

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the “ministry”) reconsideration decision of June 22, 2017, that denied the appellant income assistance for failing to comply with the conditions of his employment plan (EP) as set out in the Employment and Assistance Act (EAA) section 9 which required the appellant to participate in a specific employment-related program. The ministry found that the appellant failed to demonstrate a reasonable effort to participate in the program and that there were no medical reasons that prevented him from participating as per section 9(4) of the EAA.

PART D – Relevant Legislation

Employment and Assistance Act (EAA) section 9.

PART E – Summary of Facts

In the reconsideration decision, Summary of Facts, the ministry wrote:

- The appellant receives income assistance as a sole recipient.
- On October 12, 2016 the appellant signed a new EP referring him to an EPBC (Employment Program of British Columbia) contractor.
The EP stated that
 - the appellant would attend the program and continue to participate in EPBC programming regularly and as directed by the EPBC contractor;
 - he would work with the contractor to address any issues that may impact his employability;
 - the appellant was to make contact with the contractor if he was unable to attend a session or when he starts or ends employment;
 - if he fails to comply with the conditions of the EP he will be ineligible for assistance;
 - by signing the EP the appellant acknowledges the conditions of his EP and the consequences of non-compliance.
- On November 29, 2016 EPBC attempted to reach the appellant and left a message.
- On December 5, 2016 EPBC attempted to reach the appellant and left a message. An email and a letter was sent to the appellant on December 5, 2016 requesting him to make contact. A hold was placed on his income assistance cheque to discuss compliance.
- On February 1, 2017, EPBC reported they had attempted to reach the appellant to attend an appointment to review his action plan. The appellant had last attended an appointment on November 16, 2016.
- On February 2, 2017 the appellant sent a message to the ministry worker via MySS stating he has an appointment with his case worker “today”, and he has doctor’s appointment and a dentist appointment. The ministry worker attempted to reach the appellant by phone but could not. A MySS message was sent to the appellant asking that he calls the EP worker.
- On February 7, 2017, as reported by EPBC, the appellant attended an appointment with a job coach and told him he was “fighting with FMEP over a debt” and had “no intention of securing employment”. After the job coach spoke to the appellant and reminded him about the importance of following his action plan and the agreement he signed with WorkBC the appellant stated he would look for work.
- On Feb 17 EPBC received an email from the appellant which stated he had run out of minutes on his cell phone but had not received any calls from potential employers and is still looking for work. He sent a second email stating he would make an appointment to discuss his job search and where he was with his small business venture.

- On February 20, 2017 the appellant communicated to the ministry via MySS that he did not know why his cheque was being held when he is an active participant in trying to obtain employment on his own and by using WorkBC contacts. He has problems finding work because he is in need of work boots and most of his work gear has been disposed of as he had no storage available. His FoodSafe certificate is expired and he cannot drive due to his mild epilepsy.
- On February 20, 2017 a ministry worker called the appellant who stated he had made an appointment with EPBC. The ministry worker reviewed the requirements of the appellant's EP with him and discussed the consequences of non-compliance. The appellant stated he understood the consequences and his cheque was released.
- On April 27, 2017 EPBC reported that the appellant last attended the resource hub on February 23. "They attempted to reach you on the following dated unsuccessfully: February 23, March 6, March 10, March 14 March 17 and March 23. EPBC noted they could not reach you via email and had sent you a portal request but you had not responded."
- On June 1, 2017 the appellant called and spoke with a ministry worker. He stated he did not have a phone so WorkBC couldn't call him. He stated he had attended WorkBC on May 17, 2017 and completed the intake paperwork. The ministry worker noted that the appellant's file had closed on May 18, 2017 and that EPBC has not provided any information to confirm the appellant attended their office on May 17, 2017 and completed paperwork. He was denied income assistance for non-compliance with his EP.

In an undated letter submitted at reconsideration the appellant states that he has a good job coming up but is asking for assistance for June as he is at risk of being evicted.

In his Notice of Appeal dated June 23, 2017 the appellant wrote that he will be independent due to full-time work but is still in need of assistance for the month of June.

In an email message dated July 11 the appellant states that "many times ive had to re-open my file with workbc, due to not enough or no minutes at all on my many cell numbers ive had."

