

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Poverty Reduction ("ministry") reconsideration decision dated 30 August 2017, which held that the appellant was not eligible for income assistance due to failure to demonstrate a reasonable effort to comply with the conditions of her Employment Plan ("EP").

PART D – Relevant Legislation

Employment and Assistance Act ("EAA") Section 9

PART E – Summary of Facts

The appellant did not attend the hearing. After confirming that the appellant was notified, the hearing proceeded under section 86(b) of the *Employment and Assistance Regulation*.

The information before the ministry at reconsideration included the following:

- The appellant is in receipt of income assistance as a sole recipient.
- The appellant signed an Employment Plan (EP) on 16 March 2016, confirming that she had read, understood and agreed to the conditions and consequences of not complying.
- The appellant was required to contact the Employment Programs of BC contractor (EPBC) in her region and to complete all tasks assigned by the contractor, participate fully in the program and contact the contractor if, for any reason, the appellant was not able to attend or participate.
- On 1 June 2017, EPBC reported to the ministry that the appellant had not attended appointments scheduled for 21 April, 5 May or 25 May, 2017 and did not contact EPBC to advise that she was unable to attend. The appellant had an appointment scheduled for 2 June 2017.
- On 19 June 2017, EPBC reported to the ministry that the appellant had attended the EPBC office on the morning of 2 June and advised she would return for her appointment but did not return and did not advise EPBC that she would not attend. The appointment was rescheduled for 4 July.
- On 17 July 2017, EPBC reported to the ministry that the appellant did not attend the 4 July appointment, did not contact EPBC to advise that she would not attend, and did not respond to 3 attempts by EPBC requesting that the appellant make contact to reschedule the appointment.
- The appellant's next assistance cheque was directed to the local ministry office to ensure that the appellant made contact to discuss her employment related obligations.
- On 20 July 2017, EPBC reported to the ministry that the appellant had made contact and scheduled an appointment for 17 July but attended late and the appointment was rescheduled for 18th July. The appellant did not attend the 18 July appointment and did not contact EPBC to advise that she would not attend.
- The appellant contacted the ministry on 21 July to enquire about her August 2017 assistance cheque. She was reminded that continued eligibility for assistance was dependent on active participation in the EPBC program and that it was the appellant's responsibility to contact EPBC if she could not attend an appointment or participate in the program. The appellant's August 2017 assistance cheque was released to her.
- On 8 August 2017, EPBC reported to the ministry that the appellant had not attended a 28 July appointment; she had confirmed the previous day that she would attend but did not attend. The appointment was rescheduled for 8 August; the appellant did not attend and did not contact EPBC.
- On 25 August 2017 the appellant advised the ministry that she had not attended the most recent EPBC meeting as it was her sister's birthday and she had forgotten about the appointment. The ministry advised the appellant that she was not eligible for assistance due to failure to comply with the conditions of her employment plan by not actively participating in the EPBC program.
- The appellant requested reconsideration of the decision.

The documents before the ministry at reconsideration included the following:

- An Employment Plan signed by the appellant on 16 March 2017.
- A Request for Reconsideration, dated, 29 August 2017, in which the appellant wrote:
 - She has been looking for work, hard when school kids are out;
 - She is going to every meeting;
 - She does pay her rent with this money so it helps a lot;
 - She is very determined to find work;
 - She understands that she missed a day or two, they had a sick relative in and out of hospital who needed family support; and
 - She is willing to continue with her meeting as followed.

Notice of Appeal

In the Notice of Appeal dated, 2017, the appellant wrote as reasons for appeal:

- She was dealing with a sick family member who is getting heart surgery, can't speak and hardly walk; and
- She has been attending her meeting so she thinks that maybe one more chance would help.

At the Hearing

The appellant did not attend the hearing.

The ministry relied on the reconsideration decision. However, the ministry representative also stated that there is a 14 September note on the appellant's file indicating that she had an EPBC appointment on September 8 but did not attend.

