

PART C – Decision under Appeal

The issue under appeal is whether the Ministry of Social Development and Poverty Reduction's (the ministry) reconsideration decision of September 23rd, 2017 which found the appellant ineligible for income assistance (IA) because he failed to comply with the conditions of his Employment Plan pursuant to Section 9(1)(b) & 9(4)(a)(b) of the Employment and Assistance Act (EAA) is reasonably supported by the evidence or a reasonable application of the legislation.

PART D – Relevant Legislation

EAA *Employment and Assistance Act*, Section 9

PART E – Summary of Facts

The information before the ministry at the time of reconsideration included the following:

- 1) **May 9th, 2016 – A signed (by the appellant) Employment Plan (EP)** referring the appellant to the Employment Program of British Columbia (EPBC) employment contractor. The EP stated that the appellant would attend the program on or before May 16th, 2016 and continue to participate in the EPBC programming regularly and as directed by the EPBC contractor.
- 2) **On the May 9th 2016 dated (EP)** – the appellant agreed to work with the EPBC contractor to address any issues that may impact employability and the appellant was to make contact with the contractor if he could not make a session or when he started or ended employment. Further, the EP stipulated that if the appellant was to fail to comply with the conditions of the EP – the appellant would be ineligible for assistance. Noted on the EP was that by signing, the appellant acknowledged the conditions of the EP and the consequences for non-compliance.
- 3) **May 17th, 2016** – The ministry notes that the appellant had moved to another part of BC and would be attending EPBC there.
- 4) **July 15th, 2016** – a report to the ministry provided by the EPBC contractor indicated that the appellant had obtained employment.
- 5) **January 13th, 2017** – a report to the ministry provided by the EPBC contractor indicated that the appellant had obtained labor market attachment and that the appellant's file had been closed.
- 6) **February 14th, 2017** – A signal letter sent to the appellant advising that he needed to connect with the EP worker to discuss his file as it was confirmed that the appellant was not employed since December 2016.
- 7) **February 24th, 2017** – The ministry worker referred the appellant to an EPBC worker. The appellant was advised to make contact as soon as possible.
- 8) **March 10th, 2017** – An EPBC report sent to the ministry, indicating that the appellant had not registered with them within the allotted timeframe. The report indicated that they had attempted to make contact by email on March 2nd, 2017 and by telephone on March 7th, 2017, but that the appellant did not respond to either message.
- 9) **April 28th, 2017** – The appellant called the ministry office and stated that he had been in contact with EPBC and that the file was transferred. The appellant stated that he was advised by EPBC that they would call with an appointment date but that conversation took place earlier in the week. The appellant stated he would be attending the EPBC office on the current date. During this conversation, the appellant indicated he understood the expectations of the employment plan and the consequences of non-compliance. On this date, the ministry sent a new referral to EPBC on the appellant's behalf.
- 10) **June 19th, 2017** – EPBC reported that the appellant's case manager had attempted to make contact with the appellant by phone, and had left a message – May 26th, 2017 and again by email on May 29th, 2017. It was noted that the appellant did not return either of these messages.
- 11) **June 21st, 2017** – A hold was placed on the appellant's July cheque to discuss his non-compliance with EPBC. Later on this date, the appellant called back and stated that he had been admitted to the hospital for 8 days and that this was the reason he had not responded to EPBC. The appellant stated that he attended EPBC the day prior to update his resume. The ministry worker advised the appellant that in order to release the cheque, the appellant would need to contact EPBC and advise of his next appointment date and time. During this conversation, the expectations of the EP were discussed along with the consequences of non-compliance.
- 12) **July 6th, 2017** – The EP worker contacted the appellant to confirm that the appellant had an appointment scheduled for the following day.
- 13) **July 7th, 2017** – The EPBC reported that the appellant had made contact with them and made an appointment for July 10th, 2017.
- 14) **August 14th, 2017** – the ministry received correspondence from EPBC indicating that multiple attempts were made to contact the appellant, that he missed several appointments, did not respond to emails or phone calls, and missed booked workshops. The ministry worker sent out a request for information regarding dates of the missed appointments/workshops with EPBC. A hold was placed on the appellant's cheque to ensure that he made contact with the ministry.

- 15) **August 15th, 2017** – EPBC reported that they attempted to contact the appellant by phone and email on July 5th, 2017. That an appointment was missed on July 10th, 2017. That the appellant attended EPBC without an appointment on July 18th, 2017 and signed up for workshops. The appellant failed to attend the booked workshops on August 4th, 2017 and a unspecified letter was sent on August 15th, 2017.
- 16) **August 22nd, 2017** – The ministry notes that the appellant spoke with a worker regarding his non-participation and the appellant stated he mixed up the date and time for his appointment on July 10th, 2017. The appellant stated he was late for his July 17th, 2017 appointment, but EPBC did not confirm this statement. EPBC indicated he did not show up at all. In this conversation, the appellant stated that he did not know he had an appointment on August 4th, 2017. At this time, the appellant was informed that he was ineligible for income assistance for failure to comply with the conditions of his Employment Plan. The appellant requested a reconsideration of this decision. The appellant requested benefits under appeal and was advised that he could obtain them once his signed request for reconsideration was received by the ministry.
- 17) **September 6th, 2017** – the ministry received the appellant’s signed request for reconsideration.
- 18) The appellant provided on his request for reconsideration that he felt that the ministry had not given him sufficient warning, that he felt that he complied with his conditions, and that by cutting him of income assistance (IA), he would likely face hardship.

