

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (ministry) reconsideration decision dated July 5, 2017, which held that the appellant is not eligible for income assistance (IA) due to a failure to comply with the conditions of his Employment Plan (EP) pursuant to Section 9 of the Employment and Assistance Act (EAA).

PART D – Relevant Legislation

Employment and Assistance Act - section 9

PART E – Summary of Facts

After verifying that the appellant had received the notice of the hearing, the hearing proceeded in the appellant's absence in accordance with section 86(b) of the Employment Assistance Regulation.

The evidence before the ministry at the time of reconsideration consisted of:

1. Employment Plan, signed and dated September 9, 2015, in which the appellant agreed to meet with Employment Plan BC ('EPBC') contractor and complete all tasks given to him, including an Action Plan.
2. August 26, 2016 EPBC reported that a letter was sent to the appellant advising him his file will be closed due to failure to maintain contact.
3. September 21, 2016 the appellant advised the ministry that he has a meeting with the EPBC contractor.
4. September 22, 2016 the appellant advised the ministry that he met with the EPBC contractor and that he has another meeting scheduled for September 27, 2016.
5. January 24, 2017 EPBC reported that the appellant did not show for a job interview, he turned down another interview and he had not been co-operating with the job developer.
6. February 22, 2017 the appellant advised the ministry that he did not attend an interview due to snow conditions. He was reminded of his employment related obligations.
7. February 23, 2017 the appellant advised that he had moved and completed the paperwork to have his file transferred. At this time he was advised to contact EPBC for an appointment if he had not received an appointment within a week.
8. March 17, 2017 the appellant advised the ministry that he has an appointment with EPBC on March 24, 2017.
9. April 11, 2017 EPBC reported that the appellant did not attend workshops from April 3 to 11, 2017 and did not respond to emails or phone calls.
10. May 31, 2017 EPBC reported that the appellant attended the initial appointment but had not attended the follow-up meetings and workshops.
11. May 31, 2017 a letter was sent to the appellant advising him that he is not eligible for further assistance due to failure to comply with the conditions of his EP.
12. Request for Reconsideration ('RFR'), signed and dated June 27, 2017, in which the appellant stated that he did not receive the May 31, 2017 letter ('the letter') from the ministry which informed him that he was no longer eligible for IA due non-compliance with his EP. The appellant also stated that his landlord indicated that no letter from the ministry arrived for him.

Evidence on Appeal

The Notice of Appeal ('NOA') which is signed and dated July 28, 2017.

Evidence at the Hearing

At the hearing the ministry relied on its reconsideration decision. The ministry also added that it does not allow mail pick-up at its offices unless the client does not have a fixed address or if there is a reported problem with the mail box. Also, the ministry stated that the appellant's online account was accessed and information was given to the appellant on June 28, 2017 and then again on July 7, 2017. Therefore, the 'my-self-serve' account does work and give updates.

PART F – Reasons for Panel Decision

The issue before the panel is the reasonableness of the ministry's reconsideration decision, which held that the appellant is not eligible for assistance due to noncompliance with her EP pursuant to Section 9 of the EAA.

Section 9 of the EAA outline the stipulations of an EP and states that:

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*].

The Panel's Decision

In the reconsideration decision the ministry argued that by signing the EP the appellant acknowledges that he was aware of the requirements of his EP and aware of the consequences of not complying with the EP. The ministry also argued that appellant was reminded on several occasions that active participation in the EPBC program was mandatory to ensure continued eligibility for IA. The ministry also argued that the appellant did not attend several meetings with the EPBC contractor and failed to contact them to advise of his absence. Though the appellant stated that he

did not receive 'the letter', it does not change the fact that he had not been actively participating in the program.

In the NOA, the appellant argued that his worker did not inform him of his obligations and that he has requested that he be able to pick up his mail at the ministry office because his online my-self-serve account is never updated. In the RFR the appellant argued that he did not receive 'the letter' informing him that he is not eligible for IA due to non-compliance.

Section 9(1) of the EAA sets out that to be eligible for assistance, the recipient must, when required to, enter into an EP, and comply with the conditions of the plan. The panel notes that by signing the EP the appellant acknowledges that he was aware of the requirements of his EP and aware of the consequences of not complying with the EP. Furthermore, the evidence, as outlined by the ministry in the reconsideration decision, demonstrates that the appellant failed to comply with the conditions of his EP and medical reasons were not provided as the cause of the appellant's non-compliance, which is a direct contravention of section 9(4) of the EAA.

The panel finds that the ministry's decision which found that the appellant is ineligible for IA due to his failure to comply with the conditions of his EP, pursuant to section 9 of the EAA, was a reasonable application of the legislation in the circumstance of the appellant, because the appellant failed to demonstrate reasonable efforts to participate and he did not demonstrate that there were medical reasons that prevented his participation.

Conclusion

The panel finds that the ministry decision which found that the appellant is ineligible for IA due to failure to comply with his EP pursuant to section 9 of the EAA was a reasonable application of the applicable legislation and a reasonable interpretation of the evidence. The panel confirms the ministry's decision and the appellant is not successful in the appeal.