

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the “Ministry”) reconsideration decision of October 5, 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*.

PART D – RELEVANT LEGISLATION

Employment and Assistance Act (EAA), Section 9

PART E – SUMMARY OF FACTS

The Appellant did not attend the hearing. The hearing proceeded pursuant to section 86 (b) of the Employment and Assistance Regulation (EAR) as the Panel confirmed that the Appellant was notified of the hearing.

The Appellant was receiving IA as a sole recipient.

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

- EP with a term of September 23, 2015 to September 22, 2017, signed by the appellant on September 23, 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 the following conditions:
 - continue to meet with the designated EP of British Columbia (EPBC) contractor (the “Contractor”);
 - take part in EPBC program activities as agreed to with the Contractor;
 - complete all tasks given to him, including any actions set out in the EPBC Action Plan (AP); and
 - call his Contractor if he cannot take part in services or steps to which he has agreed, or when he finds work.

The Appellant also acknowledged in the EP that he was aware that the Ministry might stop his IA payments if he did not follow the EP.

- Ten page EPBC Action Plan in the name of the Appellant, signed by the Appellant and dated September 22, 2015, providing information about:
 - the names, activity locations and the start and end dates for 22 specific workshops occurring between May 14, 2013 and October 2, 2015, 12 of which, occurring between May 14, 2013 and July 22, 2013, state “Attended” under a section headed “Status”;
 - two “Informal/Specialized Assessments” with end dates listed as February 14, 2013 and April 29, 2013 with the sections headed “Status” left blank;
 - one undated “Placement Support” activity with the status indicated as “Completed”;
 - a list of 17 financial supports for transportation to attend workshops and other appointments between April 17, 2012 and September 8, 2015.

By signing the Action Plan, the Appellant acknowledged that the activities, services and supports identified in the Action Plan are ones which the Appellant and the EPBC case manager mutually agree are needed to help the Appellant achieve his employment goals.

- Request for reconsideration form completed by the Ministry and signed by the Appellant on October 2, 2017, which outlines the Ministry’s and the Contractor’s record of contacts with the Appellant as follows:
 - **September 28, 2015** - The Contractor reported to the Ministry that the Appellant was scheduled for a workshop on that date but he did not attend and he did not contact his case manager. The case manager tried to contact the Appellant by phone but was not able to reach him;
 - **September 29, 2015** - The EPBC case manager reported that he emailed the Appellant but did not receive a response;
 - **September 30, 2015** - The EPBC case manager reported that he phoned the Appellant but was not able to reach him;
 - **October 13, 2015** - The Contractor reported that the Appellant stated that he had found a job which started on October 11, 2017 and that the Contractor issued the Appellant financial support in the amount of \$183 for essential work clothing and \$42 for transportation;
 - **November 18, 2015** - A Ministry EP worker contacted the Appellant to follow-up and the Appellant stated that his full-time employment turned out to be seasonal and part-time. The EP worker advised the Appellant that he had to reconnect with the EPBC case manager if he was working less than 20 hours per week;
 - **December 10, 2015** - The Appellant attended the Ministry’s local office and submitted confirmation of his next booked appointment with the Contractor set for December 16, 2015;
 - **May 26, 2017** - The Appellant advised EPBC that:
 - ◇ he had secured full-time employment after completing a federal job training program,
 - ◇ he had to report for work on the morning of May 27, 2017,
 - ◇ he would provide a letter confirming employment, and
 - ◇ he was in urgent need of financial support for job starts (essential work clothing and transportation).
 - **August 29, 2017** - The Contractor reported that they had provided the Appellant with financial support for essential work clothing and transportation in May 2017, but were unable to contact the Appellant to follow-up on his employment details. The Ministry arranged to have the Appellant’s October 2017 IA payment held at the Ministry’s local office for pick-up by the Appellant because he had not declared any income; and,

