

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the ministry) reconsideration decision dated July 17, 2017, that denied the appellant income assistance for failing to demonstrate a reasonable effort to comply with the conditions of his employment plan as required under Section 9 of the Employment and Assistance Act (EAA).

PART D – Relevant Legislation

Employment and Assistance Act, Section 9.

PART E – Summary of Facts

Information before the ministry at reconsideration

- Employment Plan dated and signed by the appellant on March 23, 2017.
- Request for Reconsideration dated May 6, 2017, in which the appellant wrote that:
 - he is a single father of 2 boys and is being evicted,
 - he has been doing all he can to prove that he can fix his mishaps,
 - he has been going to workshops,
 - he is very stressed about his kids and finding a place to live,
 - he wants to fix this so he can find work and have a place for his family,
 - he has missed 2 appointments in 3 months, but has been pulling up his socks as he needs to be able to take care of his children, and
 - he asks for a chance to prove himself.

Employment Plan (EP)

The purpose of the EP is to outline activities and expectations for the appellant to find employment or become more employable. The EP has specific timelines for activities and is reviewed regularly. If the appellant is unable to follow through with the activities he is to advise the ministry. If the appellant fails to comply with the EP he will be ineligible for assistance.

Conditions of the EP

The appellant will participate fully and to the best of his ability in the activities required by the ministry or contractor as set out:

Terms of the plan: March 1, 2017 to March 1, 2019.

- The appellant must meet with the EPBC Contractor on or before March 15, 2017.
- The appellant must take part in EPBC program activities as agreed to with the EPBC Contractor.
- The appellant must complete all tasks given to him including any actions set out in his EPBC Action Plan. This plan is developed by the appellant and the EPBC Contractor which sets out; the steps, services, and supports that are agreed to and needed for the appellant to find work or become more employable as quickly as possible.
- The appellant must call the EPBC Contractor if he cannot take part in services or complete steps that he agreed to, or when the appellant finds work.
- If the appellant moves, within one week he must ask the EPBC Contractor serving his new area to transfer his EPBC case file. His employment plan conditions will continue to apply.
- If the appellant does not follow this EP the ministry may stop his income assistance payments.

Ministry records

- The appellant was in receipt of income assistance as a single parent.
- A new Employment Plan was created for the appellant on March 1, 2017.
- The appellant was directed by the EP to meet with the EPBC Contractor on or before March 15, 2017 and continue to participate in EPBC programming regularly as directed by the EPBC Contractor. The EP also stated that the appellant would work with the contractor to address any issues that may impact his employability. The EP was mailed to the appellant's residence along with compliance information.

- On March 13, 2017, EPBC reported that attempts were made to contact the appellant via phone and messages were left on March 3, 7 and 10, 2017.
- On March 16, 2017, a hold was placed on the appellant's April assistance for a signed EP and to have a discussion regarding compliance.
- On March 21, 2017, the appellant contacted the ministry and was advised that his file was signaled and he was directed to the EP worker.
- On March 22, 2017, an EP worker attempted to return the appellant's call but got an unidentified voicemail. A note was made on file that the appellant was required to submit a signed employment plan and a confirmation of appointment with EPBC in order for his cheque to be released. The appellant contacted the ministry later this date and advised that his referral was sent to a location, 1.5 hours away from his residence and requested that a referral be sent to a closer community. The appellant provided a phone #.
- On March 23, 2017, the appellant entered into an employment plan, signed it and acknowledged that it is a condition of eligibility that he comply with the conditions set out in the plan. The EP worker discussed the expectations of the EP with the appellant and the consequences of non-compliance. His April assistance was released.
- On March 23, 2017, the EP worker completed 2 calls with the appellant and held a compliance discussion with the appellant who stated he understood the conditions.
- On March 27, 2017, a new program referral to EPBC was sent to the office at the community closer to the appellant.
- On May 10, 2017, the ministry worker called the appellant to discuss non-compliance, a voice mail was left requesting a call back to discuss the appellant's non-compliance.
- On May 18, 2017, the ministry worker called the appellant to discuss non-compliance, a voice mail was left advising that the appellant's June assistance will be held until the ministry receives confirmation of attendance at WorkBC.
- On May 24, 2017, the appellant spoke with a ministry worker regarding compliance with WorkBC. The appellant stated that he had been attending WorkBC and hoped to be assessed for the Single Parent Employment Initiative (SPEI) program. The ministry worker outlined the steps he would have to take in order to pursue the SPEI program. The appellant stated that he understood and his cheque was released.
- On June 8, 2017, the ministry reviewed reports from EPBC reporting that the appellant had missed all of his scheduled workshops as of May 17 as well as appointments on May 17 and June 7. On May 18, the appellant was supposed to attend a workshop but did not and said he had a Doctor's note. The appellant also did not attend workshops scheduled from May 23-26. The ministry worker noted that the appellant had not been participating in any activities as per his signed action plan. The ministry worker called the appellant to ask why he had not been following through with EPBC programming and the appellant responded that he had attended most of his appointments and stated that he knew how to do most things and felt he did not require the help. The appellant also stated that he attended a funeral in another town. The ministry worker discussed the expectations of his EP and the consequences of non-compliance. The appellant was advised that if he does not attend EPBC and comply fully with his EP then he will be found ineligible for income assistance. The appellant stated that he understood. A hold was placed on the July assistance.
- On June 21, 2017, EPBC reported that the appellant had failed to attend appointments on June 7 and 21. The appellant's EPBC case worker reported sending the appellant text messages which the appellant replied to confirming that he will attend his appointments but then failed to attend as agreed to. The appellant was determined to be non-compliance with his EP by the ministry.

