

## PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (ministry's) reconsideration decision dated June 14, 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), and more particularly, for failing to participate in any capacity in Employment Program of British Columbia (EPBC) programming.

## PART D – Relevant Legislation

Employment and Assistance Act (EAA), Section 9

## PART E – Summary of Facts

The appellant is in receipt of income assistance as a sole recipient with a file opened in July 2016.

### **The evidence before the ministry at the time of the reconsideration decision included:**

July 15, 2016 – the appellant was previously found to be ineligible for income assistance due to non-compliance with his Employment Plan (EP). His file was closed in May 2016. A new EP was created for the appellant specifying that the appellant must agree to work with the EPBC contractor. The EP states: “To be eligible for assistance, each applicant or recipient in a family unit must, when required to do so, enter into an employment plan, and comply with the conditions set out in the employment plan. The purpose of an employment plan is to help a person a) find employment, or b) become more employable. Assistance will be discontinued if a person a) fails to demonstrate reasonable efforts to participate in a program in which he or she is required to participate, or b) ceases, except for medical reasons, to participate in the program. The appellant must meet with the EPBC contractor on or before July 29, 2016.

July 18, 2016 – the appellant signed the EP.

July 20, 2016 – EPBC reported the appellant had scheduled an appointment for July 25, 2016.

March 28, 2017 – EPBC reported the appellant had obtained employment as of February 14, 2017 earning \$15/hour working 25 hours per week. The ministry found that the appellant had not declared any income and noted that the appellant advised the ministry that he was out of town dealing with family issues. The ministry placed a hold on the appellant's May 2017 income assistance.

April 18, 2017 – EPBC reported that the appellant had failed to participate in their program and that the appellant had not responded to several attempts to make contact with him. EPBC mailed a letter to the appellant advising him that he was currently non-compliant.

May 2, 2017 – EPBC reported that the appellant had failed to participate in their program since July 25, 2016 and they closed the appellant's file.

May 16, 2017 – the Appellant contacted the ministry with the following discussion – 1) the appellant asked what he needed to do to be eligible for assistance, and 2) the appellant states that he booked an appointment with EPBC on May 17, 2017 - the ministry then requested proof of this appointment, and 3) the appellant states that he was out of town attending a family matter, and 4) the appellant states that he has an appointment with EPBC on May 23, 2017, and 5) the appellant states that he was not aware that he was required to attend and fully participate in EPBC programming, and 6) the ministry then reminded the appellant that he was denied income assistance in January 2016 due to non-compliance with his EP and that the appellant had proceeded through reconsideration and Tribunal on this same issue.

May 19, 2017 – the ministry mailed a letter to the appellant advising that he had been denied income assistance as a result of his non-participation with EPBC programming. The appellant attended the ministry office on May 23, 2017 and was again advised that he had been denied income assistance as a result of his non-participation with EPBC programming.

June 5, 2017 – the appellant signed a Request for Reconsideration submitting that he has taken a part time job 2 hours a week, he has been attending WorkBC and he did not know that he had to take any job and thought he had to take full time employment.

**Notice of Appeal dated July 11, 2017, the Appellant stated the following:**

“Have been attending WorkBC. Do not think its fair my mother was in and out of hospital with heart problems and had to be out of town.

**The appellant’s submission to the written hearing:**

The appellant did not provide additional information to the written hearing.

**The ministry’s submission to the written hearing:**

The ministry’s submission in this matter will be the reconsideration summary provided in the Record of Ministry Decision.

## 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, and more particularly, for failing to participate in any capacity in EPBC programming and 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 states that he has been attending WorkBC, has taken a part time job 2 hours a week, he has been attending WorkBC and he did not know that he had to take any job and thought he had to take full time employment. He states that he was not aware that he was required to attend and fully participate in EPBC programming. Further, he does not think he has been treated fairly because his mother was in and out of hospital with heart problems and he had to be out of town.

### **Ministry's position:**

The ministry's position is that the appellant agreed to participate in an EPBC program when he signed his EP on July 18, 2016 and he failed to participate in any capacity in EPBC programming. The appellant states that he was not aware that he was required to attend and participate with EPBC,

however his file history shows that less than one year before his current denial for non-compliance, he was found ineligible for assistance due to non-compliance with his EP. When the appellant reopened his file and signed a new EP on July 18, 2016, he acknowledged the conditions and expectations outlined within his EP. It is the ministry's position that the conditions of the appellant's EP were reasonable and that he was given 10 months to comply.

**Panel's decision:**

Section 9(1) 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. The appellant signed an EP on July 18, 2016 and agreed to the conditions which required the appellant to take part in the employment program activities as agreed to with the contractor, and call the EPBC contractor if he could not take part in services or complete agreed to steps, or when he found work. The EP states that if the appellant moves, within one week he must ask the EPBC contractor serving in the new area to transfer her EPBC case file. The appellant's EP conditions will continue to apply. If the appellant does not follow this employment plan, the ministry may stop his income assistance payments.

Section 9(4) of the EAA provides that if an employment plan includes a condition requiring a recipient to participate in a specific employment-related program, 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 states that he did not follow through with his EP because he was not aware that he was required to attend and fully participate in EPBC programming.

The panel notes that the appellant's file history shows that less than one year before his current denial for non-compliance, he was found ineligible for assistance due to non-compliance with his EP. The panel further notes that the evidence confirms that the appellant did not participate in his EP from July 25, 2016 to March 28, 2017. Further, there is no evidence of a medical condition that may have prevented the appellant from participating in his employment program. As such, the panel finds that the ministry reasonably concluded, pursuant to Section 9(1) 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(1) of the EAA was reasonably supported by the evidence, and therefore confirms the decision.