

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the “ministry”) reconsideration decision of August 16, 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).

PART D – Relevant Legislation

Employment and Assistance Act (EAA), Section 9

PART E – Summary of Facts

The appellant was not in attendance at the hearing. The panel confirmed that the appellant was notified of the hearing so the hearing proceeded pursuant to section 86 (b) of the Employment and Assistance Regulation.

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 November 30, 2015 to May 18, 2018, signed by the appellant on November 30, 2015, 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 two conditions:
 - 1) Activities Toward Independence
 - take any actions he can that may make him more financially independent and must explore any community resources that can help him become more employable;
 - submit a Medical Report Employability form (HR3069 by December 15, 2015 regarding his hand and must visit the local EPBC to see how they can help and pursue any help they provide; and
 - if asked, must give the ministry proof of how any medical condition(s) he has affect his ability to find or keep work and that he must keep the ministry informed of all plans and progress when requested.
 - 2) Employment Program of BC (EPBC)
 - attend a first appointment with his Employment Program of BC (EPBC) contractor on or before May 28, 2016;
 - if accepted into EPBC case management, must 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;
 - call the local EPBC contractor within one week, if he were to move, to have his case file transferred; and
 - if not accepted into EPBC case management, he must continue the Activities Towards Independence.
- Medical Report – Employability form HR3069 dated December 9, 2015 with the date of onset of condition being November 26, 2015, indicating a fractured left hand, with a requirement for surgery and a prognosis - expected duration of recovery of one to three months.
- Letter from the ministry to the appellant dated May 12, 2017 requesting the appellant contact the EPBC service provider noted in his plan and that if he has moved, how to contact EPBC in his new area. A copy of the plan was attached to the letter and the ministry highlighted that the appellant had agreed to contact EPBC prior to May 28, 2016.
- Letter from the ministry to the appellant dated May 12, 2017 informing the appellant that his next IA cheque would be held until he is in compliance with his EP. It states that he was required to follow through with EPBC and that to date of letter he had failed to do so, and now his eligibility was in question. The appellant was instructed to contact his EP worker via the telephone numbers provided in the letter.

- Copy of EPBC appointment card indicating a scheduled appointment date of June 2.
- Letter from the ministry to the appellant dated June 5, 2017 informing the appellant that his next IA cheque for June 21, 2017 will be held pending contact with his EP worker and that a decision on eligibility will be determined once all documentation has been reviewed.
- Request for Reconsideration form completed by the ministry on June 21, 2017, which, in addition to what is noted above, outlines their record of contacts regarding the appellant:
 - May 12, 2017 the EPBC contractor reported to the ministry that the appellant had not participated in their services for over 12 weeks and that numerous attempts to contact him had no success so EPBC closed the appellant's file;
 - May 26, 2017 the appellant spoke with the EP worker who advised him of his responsibilities to comply with his EP and of the consequences for not complying. The appellant told the worker that he understood that compliance with his EP is a condition of eligibility for IA. The ministry worker advised the appellant that he must fully participate and attend all workshops, appointments and referrals as directed by EPBC and if he did not attend or was late it was his responsibility to contact EPBC and advise them of what is going on. The worker explained that if the appellant continued to be non-compliant with the EP he would not be eligible for further IA. The worker requested confirmation of the appellant's next appointment with EPBC;
 - May 26, 2017 the appellant submitted confirmation of a scheduled appointment with EPBC for June 2 so his cheque was released;
 - June 5, 2017 EPBC reported that the appellant did not show up for his June 2nd appointment and that the appellant had been participating in EPBC services on and off since 2012 and that there had been multiple occurrences of non-participation and compliance issues. EPBC had approved the appellant for training from October, 2016 to December, 2016 but he was expelled after failing to participate because he had only attended 2 full days in a 4 week period. The EP worker attempted to contact the appellant by phone but was unable to reach him so placed a hold on the next IA cheque and sent out a letter to him;
 - June 19, 2017 the appellant contacted the ministry and advised that he had not received the letter that the worker had sent on June 5th. An EP worker contacted the appellant by phone and the appellant explained that he had had hand surgery in 2015 and that his girlfriend had health issues and he had needed to be with her this month. The worker pointed out that he had agreed to attend the June 2nd appointment and to contact EPBC in the event he was not able to, but that he did not do either of those things. The appellant was advised that due to non-compliance he was no longer eligible for IA and of his right to reconsideration.

In his Notice of Appeal dated September 12, 2017 the appellant argues that the reason he was appealing is that he understands he missed a lot of workshops, but for legitimate reasons. He writes that he has doctor's notes for his anxiety and also his hand from when the surgery was done. He also writes that he will not miss any more workshops.

PART F – Reasons for Panel Decision

The issue under appeal is the reasonableness of the ministry decision of August 16, 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.

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 has had medical issues such as anxiety, hand surgery and that he had to travel to a medical appointment, and that these were the reasons why he did not go to his EPBC appointments or workshops. The appellant argued that he did submit a medical report regarding his hand fracture and that this medical note excused him from one to three years of job searching.

The ministry's position is that the appellant signed an EP to which he agreed to provide proof of how any medical conditions he may have affect his ability to find or keep work, that he must work with the EPBC program and that the obligations and consequences of not complying with his EP were explained to him on several occasions. The ministry argued that the appellant was informed on May 26, 2017 that if he was not able to participate for medical reasons that he needed to provide confirmation of a medical condition that affected his ability to participate in the EPBC program and that although the appellant requested a PWD medical report at that time, nothing had been submitted that confirms he is prevented from attending EPBC programming. The ministry argued that EPBC reported that since 2015 the appellant did not attend multiple appointments and workshops; that he had quit employment, wage subsidy programs, job development placements and training programs; and that although the appellant had been approved for training from October, 2016 to December, 2016 he had been expelled after only attending 2 full days out of the 4 weeks of training. The ministry argued that the appellant 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 that 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 November 30, 2015 and agreed to the following conditions: that he participate in an employment related program as required by section 9(4) of the EAA; that he provide proof of how any medical condition(s) he has affects his ability to find or keep work; that he visit the local EPBC contractor prior to May 28, 2016, to take part in the employment program activities as agreed to with EPBC; that he complete all tasks given to him, including any actions set out in his Action Plan; and that he 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 regarding the missed appointments with EPBC for the relevant time period. However, there are letters dated May 12, 2017 and June 5, 2017 from the ministry to the appellant asking him to contact the ministry to review his non-compliance with his EP and during contact between the ministry and the appellant on May 24, 2017 the appellant acknowledged that he was aware that he needed to comply and again missed a scheduled appointment with EPBC on June 2, 2017. The appellant was not present during the hearing, however the panel read in the reconsideration decision the reason the appellant provided for why he had missed his June 2, 2017 EPBC appointment, and note that there is no evidence in the appeal record that indicates that the appellant called the EPBC program to notify them he was not able to make the appointment or to reschedule it as is required by the conditions of the EP.

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. In the appeal record there is a medical note dated December, 2015 that confirms a medical condition, however the physician noted that the expected duration was for a period of one to three months, not one to three years as the appellant cited as his reason for not participating. 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 his 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.