

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (ministry's) reconsideration decision dated July 6, 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), due to her failure to demonstrate reasonable efforts to participate in the employment-related program.

PART D – Relevant Legislation

Employment and Assistance Act (EAA), Section 9

PART E – Summary of Facts

The appellant and the ministry were not in attendance at the hearing. After confirming that the appellant and the ministry were notified, the hearing proceeded under s. 86 of the Employment and Assistance Regulation (EAR).

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

The appellant is in receipt of income assistance as a single parent of two dependent children.

April 18, 2016 – the appellant signed her Employment Plan (EP) confirming that she had read, understood and agreed to the conditions and consequences of not complying. One condition was that the appellant contact the Employment Programs of BC (EPBC), complete all tasks including those set out in the EPBC Action Plan 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.

May 6, 2016 – the Employment Programs of BC (EPBC) reported that the appellant had not initiated contact.

June 2, 2016 - the appellant states that she attended the EPBC orientation session and had been communicated via e-mail as she did not have a phone. She further states that she did not receive a response to her May 3, 2017 e-mail until May 24th.

June 9, 2016 - EPBC reported that the appellant failed to make contact and there was no record of a May 3rd email. EPBC did send the appellant a letter on April 29th and e-mails on May 13th, 24th and 25th requesting that the appellant make contact. EPBC reported that the appellant did respond via e-mail on June 1, 2016 indicating that she now had a phone and would prefer phone contact. EPBC attempted to contact the appellant by phone but she was not available. EPBC sent another e-mail requesting the appellant make contact. A ministry worker contacted the appellant to advise that she had an EPBC appointment and reminded the appellant that active participation in the EPBC program was mandatory to maintain eligibility for assistance.

July 25, 2016 – EPBC reported that the appellant did not attend the June 16th meeting and had not made any further contact. EPBC left a phone message requesting the appellant make contact.

September 8, 2016 - EPBC reported that the appellant did not make contact and they had closed her file as she had not responded to their numerous attempts to connect with her and the appellant had not participated in EPBC program. The ministry attempted to contact the appellant via phone to discuss but she was unavailable. The appellant's October 2016 assistance benefits were put on hold and a letter was mailed to her.

September 21, 2016 – the appellant contacted the ministry about her October 2016 assistance cheque stating that she had connected with EPBC and had scheduled an appointment. The ministry reviewed the appellant's employment plan with her and the consequences of non-compliance.

June 2, 2017 – EPBC reported that the appellant had not followed through on the agreed upon commitments in her Action Plan and would be closing her file. EPBC confirmed that the appellant's file had been open for almost 1 year and she had still not completed a resume or provided any job search records, that she had continually not attended scheduled appointments and workshops, that she had failed to communicate with EPBC. EPBC confirmed that they have gone over the appellant's concerns about participation as well as their expectations but the appellant's non-participation

continued regardless. EPBC reported that the appellant's last contact was April 10, 2017 when she cancelled her appointment and that she did not attend scheduled appointments on April 13th and April 24th, 2017.

June 22, 2017 – the ministry advised the appellant she was not eligible for further assistance due to failure to comply with the conditions of her EP.

June 25, 2017 - the appellant signed her Request for Reconsideration where the appellant submits she did not have anything to put on a resume and requested training, there was some confusion with respect to her registration in a course, she was not sure who to contact concerning behaviours she felt were inappropriate by the EPBC Case Manager and, because there are serious communication issues, she would like to have her Case Manager changed. She states that she has PTSD/anxiety and gets very overwhelmed and has a hard time trying to decide what to do.

July 31, 2017 - the appellant files a Notice of Appeal stating "I did not include any of my medical information in my reconsideration appeal. I feel it does help to understand my situation better. She states in part – "I don't understand what is happening. I was told today that my appeal was denied and to reapply for benefits but online it shows I am still receiving benefits. In understand I did not comply with my ep but all I have ever wanted was to receive some training to be able to obtain employment. I have some serious health issues along the way which include being diagnosed with diabetes, high blood pressure, I have had multiple heart specialist appointments where they are still trying to diagnose why I have extra beats and low heart rate. I also have PTSD with anxiety disorder that I am taking medication for to help me be able to create and maintain a healthy state of mind. All I want is a short training course that's all I have been asking for is 6 months of any office training in order to have something to put on a resume and get employment."

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 her EP, due to her failure to demonstrate reasonable efforts to participate in the employment-related program, therefore, the appellant 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 argues that she did not include any of her medical information in her reconsideration appeal and feels it does help to understand her situation better. She states she has some serious health issues which include being diagnosed with diabetes, high blood pressure and has had multiple heart specialist appointments where they are still trying to diagnose why she has extra heart beats and low heart rate. She states she also has PTSD with anxiety disorder that she is taking medication for to help her be able to create and maintain a healthy state of mind. She further states that she understands that she did not comply with her EP but all she has ever wanted was to receive some training to be able to obtain employment – “All I want is a short training course that’s all I have been asking for is 6 months of any office training in order to have something to put on a resume and get employment.”

Ministry's position:

The ministry's position is that the appellant signed her EP confirming that she had read, understood and agreed to the conditions and consequences of not complying. The EP referred the appellant to the EPBC contractor. She was required to participate fully in the program, complete all assigned tasks and to advise the contractor if not able to participate in the program for any reason. The appellant signed her EP on April 18, 2016 and was reminded of her obligations to participate on several occasions and has a history of not attending scheduled meetings. Her last contact was on April 10, 2017 and she missed scheduled appointments on April 13th and 24th. She had not followed through with her EPBC Action Plan activities of completing a resume, she has not submitted any job search lists, and she has continually missed scheduled appointments and workshops.

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. One of the conditions of the appellant's employment plan was that she participate in an employment program, and 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 as provided in Section 9(4) of the EAA.

The appellant signed her EP on April 18, 2016 confirming she had read, understood and agreed to the conditions and consequences of not complying. The appellant was required to – “meet with the EPBC contractor. She must take part in EPBC program activities as agreed to with the EPBC Contractor and must complete all tasks given to her, including any actions set out in her EPBC Action Plan. She must call her EPBC contractor if she cannot take part in services or complete the steps that she has agreed to, or when she found work.”

EPBC reported on June 2, 2017 that the appellant had not followed through with the EPBC Action Plan, had not completed a resume, had not submitted any job search lists, and had continually missed scheduled appointments and workshops and did not contact EPBC to report that she was unable to attend. EPBC reported that the appellant's last contact was on April 10, 2017 and that she missed scheduled appointments on April 13th and 24th.

The panel notes that there is no evidence of a medical condition that impacted the appellant's non-participation in her EP. As such, the panel finds that the ministry reasonably concluded, pursuant to Section 9(4) of the EAA, that the appellant failed to demonstrate reasonable effort to comply with the conditions of her Employment Plan.

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 her Employment Plan pursuant to Section 9(1) of the EAA was reasonably supported by the evidence, and therefore confirms the decision.