Pursuant to section 22(4) of the EAA the panel admits the appellant's appeal submissions as being in support of the information that was before the ministry at the time of reconsideration. The submissions provide additional detail on the appellant's wish to receive financial assistance and on communication issues that tend to corroborate the information available at reconsideration.

On August 3, 2017 a late submission was received by the Employment and Assistance Appeal Tribunal. This late submission spoke of the appellant's work history documented 2 Kijiji ads of September 2016. The panel does not accept this late submission because it is not relevant as the issue in this appeal is the appellant's participation or lack thereof in EPBC from February to May 2017. As a result, this new information can have no impact on the outcome of the appeal, and the resulting delay would only prolong the appeal process unnecessarily which is not in keeping with the legislated intention of providing a speedy appeal resolution.

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 this failure to participate

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 does not understand why a hold was placed on his income assistance cheque on December 5, 2016 when he followed up with his job coach on a weekly basis and was an active participant trying to find employment on his own. His opportunities are limited because his mild epilepsy prevents him from accepting jobs that require him to drive. He had to re-open his file with WorkBC many times because he had not enough minutes left on his many cell numbers. He needs assistance for June as he is at risk of being evicted.

The ministry's position

The ministry argues that the appellant is not eligible for income assistance due to non-compliance with his Employment Plan; 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. One of the conditions of the appellant's EP was to participate in the EPBC regularly and as directed by his EPBC contractor. Another condition was that he contact them if he was unable to attend his appointment.

When the appellant signed his EP he entered into a legal agreement with the ministry to comply with the conditions of the EP and follow through with the EPBC requirements. By signing the document the appellant also acknowledged that if he did not comply he would be found ineligible for assistance. The appellant did not attend EPBC from November 2017 to February 2017, despite multiple efforts of EPBC to be in contact with him. He reconnected with EPBC only after having a hold placed on his income assistance cheque. He then spoke with a ministry worker about compliance and attended an appointment on February 23, 2017. EPBC then reports having no contact with the appellant until his file was closed in May 2017.

Section 9(4) of the EAA states 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 (a) fails to demonstrate reasonable efforts to participate in the program, or (b) ceases, except for medical reasons, to participate in the program. The ministry acknowledges that the appellant did submit some work search records, attend one workshop and had some email and in person contact with EPBC periodically; however, the appellant's EP clearly states that he is required to attend and participate fully in EPBC programming as directed by the EPBC contractor. The contractor reports long periods of no contact from the appellant. The appellant did not take the initiative to contact them and failed to participate as directed by EPBC; as such, the appellant has failed to demonstrate a reasonable effort to participate in EPBC programming. There is no evidence that the appellant ceased to participate in the program as a result of medical reasons.

It is the ministry's position that the conditions of the appellant's EP were reasonable and that he was given numerous opportunities to comply. As the appellant has been absent from programming for long periods of time and as he has not followed through with the EPBC programming, the ministry finds that he has not complied with the conditions of his EP and is therefore ineligible for income assistance under section 9 of the EAA.

Panel Decision

Section 9(1) of the Employment and Assistance Act states if income assistance is to be given to a recipient, the recipient must comply with the conditions of an employment plan. A condition of the appellant's employment plan was that he participate in an employment program and, as per section 9(4) EAA, this condition is not met if the person does not demonstrate reasonable efforts to participate, unless there was a medical reason.

The panel finds that there is sufficient evidence that the appellant did not demonstrate reasonable efforts to participate in the EPBC and as a result did not comply with his Employment Plan under section 9 of the EAA as argued by the ministry; EPBC reported that the appellant did not attend the program from November 29, 2016 until February 6, 2017, despite multiple efforts of EPBC to be in contact with him. EPBC then reported having no contact with the appellant after February 23, 2017 until his file was closed on May 18, 2017, despite several contact attempts on their part.

The panel further finds that there is insufficient evidence in support of a medical exemption; while the appellant reports medical and dental issues he provides no evidence from a medical professional as to whether or not these issues interfered with fully participating in the employment plan.

Consequently, the panel finds that the ministry's decision that the appellant failed to comply with his EP was reasonable as he failed to demonstrate reasonable efforts to participate in the employment program as per section 9(4); as a result he was ineligible for income assistance as per section 9(1).

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 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 his appeal.