

**PART C – DECISION UNDER APPEAL**

The decision under appeal is the Ministry of Social Development and Poverty Reduction (“the ministry”) reconsideration decision of March 20, 2018 in which the ministry determined that the appellant was ineligible for income assistance (IA) because he failed to comply with the conditions of his employment plan (EP) as required by Section 9 (1) of the Employment and Assistance Act.

**PART D – RELEVANT LEGISLATION**

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

## **PART E – SUMMARY OF FACTS**

The information before the ministry at reconsideration included the following:

- EP covering the period from October 27, 2017 – October 31, 2018, signed by the appellant on December 20, 2017 in which the appellant acknowledged that failure to comply with the conditions of his EP would render him ineligible for IA, and in which he agreed to:
  - participate fully and to the best of his ability in activities required by the ministry or service provider (“EPBC”);
  - attend the program regularly;
  - notify his EPBC case manager immediately if unable to attend;
  - attend regular review appointments with the ministry;
  - provide the ministry with an updated copy of his Action Plan by December 31, 2017;
  - report all changes in his Action Plan or participation with EPBC as they occurred;
  - report all monies received;
  - update the ministry on his progress every 90 days;
  - contact the ministry if he applies for full time studies; and
  - contact the ministry if he stopped participating in the programs and services provided by EPBC.
- note of appellant’s appointment with his EPBC case manager on March 1, 2018;
- appellant’s signed EP for the period November 14, 2016 to November 14, 2017;
- EP-related letters from the ministry to the appellant, summarized as follows:
  - November 14, 2016 request that the appellant return a new EP to the ministry with his signature and reminding him that failure to comply with the EP would result in his ineligibility for IA;
  - March 30, 2017 letter advising appellant that because he had failed to attend a previously scheduled EP review interview his assistance cheque was being held, pending EP review with the ministry and directing the appellant to follow through with meeting his case manager;
  - August 30, 2017 letter advising appellant that his September assistance cheque was being held due to appellant’s failure to maintain contact with his case manager, and requiring him to make contact with the case manager and submit a current Action Plan to the ministry;
  - November 29, 2017 letter advising appellant that his December assistance cheque would be held until he submitted a new signed EP, and noting that failure to comply with the EP would result in ineligibility for IA;
  - February 14, 2018 letter advising appellant that his March assistance cheque would be held and a decision regarding ongoing eligibility for IA would be determined because:
    - he has not yet submitted a signed Action Plan;
    - he had not yet presented an account of his EP-related activities for January and February 2018.
- appellant’s Request for Reconsideration submitted to the ministry on March 7, 2018 in which the appellant stated that he was doing his best to look for work but had to help his former spouse (“P”) with the care of their children because she was ill and in hospital. He has no money and whatever money he makes goes toward child support.
- February 24, 2018 letter from P stating that the appellant had missed his appointment with the ministry for an EP review because he had been caring for their children as she had been in and out of hospital for the past 3 months.

### **Information Received after Reconsideration**

The appellant submitted a Notice of Appeal dated March 22, 2018 with the following attachments:

- P’s “Medical Report – Employability” containing diagnoses of two severe and significant medical conditions, signed by P’s general practitioner on March 22, 2018;
- March 8, 2018 letter from the appellant’s neighbour confirming that the appellant cared for P’s children while P was in hospital.

In its April 30, 2018 submission the ministry did not object to the admission of either Document 1 or 2. The panel admitted Documents 1 and 2 under EAA Section 22 (4) as evidence in support of the information before the ministry at reconsideration because they did not constitute new information and both documents added additional details to the appellant’s evidence that he was helping to care for P’s children during the period November 2017 to February 2018.

## PART F – REASONS FOR PANEL DECISION

The issue under appeal is the reasonableness of the ministry decision of March 20, 2018 in which the ministry determined that the appellant was ineligible for IA because he failed to comply with the conditions of his EP as required by Section 9 (1) of the 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 was unable to attend meetings with his case worker and submit documentation requested by the ministry because he had to care for P's children while P was in hospital.

In its submission dated May 1, 2018 the ministry relies on the reconsideration decision, which determined that the appellant is ineligible for IA due to repeated non-compliance with his EP as required by EAA Section 9. In particular the ministry determined appellant has not demonstrated reasonable efforts to participate in the employment program, specifically:

- the appellant failed to return his November 29, 2017 EP within 2 weeks as directed by the ministry;
- in signing his December 20, 2017 EP the appellant agreed to actively participate in the employment program named in the EP, as directed by the service provider contracted by EPBC;
- the appellant failed to submit a copy of his Action Plan and an account of his employment-related activities during the months of January and February 2018;
- on February 27, 2018 a ministry worker spoke to the appellant about his current and past episodes of non-compliance with his EP.

### Panel Decision

Pursuant to EAA Subsection 9 (1) a recipient of income assistance must comply with the conditions of an EP in order to be eligible for assistance. Subsection 9 (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 on December 20, 2017 the appellant signed an EP in which he agreed to:

1. participate fully and to the best of his ability in activities required by the ministry or ("EPBC");
2. attend the employment program regularly, notify his case manager if unable to attend;
3. provide a copy of his Action Plan to the ministry by December 31, 2017; and
4. report all changes to his Action Plan or participation with EPBC as they occurred.

In signing the EP the appellant also specifically acknowledged his understanding that compliance with the terms of his EP was a condition of his eligibility for IA, and failure to comply with the conditions of the EP would result in ineligibility for IA.

The evidence indicates that the appellant failed to comply with any of the EP conditions 1-4 listed above. The appellant does not dispute that he failed to participate fully, attend regularly, notify his case manager if unable to attend, submit his Action Plan to the ministry or report changes to his participation with his EPBC service provider. He argues that he was unable to comply with the terms of his EP because he was caring for his children while their mother P was ill and in hospital. It is understandable that the appellant would find it difficult. The appellant's position is that he was not able to carry out his Action Plan and attend regularly with his case manager while he was in charge of young children. However there is no evidence that the appellant made any attempt to contact either his EPBC case manager or the ministry to explain his change in circumstances until February 23, 2018. The evidence also indicates that the ministry withheld the appellant's assistance cheque on several occasions since November 14, 2016 because of the appellant's failure to comply with the conditions of his EP, and repeatedly warned the appellant that failure to comply with his EP will result in his ineligibility for IA. Accordingly the appellant knew or should have known that failure to comply with the conditions of his EP to participate in his employment program or communicate with his EPBC case manager would result in loss of eligibility for IA.

The panel therefore finds that the ministry reasonably determined that the appellant's failure to maintain contact with his EPBC case manager and participate in his employment program between December 30, 2017 and February 28, 2018 constituted a failure to demonstrate reasonable efforts to participate in his employment program as required by EAA Section 9 (4)(a) and a breach of the conditions of his EP. The panel further finds that pursuant to EAA Section 9 (1) (b) the ministry reasonably determined that the appellant became ineligible for IA because he failed to comply with the conditions of his EP.

#### Conclusion

The panel finds that the ministry's reconsideration decision which determined that the appellant was ineligible for assistance 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.