the appellant enclosed an undated note that was addressed to "Welfare Office (name of city). The note indicates that he has received a note from the person who had previously employed the appellant (for 2 days in May 2017) and that person is willing to give the appellant more work. Also included is a note from the appellant's previous employer dated June 28, 2017 which confirms that he employed the appellant for 2 days in May and that the appellant injured his shoulder on his way to work and was unable to continue working. The employer indicates that the appellant is willing to return to work now that his shoulder is better.

The hearing was conducted in the absence of both the appellant and a ministry representative. The panel reviewed the undated note from the appellant that accompanied his *Notice of Appeal* and determined that the information it presented was before the ministry at the time of reconsideration. Similarly, the panel determined that the note of June 28, 2017 from the appellant's former employer also contained information that was before the ministry at reconsideration. Since both notes were in support of information that was before the ministry at reconsideration and neither note contained new evidence, the panel determined that they were admissible as per section 22(4) of the *Employment and Assistance Act*.

## PART F – Reasons for Panel Decision

The issue in this appeal is whether the ministry's decision that determined that the appellant was not eligible for income assistance because he failed to comply with the conditions in his employment plan as required by section 9 of the Employment and Assistance Act (EAA) was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the circumstances of the appellant. In particular, was the ministry reasonable in determining that the appellant did not demonstrate reasonable efforts to participate in the employment-related program and did not submit a Medical Report.

The relevant legislation is as follows:

From the 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 argued that there was a lack of communication between himself and the front desk workers at Jobs B.C. He also noted that he missed some (employment-related) classes due to the death of his father. The appellant indicated that he injured his shoulder in May 2017 and the Reconsideration Decision notes that EPBC reported that in January 2017 the appellant had difficulty walking. The appellant stated that he is sorry for his lack of commitment but argued that if he did not receive income assistance that this would set him back and he requests that he be given one more chance.

### **Ministry's Position**

The ministry argued that the appellant failed to attend several meetings with the EPBC program and failed to make contact to advise them when he was not able to attend. In the Reconsideration Decision the ministry specifically noted that the appellant signed his most recent Employment Plan on October 14, 2015 which confirmed that he had read, understood and agreed to the conditions and consequences of not complying. Nonetheless, the ministry noted that:

- On December 29, 2015 EPBC reported that the appellant had not attended the program since November 10, 2015.
- On April 11, 2017 EPBC reported that the appellant had not attended the program since February 17, 2017. Specifically, the appellant did not attend workshops scheduled for February 17, 24 and March 10.

The ministry also provided the appellant with a Medical Report form on September 27, 2016 but the ministry noted that it did not receive a completed Medical Report from the appellant. The Reconsideration Decision argues that in the opinion of the minister, the appellant has not demonstrated a reasonable effort to comply with the conditions of his Employment Plan.

### **Panel Decision**

The panel notes that the appellant expressed regret for his lack of commitment to the program but that he does not contest the ministry's claim that he has failed to fulfill the requirements of the Employment Plan insofar as attending the program as scheduled and advising the contractor on those occasions when he will not be attending scheduled events. The Reconsideration Decision detailed numerous occasions on which the appellant failed to attend scheduled events that were part of his employment-related program. Since section 9(4)(a) of the *EAA* requires that the appellant demonstrate reasonable efforts to participate in the employment-related program and the appellant has confirmed that he failed to do so, the panel concludes that the ministry reasonably determined that the appellant did not satisfy the requirement of section 9(4)(a) of the *EAA*.

The appellant reported that medical issues contributed to his failure to attend some events scheduled by the employment contractor. Section 9(4)(b) provides an exception whereby recipients of income assistance who have an Employment Plan may be excused from demonstrating reasonable efforts to participate in the employment-related program if they have medical reasons for doing so. But the panel notes that despite repeated requests from the ministry, the appellant failed to produce a completed Medical Report attesting to medical reasons for his lack of participation in the program. Accordingly, the panel concludes that the ministry reasonably determined that the appellant failed to satisfy the requirement of section 9(4)(b) of the *EAA*. The panel concludes that since the appellant did not meet the requirements of section 9(4)(a) and 9(4)(b) of the *EAA* that the ministry reasonably determined that he had not fulfilled the conditions of his Employment Plan as required by section 9(1)(b) of the *EAA*.

## **CONCLUSION**

The panel finds that the Ministry's decision dated June 15, 2017 that found that the appellant was not eligible for income assistance, was a reasonable application of the legislation in the circumstances of the appellant. The panel confirms the Ministry decision; the appellant is not successful in his appeal