

## PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the “ministry”) reconsideration decision of August 23, 2017 wherein the ministry determined the appellant was no longer eligible for income assistance as set out in section 9(1)(b) *Employment and Assistance Act* (EAA). The ministry determined he did not comply with the conditions stated in his Employment Plan (EP) as he failed to demonstrate reasonable efforts to participate in his employment-related program and did not cease to participate in the program for medical reasons as set out in section 9(4) EAA.

## PART D – Relevant Legislation

Employment and Assistance Act (EAA), section 9

## PART E – Summary of Facts

The appellant did not attend the hearing. The panel being satisfied the appellant had been notified to the date, time and location of the hearing, the hearing proceeded under section 86(b) of the *Employment and Assistance Regulation*.

The evidence before the ministry at the time of reconsideration:

- EP signed by the appellant on July 3, 2016;
- Letter to appellant dated December 20, 2016 requesting he contact his EP worker as his eligibility for income assistance is under review due to non-compliance with his EP plan;
- Letter to appellant dated July 20, 2017 requesting he contact the EP worker;

On July 3, 2016, the appellant signed an EP referring him to Employment Program of British Columbia (EPBC) and acknowledging that it is a condition of eligibility for income assistance that he comply with the conditions set out in his EP.

Specifically, in his EP, he agreed to:

- You must meet with the EPBC contractor on or before July 4, 2016;
- Attend and participate in EPBC program activities as agreed to with the EPBC contractor;
- Complete all tasks assigned including any activities that set out in the EPBC Action Plan;
- Notify the EPBC contractor if he is unable to take part in any services or complete steps that were agreed to, or when you find work;
- If you move, within one week you must ask the EPBC contractor serving your new area to transfer your EPBC case file;
- He understands that if he fails to comply with the conditions of his EP, that the ministry the income assistance payments issued to him will be discontinued and participation in an EP is not open to appeal.

On July 4, 2016, the appellant signed an EP which set out specific conditions that he must comply with to be eligible to receive income assistance. On July 15, 2016 EPBC confirmed the appellant had contacted them and that an EPBC file had been opened. On December 19, 2016 EPBC advised the ministry they would be closing the appellant's file due to a lack compliance as they could not contact him. On December 20, 2016, the ministry sent the appellant a letter of non-compliance advising him that a hold was being placed on his benefits cheque for February 2017. On December 30, 2016, the appellant contacted the ministry, advised he had a job offer that fell through and that he didn't contact EPBC afterwards. The appellant was advised he must remain compliant with his EP, book an appointment with his EPBC worker and then advise the ministry of the date of that appointment. On February 23, 2017 EPBC advised the ministry the appellant had been accepted into case management. On May 17, 2017, the appellant advised the ministry he may be starting work in the next month or two. On June 21, 2017, the appellant attended the ministry office to advise he had not started work and had no income to declare. On July 17, 2017, EPBC advised the ministry appellant was not participating in the program. EPBC advised they made 3 attempts to contact the appellant via 2 different methods without success. On July 20, 2017, the ministry reviewed the appellant's file for compliance and noted that he was non-compliant again. The appellant was advised he was no longer eligible for income assistance due to non-compliance with the conditions set out in his EP.

The ministry relied on the facts as stated in the Reconsideration decision.

## PART F – Reasons for Panel Decision

The issue in this appeal is whether the ministry's reconsideration that determined that the appellant was no longer eligible for income assistance as he failed to comply with the conditions in his EP is reasonably supported by the evidence or is a reasonable application of the legislation in the circumstances of the appellant. Specifically, the ministry determined that he failed to demonstrate reasonable efforts to participate in the EPBC program and did not cease to participate in the program for medical reasons as set out in section 9(4) EAA.

The legislation considered:

### Section 9 EAA

- (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.
  
- (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 ministry's position is that the appellant did not attend several meetings with the EPBC program and failed contact the EPBC to advise that he was not able to attend. The ministry's position is that the appellant signed his EP knowing that one of the conditions was that he must attend and participate in EPBC program activities as agreed to with the EPBC contractor. The appellant's position is that he tried to explain to EPBC that resumes, job search skills and computer skills is not the problem as he has participated in many EP's in the past. The appellant stated in his Request for Reconsideration that he had not stayed in contact with EPBC and that the major problem is he has a criminal record and is not bondable and that affects the positions that he can apply for with his job experience.

The appellant signed his EP stating that he understood the conditions of the EP and that he would no longer be eligible for income assistance if he did not comply with the conditions. Two of the conditions in his EP were: that he would participate in EPBC program(s), and that he would advise the EPBC contractor when he could not attend. The panel determined the ministry's decision that the appellant was no longer eligible for income assistance as he failed to demonstrate reasonable efforts to participate in the EPBC program was reasonable because he failed to attend program(s) and failed to advise the EPBC contractor when he was not available. While he argued he didn't need the type of training EPBC offered, he agreed to all the conditions in the EP and one condition was to attend and participate in EPBC program(s) and activities.

In reference section 9(4)(b) EAA, "ceases, except for medical reasons, to participate in the program"; there is no evidence before the panel that the appellant failed to participate for medical reasons.

The panel finds that the ministry's decision that the appellant did not comply with his EP and is therefore not eligible for income assistance, as set out in section 9(1) of the EAA, was a reasonable application of the legislation in the circumstances of the appellant, and confirms the ministry's decision pursuant to section 24(1)(b) EAA and section 24(2)(a) EAA.