Admissibility of Additional Information

The panel finds that the information contained in the Notice of Appeal admissible in accordance with section s. 22(4) of the EAA as it consisted of reiteration and elaboration of material presented in the Request for Reconsideration; therefore the information is in support of the information and records before the ministry at reconsideration.

The panel finds that the information provided by the ministry about the appellant's missed EPBC appointment in September is not admissible under section s. 22(4) of the EAA as it relates to events that occurred after the date of the reconsideration decision and is, therefore, not in support of information and records before the ministry at reconsideration.

PART F – Reasons for Panel Decision

The issue under appeal is whether the ministry's reconsideration decision of 30 August 2017, in which the ministry determined that the appellant was not eligible for income assistance due to her failure to demonstrate a reasonable effort to comply with the conditions of her EP, is reasonably supported by the evidence or a reasonable application of the applicable legislation in the circumstances of the appellant.

The applicable legislation provides:

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*].

In the reconsideration decision, the ministry found that the appellant is not eligible for income assistance because she had not demonstrated a reasonable effort to comply with the conditions of her EP. The ministry considered that the appellant had signed an EP in March 2017 confirming that she had read, understood and agreed to the conditions as well as the consequences of non-compliance. The minister noted that the appellant was required to participate fully in the EPBC program and contact the EPBC contractor if she was unable to participate for any reason. The ministry noted that the appellant was aware that continued eligibility for income assistance was dependent on compliance with the conditions of her EP and participation in the EPBC program. The ministry found that the appellant had not attended several meetings with the EPBC program and

failed to advise EPBC when she was not able to attend. The ministry noted that the appellant had been provided with a second opportunity to comply with her employment obligations and was reminded that active participation in the EPBC program was mandatory to maintenance of eligibility for assistance. The ministry determined that the appellant had not demonstrated a reasonable effort to comply with the conditions of her EP.

In the Request for Reconsideration and Notice of Appeal the appellant provides arguments relating to reasons for non-attendance at EPBC meetings. The appellant argues that she has attended all of her meetings, except 1 or 2 and was not able to attend these because, for medical reasons, a relative required family support. In the Notice of Appeal the appellant also states that she thinks that maybe one more chance would help.

The panel finds that by signing the EP in March 2017, the appellant agreed to the conditions of the EP and indicated her understanding of the consequences of non-compliance. The panel further finds that the ministry advised the appellant that continued eligibility for income assistance depended on compliance with the terms of the EP and participation in the EPBC program. The appellant has asserted that she has attended all of her meetings, except 1 or 2 days and was not able to attend these because, for medical reasons, a relative required family support. The panel finds that this assertion does not explain the appellant's recurring failure to attend EPBC meetings and rescheduled EPBC meetings over the course of several months, or the appellant's failures to contact EPBC when she was unable to attend as required by the EP. Furthermore, the panel finds that the appellant's argument does not demonstrate that the appellant made reasonable efforts to comply with the conditions of the EP. The panel finds that the Ministry reasonably determined that the appellant is not eligible for income assistance because she has not demonstrated a reasonable effort to comply with the conditions of the EP as required by Section 9 of the EAA.

The panel notes that the Appellant has indicated in the Notice of Appeal that one more chance would help. However, beyond considering this as an argument as to why the appellant disagrees with the ministry's decision, the panel does not have jurisdiction to address this request as the EAA at section 24(1) clearly states that the jurisdiction of a panel is to determine whether the decision being appealed is reasonably supported by the evidence, or a reasonable application of the applicable enactment in the circumstances of the person appealing the decision.

Conclusion

The panel finds that the Ministry's reconsideration decision, which determined that the appellant was not eligible for income assistance due to failure to comply with the conditions of the EP, was reasonably supported by the evidence and a reasonable application of the legislation in the circumstance of the appellant. The panel confirms the Ministry's decision. The appellant is not successful on appeal.