

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the “ministry”) reconsideration decision of July 12, 2017 in which the ministry denied further income assistance (IA) to the appellant for failure to comply with the terms of his employment plan (EP) pursuant to Section 9 of the Employment and Assistance Act (EAA). Specifically, that the appellant did not follow through with the Employment Program of BC (EPBC) programming, nor did he provide any confirmation that a medical issue had prevented him from actively and regularly participating in the EPBC program.

PART D – Relevant Legislation

Employment and Assistance Act (EAA), Section 9

PART E – Summary of Facts

With the consent of both parties, the hearing was conducted as a written hearing, pursuant to section 22(3)(b) of the Employment and Assistance Act.

The appellant is designated as a single, employable person.

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

- EP with a term of September 14, 2016 to September 14, 2018, signed by the appellant on October 26, 2016, in which the appellant acknowledged that failure to comply with the conditions of his EP would render him ineligible for income assistance (IA), and in which he agreed to:
 - attend a first appointment with his Employment Program of BC (EPBC) contractor on or before September 27, 2016;
 - take part in EPBC program activities as agreed to with the EPBC Contractor;
 - complete all tasks given, including any actions set out in the EPBC Action Plan, which sets out: the steps, services and supports that he agrees are needed to find work or become more employable as quickly as possible;
 - call the EPBC contractor if he cannot take part in services or complete steps that were agreed to, or when he finds work; and
 - call the local EPBC contractor within one week, if he were to move, to have his case file transferred.
- Letter from the ministry to the appellant dated December 15, 2016 requesting the appellant contact them to discuss why he did not follow through with the EP.
- Request for Reconsideration completed by the ministry on May 26, 2017, which outlines their record of contacts regarding the appellant:
 - EP completed September 14, 2016;
 - EP signed by appellant on October 26, 2016 and EPBC reported no contact so appellant service request was sent back to ministry;
 - November 25, 2016 the appellant contacted the ministry and was advised he must attend his appointments to remain eligible for IA, had a compliance discussion with a ministry representative and the appellant advised he was aware that if he failed to comply he would not be eligible for further assistance. The appellant informed the ministry that an appointment was scheduled with EPBC for December 6, 2016;
 - December 8, 2016 EPBC reported that the appellant failed to attend the appointment of December 6, 2016;
 - December 22 the appellant advised he went there on December 7 instead and that for another appointment on December 20, 2016 he had been late and was rescheduled for December 22 which he did attend. The appellant also advised another appointment was booked for December 29 and January 5, 2017. Consequences for non-compliance were discussed in detail by a ministry representative with the appellant and he stated that he understood;
 - Referral sent to EPBC as the records indicated the EPBC case had closed on December 22, 2016;
 - January 23, 2017 EPBC reported that the appellant was unable to attend the appointment on January 5, 2017 that he had attended an orientation on January 10, 2017 and an action plan was developed with EPBC on January 13, 2017;

- May 4, 2017 the ministry attempted to contact the appellant as EPBC reported he had not been in contact with them since January. Attempts to contact the appellant were not successful and he had not responded to messages or to a letter that he had been sent on March 27, 2017;
 - May 11, 2017 EPBC informed the ministry that they had closed the appellant's file and that it had only remained opened due to an oversight;
 - May 26, 2017 the appellant spoke with a ministry worker. The appellant indicated he had been going to EPBC to print off resumes, and that EPBC tried to send him to courses that were not relevant (resume writing). The appellant indicated he had previously owned a business and that he did not feel that he needed help with that type of thing. The appellant indicated that he was advised by a ministry representative that he only needed to go to EPBC if he had a job and needed help.
- Note from the appellant dated June 14, 2017 which states that he is requesting reconsideration of the ministry's decision due to the fact that he now needed treatment for addictions and that he was given no notice of non-compliance with EPBC. He notes that if he had known he would have done any and everything to become compliant.

In his Notice of Appeal dated August 2, 2017 the appellant argued he disagreed with the decision because he was not informed properly of the process of the contracted agency or misunderstood the contract involving them.

The ministry submission for the written hearing was the reconsideration summary provided in the record of ministry decision.

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

PART F – Reasons for Panel Decision

The issue under appeal is the reasonableness of the ministry decision of July 12, 2017 in which the ministry denied further income assistance to the appellant for failure to comply with the terms of his employment plan (EP) pursuant to Section 9 of the EAA because he missed numerous appointments and did not follow through with the EPBC programming, nor did he provide any confirmation that a medical issue had prevented him from actively and regularly participating in the EPBC program.

The relevant legislation is as follows:

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.
- (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 is that he did not understand the contract and was not given any notice that he was in non-compliance with the contracted agency, and that if he had known, he would have done any and everything to become compliant. The appellant also argues that he now needs treatment for addictions.

The Ministry's position is that the appellant signed an EP and agreed to work with the contracted agency however, between September, 2016 and May, 2017, he failed to attend multiple appointments and did not participate fully or complete all assigned tasks as required by the conditions of his EP. The ministry argued that the appellant had acknowledged to them, on two occasions since signing the EP, that he was aware he needed to work with the EPBC program in order to remain eligible for income assistance. The ministry opined that the conditions of the EP were reasonable, and that because he did not follow through with EPBC programming and did not provide any documentation or evidence that he ceased to participate for medical reasons, the ministry found that the appellant did not comply with the conditions of the EP, so is therefore ineligible for income assistance under section 9 of the EAA.

Panel 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 October 26, 2016 and agreed to the conditions which required him to take part in the employment program activities as agreed to with the contractor, to complete all tasks given to him, including any actions set out in his Action Plan, and to call the EPBC contractor if he could not take part in services or complete agreed to steps, or when he found work or if he were to move.

The panel notes that there are no supporting documents in the record of appeal specific to the record of missed appointments with EPBC for the relevant time period. However, there is a letter dated December 15, 2016 from the ministry to the appellant asking him to contact the ministry, and during subsequent contacts between the ministry and the appellant from September, 2016 to May, 2017 the appellant acknowledged that he was aware that he needed to comply and again missed several scheduled appointments with EPBC.

Section 9(4) of the EAA stipulates 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 did not demonstrate reasonable efforts to participate in the employment-related program when he failed to keep scheduled appointments with the EPBC contractor on numerous occasions during 2016 and 2017. Although the legislation does not specifically require a physician confirmation of a medical condition, it is reasonable to seek confirmation of whether the condition affects participation in a program. There is no evidence in the appeal record that supports the appellant's position that he has medical reasons that impacted his non-participation in the 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 her 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 a reasonable interpretation of the legislation, and therefore confirms the decision.