

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the ministry) reconsideration decision of October 24, 2017 in which the ministry determined that the appellant was ineligible for income assistance (IA) because he had not complied with the terms of his employment plan (EP), specifically because he failed to demonstrate reasonable efforts to participate in the employment program as required by Section 9 (4) of the Employment and Assistance Act (EAA).

PART D – RELEVANT LEGISLATION

Employment and Assistance Act (EAA), Sections 9 (1), (3) and (4)

PART E – SUMMARY OF FACTS

The appellant did not attend the hearing. After confirming that he had been notified the hearing proceeded under Section 86(b) of the EAA.

The appellant has been a recipient of IA as a single parent with 2 dependent children.

The information before the ministry at reconsideration included the following:

- EP covering the period from August 30, 2016 to August 30, 2018, signed by the appellant on August 31, 2016 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:
 - meet with an Employment Program of BC (EPBC) contractor on or before September 6, 2016;
 - complete all tasks assigned, including any actions set out in his EPBC Action Plan;
 - call his EPBC contractor if he could not take part in services or complete steps to which he had agreed;
 - call his EPBC contractor when he found work; and
 - contact EPBC within 1 week of moving to ask his EPBC contractor to transfer his file.

- appellant's Request for Reconsideration received by the ministry on October 23, 2017 in which the appellant cited the following reasons for requesting reconsideration:
 - on or about June 29, 2017 he had to go out of town to attend a funeral;
 - he emailed his EPBC worker to advise of his absence and his worker was aware of it;
 - he believes he mentioned that he would contact the worker upon his return;
 - he doesn't have a copy of the email and now has a new email address;
 - although he failed to attend his July 14, 2017 appointment he did not think he needed to contact his worker because he had an appointment date;
 - he returned home on or about July 25, 2017.

- July 27, 2017 letter from the ministry to the appellant informing him that his August 23, 2017 IA cheque would be held at the ministry office pending EP review to determine ongoing eligibility for IA;

- August 2, 2017 Crisis Supplement Request (clothing) in which the appellant noted that his children had visited their mother for one month and had returned without clothing;

- July 12, 2016 Employment and Assistance Appeal Tribunal decision concerning the appellant's failure to demonstrate reasonable efforts to participate in a 2015 EP.

On October 25, 2017 the appellant filed a Notice of Appeal in which he noted that he had been attending his EPBC appointments with his job coach and had been looking for work. He added that he has held 2 jobs with the assistance of EPBC.

The ministry relied on the reconsideration decision.

PART F – REASONS FOR PANEL DECISION

The issue under appeal is the reasonableness of the ministry decision of October 24, 2017 in which the ministry determined that the appellant was ineligible for income assistance (IA) because he had not complied with the terms of his employment plan (EP), specifically because he failed to demonstrate reasonable efforts to participate in the employment program as required by Section 9 (4) of the Employment and Assistance Act (EAA).

Relevant legislation:

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 argues that he made reasonable efforts to participate in his EP but was unable to attend appointments in July 2017 because he was out of town for a period of 1 month to attend a funeral. He further argues that he emailed his EPBC worker to inform him or her of his absence and to advise that he would contact the worker upon his return.

The ministry's position is set out in the reconsideration decision, summarized as follows:

- the appellant signed his most recent EP on August 31, 2016 and confirmed that he understood and agreed to the conditions of the EP and was aware that failure to comply with the terms and conditions of his EP would result in his ineligibility for IA;
- the appellant did not make contact with his case manager during the period June 27 - July 25, 2017. During this period EPBC reported that the appellant missed his July 14, 2017 appointment with his EPBC contractor. EPBC recorded the following attempts to contact the appellant:
 - July 14, 2017 – appellant did not respond to an EPBC email requesting contact;
 - July 19, 2017 – appellant did not respond to a voicemail message left by EPBC asking him to contact his case manager;
 - July 21, 2017 – appellant did not respond to a second EPBC email requesting that he make contact.
- on July 25, 2017 EPBC reported to the ministry that the appellant had not made contact since June 27, 2017;
- on July 27, 2017 the ministry sent a letter to the appellant advising that his next IA cheque would be sent to the local office to ensure that EP-related discussions would take place prior to release of the cheque;
- on August 23, 2017 the appellant contacted the ministry and was reminded that he had been denied assistance in May 2016 for failure to comply with the conditions of his EP. The appellant confirmed that he understood the consequences of non-compliance and told the ministry worker that he did not contact EPBC or respond to emails and voicemail messages as both his children were sick for 2 ½ weeks in July and he did not have appropriate daycare. Upon being reminded that he had previously informed the ministry that his children were with their mother in July the appellant amended his explanation by stating that the children had actually been sick in August. When asked why he had not made contact with EPBC during