Additional Information

Neither the appellant or the ministry representative were in attendance at the hearing. After confirming that the appellant and ministry had been notified, and waiting for twenty minutes past the set hearing time, the hearing proceeded under Section 86(b) of the Employment and Assistance Regulation.

Neither the appellant nor the ministry provided additional evidence to be considered by the panel.

PART F – Reasons for Panel Decision

The issue under appeal is whether the ministry's reconsideration decision which found the appellant ineligible for IA because he failed to comply with the conditions of his EP pursuant to section 9 of the EAA is reasonably supported by the evidence or a reasonable application of the legislation.

The relevant sections of the legislation are 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.

Panel Decision

The ministry's position, as set out in the reconsideration decision, is that the appellant is not eligible for income assistance due to non-compliance with his Employment Plan (EP) as per Section 9(1)(b), of the Employment and Assistance Act (EAA). In his Notice of Appeal dated September 25th, 2017 the appellant stated that he had been going to WorkBC, and that he did not understand how he could be considered to be non-compliant with his employment plan. The appellant notes that the ministry made it harder on him to find full time work, and because of this he would be homeless. The ministry notes that when the appellant signed the EP that he entered into a legal agreement with the ministry to comply with the conditions of the EP and follow through with the EPBC requirements. The ministry also notes that when the appellant signed the EP, he acknowledged that if he did not comply, he would be found ineligible for assistance. The ministry records indicate that the conditions of the EP were such that the appellant was required to attend the EPBC program on or before May 16th, 2016 and continue to participate in the EPBC programming regularly and as directed by the EPBC contractor. The EP required the appellant to work with the EPBC to address any issues of employability, and to contact the contractor if he was unable to make a session, or when starting or ending employment.

The ministry records indicate that the appellant did not attend multiple scheduled EPBC appointments, did not call in advance to reschedule appointments, did not work with EPBC to develop an Action Plan, and did not notify EPBC when he found and lost employment, and failed to respond to the multiple attempts by EPBC to reach him. The ministry wrote that given the appellant failed to make contact and attend appointments, as well as failed to work with EPBC, the appellant did not make reasonable efforts to comply with the EP agreement as per Section 9(4)(a) of the EAA – and did

not provide any evidence which indicated that medical reasons caused him to cease to participate in EP programming pursuant to Section 9(4)(b) of the EAA. The ministry's position is that the conditions of the EP were reasonable, and that the appellant was given numerous opportunities to comply, and as such was deemed ineligible for income assistance under Section 9 of the EAA.

Section 9(1) of the EAA states that a recipient of income assistance must comply with the conditions of the EP in order to be eligible for continued income assistance, and subsection (4) specifies that, if an EP includes a condition requiring a person 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.

The panel finds, that the evidence establishes that on May 9th, 2016 the appellant signed an EP in which he agreed to participate in employment programming, and would contact the contractor of EPBC if he was unable to attend. Further, the evidence establishes that the appellant was made aware that by signing the EP, he was bound by a legal agreement that if he did not comply with, the lack of compliance would render him ineligible of continued income assistance. Accordingly, the evidence establishes that the appellant's timeline from May 9th, 2016 through to August 4th, 2017 consisted of multiple missed appointments, a general failure to call in advance to reschedule those missed appointments, a lack of updating the ministry with current contact information, or responding to the multiple attempts made by the ministry to contact the appellant, and a general lack of engagement with EPBC. Overall, the panel finds that the ministry reasonably determined that the evidence establishes a theme of non-compliance on behalf of the appellant with the conditions of his EP.

As such, the panel finds that the ministry reasonably determined that the appellant failed to demonstrate reasonable efforts to participate in the EP, more specifically; by failing to attend multiple scheduled EPBC appointments between May 16th, 2016 and August 4th, 2017, failing to respond to the multiple attempts to contact the appellant made by EPBC, as well as failing to notify the employment contractor in advance of any barriers to attending the appointments. The ministry also reasonably determined that the appellant failed to satisfy the ministry that he was unable to meet the obligations of the EP and he ceased to participate for medical reasons. Accordingly, the panel finds that the decision of the ministry to declare the appellant ineligible for income assistance for failure to comply with the conditions of his EP was a reasonable application of the applicable enactment in the circumstances of the appellant. Therefore, the panel confirms the ministry's decision pursuant to section 24(1)(b) and section 24(2)(a) of the Employment and Assistance Act. The appellant therefore is not successful in his appeal.