- **September 20, 2017** - The Appellant attended the Ministry's local office because he had not received his October IA payment. The Appellant stated that he had not worked during the previous reporting period and that he had no employment for 2017. A Ministry EP worker contacted the Contractor who stated that the Appellant had advised his case manager on May 26, 2017 that the Appellant had indicated that he had secured employment starting the next day. The Contractor also stated that the Appellant had been issued a work voucher for clothing, signed a document confirming that he needed financial support for job starts, and had told his EPBC case manager that he would provide a job confirmation letter, but had failed to do so. As a result, the Ministry EP worker noted on the Appellant's file that his case was being reviewed for denial of further IA, and that denial of further IA due to non-compliance with the Appellant's EP was approved by the Ministry EP supervisor on the same date.
- Copy of an EPBC appointment card indicating a scheduled appointment date on December 16, 2015.
- Copy of a pay stub in the name of the Appellant, dated January 27, 2016, showing net pay in the amount of \$267.83.
- EPBC Essential Financial Supports form in the name of the Appellant, dated May 26, 2017, showing funding in the amount of \$150.00 for "support required essential work clothing, and an undated Clothing Authorization Voucher in the name of the Appellant for work clothes.

In his Notice of Appeal dated October 23, 2017, the Appellant argues that he has not been working, that he is still looking for work and that he has "complied with all requests".

At the hearing, the Ministry relied on its reconsideration decision and did not introduce any new evidence. The Ministry explained that it relies on the Contractor to ensure that the client takes part in the services or steps to which he or she has agreed in the EP, and that the reporting relationship between the Ministry and the Contractor is "negative" to the extent that the Contractor is only expected to let the Ministry know if a client does not comply with the requirements of an EP or does not participate in the activities set out in the AP. The Ministry stated that the job starts supplement is only provided to a client if he or she has been successful in finding full-time work, and that under normal circumstances the Contractor will initially accept the client's word that he or she has found full-time work, but will require that the client provide written confirmation of employment in due course.

PART F – REASONS FOR PANEL DECISION

The issue under appeal is the reasonableness of the Ministry's decision of October 5, 2017 in which the Ministry denied further IA to the Appellant for failure to comply with the terms of his EP pursuant to Section 9 of the EAA.

The relevant legislation is as follows:

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 ...

(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*].

The Ministry's position is that the Appellant failed to comply with the conditions set out in the EP, and as a result he was not entitled to IA, pursuant to Section 9 of the EA.

Panel Decision

Section 9(1) of the EAA provides that, when the Ministry requires a person to enter into an EP and comply with the conditions in the EP in order to be eligible for IA. The Appellant signed an EP on September 23, 2015 and agreed to the following conditions: that he would continue to meet with the designated Contractor, that he would take part in EPBC program activities as agreed to with the Contractor, and that he would complete all tasks given to him, including any actions set out in the AP.

The Panel also notes that the Appellant acknowledged in the EP that he was aware that the Ministry might stop his IA payments if he did not follow the EP.

The Panel finds that the Ministry reasonably concluded that the Appellant did not comply with all of the conditions set out in the EP. The Panel notes that, after telling the Ministry that the full-time employment which he had told the Contractor he had secured in October 2015 turned out to be seasonal and part-time work, the Appellant was told by the Ministry that he would have to let his EPBC case manager know if he was working less than 20 hours per week.

The evidence shows that the Appellant failed to provide the Ministry with a letter confirming his employment, which the Appellant said was full-time, in May 2017. The Ministry had not been able to contact the Appellant to follow-up on his employment details in August 2017, and despite telling his EPBC case manager in May 2017 that he had confirmed employment starting that month, he had failed to give the Contractor a job confirmation letter after being asked to provide one. In his Notice of Appeal dated October 23, 2017, the Appellant acknowledged that he has not been working, although he does not specify any periods of employment, whether full or part-time, and when he last worked.

Furthermore, the Panel notes that the Appellant did not provide any evidence to show that he did comply with the conditions set out in the EP, as argued in his Notice of Appeal. Therefore the Panel finds that the Ministry reasonably determined that the Appellant did not complete all tasks given to him in the EP.

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 EP.

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 IA 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 Ministry's reconsideration decision.