

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction's (the ministry) reconsideration decision dated May 14, 2018 which found the appellant ceased to be eligible for income assistance for failure to comply with the terms and conditions of his employment plan as required by section 9(1)(b) of the *Employment and Assistance Act (EAA)* because the appellant failed to demonstrate reasonable efforts to participate in an employment related program (the "Program") as required by section 9(4) of the EAA.

PART D – RELEVANT LEGISLATION

EAA section 9

PART E – SUMMARY OF FACTS

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

- Employment Plan signed by the appellant September 6, 2017 (EP)
- Letter from the ministry to the appellant dated March 26, 2018 advising that as he had not complied with the EP he was no longer eligible for income assistance
- The appellant's Job Search Record from November 20, 2017 to February 8, 2018
- Shelter information form dated April 27, 2018 indicating that the appellant had found shelter of \$600 per month and that a security deposit of \$300 was required
- The appellant's Request for Reconsideration ("RFR") form dated April 30, 2018 in which the appellant states that he continued his job search from February to April 2018, found a suitable living arrangement apartment, that his vehicle broke down, and he was requesting income assistance for May 2018 to secure shelter and support. The appellant also states that he found a job starting May 7 or 10, 2018

The Notice of Appeal dated May 15, 2018 indicates that the appellant found a job, but due to a cheque not being printed in time and the job search program denying him a gas voucher to go to work at 5 am, he did not have the gas money to get to work, so he lost the job.

The appellant did not attend the hearing. Having confirmed that the appellant was notified of the hearing, the panel proceeded with the hearing pursuant to section 86(b) of the *Employment and Assistance Regulation*.

The ministry relied on the reconsideration decision.

Admissibility of New Information

The panel has admitted the information in the appellant's Notice of Appeal as it is information in support of the information and records that were before the ministry at the time of reconsideration, in accordance with section 22(4) of the EAA. In particular, the information in the Notice of Appeal supports the information regarding the appellant's job search, job and information in the RFR regarding his vehicle breakdown.

PART F – REASONS FOR PANEL DECISION

Issue on Appeal

The issue to be determined at appeal is whether the ministry reasonably concluded that the appellant ceased to be eligible for income assistance for failure to comply with the terms and conditions of the EP plan as required by section 9(1)(b) of the EAA because he failed to demonstrate reasonable efforts to participate in the Program as required by section 9(4) of the EAA.

The relevant sections of the EAA are 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.

(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.

(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 appellant's position as set out in the RFR and the Job Search Record is that he has been actively participating in a job search, that he had found a job starting May 7 or 10, 2018, that his vehicle had broken down, and he needed assistance for May 2018 to secure shelter and to provide support until he began his new job.

The ministry's position, as set out in the reconsideration decision, is that although the appellant did provide evidence of an active job search over the last few months, the appellant had not been actively participating in the Program, as the Employment Program of BC (EPBC) contractor reported that the appellant had not been keeping in contact with the Program as required. The reconsideration decision states that it is unclear if the appellant had begun participating in the Program on September 12, 2017 as required, but based on the non-compliance reports from EPBC, the appellant was not making reasonable efforts to connect with the Program and as of March 14, 2018 had missed the last four appointments.

The ministry's position is that the appellant has not demonstrated that he has been making reasonable efforts to participate in the Program; therefore he has been non-compliant with the EP. The ministry's position is that as the appellant did not stop participating due to a medical condition, his family unit is no longer eligible for income assistance due to his non-compliance with the EP.

Panel Decision

The panel finds that the appellant was aware of the conditions of the EP, including that he was required to meet with the EPBC contractor on or before September 17, 2018 and take part in the Program activities as agreed with the EPBC contractor. The evidence established that the appellant completed the Job Search Record from November 8, 2017 to February 8, 2018, that he continued his job search in April and found a job that was starting May 7 or 10, 2018. However, there is no evidence to indicate that he met with the EPBC contractor on or before September 12, 2017 as required and EPBC advised the ministry that as of March 14, 2018 the appellant had missed the last four appointments.

The panel finds that the evidence does not establish that the appellant made reasonable efforts to comply with the requirements of the EPP as required by Section 9(4) of the EAA and there is no information to indicate that the appellant stopped participating in the Program due to a medical condition.

The panel finds that the ministry's decision that the appellant ceased to be eligible for income assistance for failing to comply with the terms and conditions of the EP as required by Section 9 of the EAA was reasonably supported by the evidence and was a reasonable application of the legislation in the circumstances of the appellant.

The panel therefore confirms the ministry's reconsideration decision.

PART G – ORDER

THE PANEL DECISION IS: (Check one)

 UNANIMOUS BY MAJORITY

THE PANEL

 CONFIRMS THE MINISTRY DECISION RESCINDS THE MINISTRY DECISION

If the ministry decision is rescinded, is the panel decision referred back to the Minister
for a decision as to amount? Yes No

LEGISLATIVE AUTHORITY FOR THE DECISION:*Employment and Assistance Act*Section 24(1)(a) or Section 24(1)(b)

and

Section 24(2)(a) or Section 24(2)(b) **PART H – SIGNATURES**

PRINT NAME

Helene Walford

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2018/07/10

PRINT NAME

Deborah Kinnear

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2018/07/10

PRINT NAME

Mel Donhauser

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2018/07/10