Notice of Appeal

In his Notice of Appeal dated July 18, 2017, the appellant writes that if he doesn't get help he will lose his children and be homeless and unable to focus on getting training and seek employment. He states that he is trying to focus on proving that he is doing exactly what he needs to live. The appellant states that he attended all his appointments except a few when emergencies occurred. When late for an appointment, his caseworker at WorkBC wouldn't see him. He has been going to a community, 45 minutes away to attend workshops. He has a ticket. The appellant wants to be employable and able to obtain a job even though he is unsure whether he will have a home for himself and his sons. He is still pushing forward to try and seek employment.

In his Notice of Appeal dated July 20, 2017, the appellant added that he was attending his appointments at WorkBC as well as asking for training and that he does not drive. He states that he has to attend court on July 24, 2017. He has asked his WorkBC caseworker why none of his appointments have been reported and has not received an answer, so he went to her supervisor who has helped him with his workshop and the ticket. He indicates that he is going to do whatever he can to be employable.

Included were copies of incomplete Job Search Records dated the first of April, May, June and July, 2017.

Hearing

At the start of the hearing, the appellant advised the panel that he was currently taking a First Aid course and was on his break. When asked by the panel if he had a copy with him of the appeal decision and record, the appellant indicated that he did not but wanted to proceed with the hearing.

The appellant testified that the workshops he was to attend were 1 and 1/2 hours away and that he had thought it was silly to learn how to prepare a resume and that he doesn't drive. He stated that for the 3 day workshop he had missed, he couldn't get there. The appellant indicated that his WorkBC caseworker is only in his local community once a month and because he was a few minutes late, she would not see him. The appellant acknowledged that he didn't attend all the appointments and workshops and that he is trying to make up for missing them. In response to a question by the panel, the appellant confirmed that he does receive a gas card which allows him to pay someone to transport him to appointments. He also indicated that he has signed documents that he will have to pay back his assistance and doesn't know how he will do that without being employable.

The ministry testified that once the appellant had notified them of his change of address which was a month after he relocated, in one day, they changed the location of his case manager. The ministry representative stated that over several months, from March to July, the appellant attended appointments sporadically not regularly. She reported that the appellant when not able to speak with his case manager would always have access to a toll free phone # and then be directed to someone at the nearest office. The ministry representative testified that the ministry intends to help the appellant to be employable and not necessarily help him get to where he wants to be. She confirmed that an Employment Plan is valid for 2 years.

The ministry stood by their reconsideration decision.

PART F – Reasons for Panel Decision

The issue on appeal is whether the ministry's reconsideration decision which found the appellant ineligible for income assistance for failing to demonstrate a reasonable effort to comply with the conditions of his EP was reasonably supported by the evidence or was a reasonable application of Section 9 of the EAA.

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.

Appellant's Position

The appellant's position is that he should be eligible for employment assistance because he is trying to focus on proving that he is doing exactly what he needs to do to live. The appellant states that he attended all his appointments except a few when emergencies occurred. He has been going to a community 1 and ½ hours away to attend workshops and he does not drive. The appellant states that he wants to be employable and able to obtain a job even though he is unsure whether he will have a home for himself and his sons. He is still pushing forward and taking courses to try and seek employment.

Ministry's Position

The ministry's position is that the conditions of the appellant's EP were reasonable and that he was given numerous opportunities to comply. As the appellant has missed numerous appointments and has not followed through with the EPBC programming, the minister finds that the appellant has not complied with the conditions of his EP.

While the appellant had requested medical forms and stated at one point that he had a doctor's note, he failed to provide any information that would indicate that he ceased to participate in EPBC programming as a result of medical reasons. The minister is not satisfied that the appellant ceased to participate in EPBC programming for medical reasons.

Panel Decision

Section 9(4) of the EAA holds 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 fails to demonstrate reasonable efforts to participate in the program. The panel finds that the appellant has failed to attend appointments and workshops despite agreeing to do so and then failing to make contact in advance to reschedule. The appellant also told the ministry that he knew how to do most things so he didn't feel he needed to attend. At least 3 discussions were held between the appellant and ministry staff regarding non-compliance in a span of 3 months. The panel finds that the ministry reasonably concluded that these actions indicate that the appellant has failed to demonstrate reasonable efforts to participate in EPBC programming as per Section 9(4).

Participation in the program regularly and as directed by the EPBC contractor, working with the contractor to address any issues that may impact the appellant's employability, completing all tasks assigned and contacting the EPBC contractor when unable to attend were conditions of the EP. The panel finds that as a result of the appellant's lack of participation in the program, the ministry reasonably determined that he failed to comply with the conditions of his EP as set out in Section 9(1) of the EAA.

As there is insufficient evidence of mitigating circumstances or medical reasons for non-compliance, the panel finds that the ministry reasonably determined that the appellant failed to comply with the conditions of his EP and is therefore ineligible for income assistance as set out in Section 9(1).

Conclusion

Having reviewed and considered all of the evidence and the relevant legislation, the panel finds that the ministry's reconsideration decision which determined that the appellant is 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.