

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Social Innovation (the “Ministry”) reconsideration decision dated March 14, 2018 which held that the appellant was not eligible for income assistance because he did not comply with the conditions of his employment plan pursuant to s.9(1)(b) of the Employment and Assistance Act (“EAA”). Further, as the appellant was participating in a specific employment-related program (the “Program”), the Ministry also found that the appellant failed to demonstrate reasonable efforts to participate in the Program pursuant to s.9(4)(a) EAA and that the appellant did not demonstrate medical reasons for ceasing to participate in the program pursuant to s.9(4)(b).

PART D – RELEVANT LEGISLATION

s. 9 Employment and Assistance Act (“EAA”)

PART E – SUMMARY OF FACTS

The evidence before the Ministry at reconsideration was:

- The appellant is a sole recipient of income assistance whose file was opened on December 18, 2017
- On December 20, 2017 the appellant signed an employment plan ("EP") in which he agreed to work with a private Work BC contractor for the Employment Program of BC ("EPBC")
- In the EP the appellant acknowledged in writing that failing to comply with the conditions set out in his EP would result in the discontinuance of income assistance
- On January 3, 2018 EPBC reported to the Ministry that the appellant was not participating in the Program and specifically that the appellant did not attend a December 20, 2017 appointment at EPBC. The appellant attended at EPBC on December 21, 2018 and booked an orientation appointment for January 3, 2018 which he also failed to attend.
- The Ministry spoke with the appellant on January 2, 2018 and advised the appellant that he must participate in the EPBC. The Ministry advised the appellant the consequences for not doing so and that if the appellant is not able to participate he would need to submit confirmation of the circumstances that are preventing him from attending. The appellant acknowledged his responsibilities and advised the Ministry that he did not have a ride to attend the appointment and that he also forgot about it because of the holidays.
- The appellant attended at EPBC for orientation on January 19, 2018 and scheduled an appointment for January 29, 2018.
- EPBC reported to the Ministry that the appellant missed his January 29, 2018 appointment. The Ministry attempted to call the appellant and mailed him a letter to advise the appellant that his march income assistance would have a hold placed on it.
- On February 21, 2018 the Ministry contacted the appellant by telephone to advise him that he was not complying with his EP and was no longer eligible for income assistance. The appellant advised the Ministry that he missed the January 29, 2018 appointment because he had a flood the day before the appointment. The Ministry was informed by EPBC that the appellant did call EPBC on February 15, 2018 to reschedule his appointment.
- The appellant submitted in his request for reconsideration that he is looking for a job on a daily basis and that his grandmother passed away on January 19, 2018 which made him unavailable for one week. The appellant advised that there was snowy weather in February which made it difficult for him to get around because he doesn't have a car and that the stress of potentially losing his house is taking away his focus from looking for work.
- On the original decision the appellant wrote overtop of the missed appointment notations that "it was the worst time of the year I could not get a ride from anyone and live 10km from Work BC"

PART F – REASONS FOR PANEL DECISION

The issue is whether the Ministry's decision to deny the appellant income assistance on the basis that he did not comply with the conditions of his employment plan pursuant to s.9(1)(b) of the Employment and Assistance Act ("EAA"); failed to demonstrate reasonable efforts to participate in the specific employment related program (the "Program") pursuant to s.9(4)(a) EAA; and failed to demonstrate medical reasons for ceasing to participate in the program pursuant to s.9(4)(b) EAA was reasonably supported by the evidence or a reasonable application of the applicable legislation in the circumstances of the appellant.

The 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].

At the hearing the appellant noted that the notice of appeal in the appeal package was darkened and difficult to read. The panel and the appellant reviewed the notice of appeal in the appeal package and agreed that it was difficult to read and noted that there was some faint writing on the notice of appeal that had an arrow and the words "back page". When asked by the panel chair if there was additional information on the notice of appeal that didn't make it to the appeal package, the appellant was not certain but thought there may have been additional writing on his notice of appeal that didn't make it into the appeal package. The appellant confirmed that he did not bring his appeal package to the hearing with him and that any information that he wrote on the notice of appeal would be similar to what was already before the panel. The appellant asked for a miss-trial. The panel chair explained that the appellant could ask for an adjournment of the hearing and that the panel would then rule on that request. The appellant decided that he did not wish to request an adjournment and wished to proceed with the hearing.

The appellant argued that he attended at "Work BC" on numerous occasions and that he only missed one appointment. The appellant later conceded that he missed more than one appointment. He argued that he missed his appointments due to the snow and due to the fact that he did not have a vehicle to attend at the Work BC office which was 10 km from his home. The appellant did not make further submissions on the death of his grandmother or the flood in his home.

The Ministry relied on their reconsideration decision and clarified to the panel and the appellant that the private Work BC contractor is the same as EPBC and that a client is under an EP, anytime they attend the EPBC (which can also go by the name Work BC or the private contracting company) the Ministry's arrangement is that EPBC advises the Ministry of the client's attendance.

The panel accepts the evidence before the Ministry at reconsideration that the appellant missed three appointments at EPBC being appointments on December 20, 2017 January 3, 2018 and January 29, 2018. The appellant's reasons for missing the appointments at the hearing was that the weather made it difficult for him to get to the office. However, the panel finds that the appellant's written evidence about snowy weather was that the snowy weather primarily took place in February. Further, the appellant stated that he was 10km from EPBC but did not provide information as to how he was able to travel there on two other occasions to book appointments (being December 21, 2018 to and January 19, 2018). The appellant did not provide maps of distances or information about public transit to support his assertion that he was not able to attend the offices due to the distance. Further, the appellant knowingly entered into the EP being aware that he would need to attend EPBC when required. The Ministry reminded the appellant on January 3, 2018 of the consequences in not following through with his EP and that if he had special circumstances for not being able to attend the appointments he could provide those circumstances to the Ministry in writing. The appellant did not provide any information detailing special circumstances for not being able to attend the appointments. When the appellant missed his last appointment on January 29, 2018, although he was dealing with a flood and the death of his grandmother, he failed to even call EPBC to reschedule the appointment until February 15, 2018.

For these reasons the panel finds the Ministry's decision to deny the appellant income assistance on the basis that the appellant did not comply with his EP; failed to demonstrate reasonable efforts to participate in the Program; and did not demonstrate medical reasons for ceasing to participate in Program was a decision that was reasonably supported by the evidence and confirms the Ministry's decision.