July or responded to their email and voicemail requests for contact the appellant stated that he had been away on a camping trip. The ministry worker advised the appellant that he was not eligible for further IA;

- on September 11, 2017 EPBC reported that the appellant had signed an Action Plan on September 8th in which he declared that he would contact EPBC within 3 business days to reschedule. He did not attend his scheduled August 30th meeting or September 6th workshop. He also did not respond to messages left on August 30th and September 6th requesting that he make contact;
- in his request for reconsideration submitted October 23, 2017 the appellant provided new information that he had emailed his EPBC worker to advise that he was out of town between June 29, 2017 and July 25, 2017 to attend a funeral. He did not think that he was required to make further contact until he returned.

Panel Decision

Pursuant to EAA Section 9 (1) a recipient of income assistance must comply with the conditions of an EP in order to be eligible for assistance. 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 evidence indicates that in November 2015 the appellant entered into an EP in and 6 months later was denied IA because he failed to demonstrate reasonable efforts to comply with the conditions of that plan. His IA was reinstated and on August 31, 2016 he entered into a new EP. He again acknowledged that he had read, understood and agreed to the conditions of the new EP. The conditions included the following clause: "You must call your EPBC contractor if you cannot take part in services or complete steps that you agreed to".

The evidence indicates that the appellant failed to attend a scheduled appointment on July 14, 2017 and did not notify EPBC that he was unable to attend. He also failed to respond to the following messages from EPBC requesting contact:

- July 14/17 (email)
- July 19/17 (voicemail message)
- July 21/17 (email)

The appellant provided several explanations as to why he was unable to attend his appointment or contact his worker. First he explained that his children had been sick for 2 ½ weeks in July. When a ministry worker pointed out that he submitted a Crisis Supplement Request on the basis that his children had been with their mother for the month of July he stated that his children had actually fallen sick in August. He then explained that he had been unable to contact EPBC in July because he had gone camping. Finally in his Request for Reconsideration he offered the explanation that he left town on or about June 29, 2017 to attend a funeral and did not return until on or about July 25th.

In his Request for Reconsideration the appellant also asserted that he had sent an email to his EPBC worker informing him that he would be out of town attending a funeral and would contact his EPBC worker upon his return. Neither the appellant nor the EPBC has a record of this email notification and there is nothing in the ministry file to indicate that he informed a ministry worker of this email prior to submitting his Request for Reconsideration.

Given the appellant's three conflicting explanations as to his whereabouts in July and the undocumented email notification it is difficult to accept the appellant's evidence as credible. The panel therefore finds that the ministry reasonably determined that the appellant failed to attend his scheduled appointment on July 14, 2017 and failed to contact his EPBC contractor when he was unable to attend.

The panel also finds that the ministry reasonably determined that the appellant's failure to maintain contact with his EPBC contractor between June 27 – July 25, 2017 constituted a failure to demonstrate reasonable efforts to participate in his EP as required by EAA Section 9 (4)(a) and a breach of a condition of his EP. The panel further finds that the ministry reasonably determined that the appellant became ineligible for IA because he failed to comply with the conditions of his EP as required by EAA Section 9 (1)(b).

Conclusion

Having reviewed the evidence and relevant legislation the panel finds that the ministry's reconsideration decision which determined that the appellant was ineligible for IA because he failed to make reasonable efforts to comply with the conditions of his EP was reasonably supported by the evidence, and confirms the decision. The appellant is not successful in his appeal.