

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the “Ministry”) Reconsideration Decision of July 24, 2018 in which the Ministry denied 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 evidence before the ministry at the time of reconsideration consisted of the following:

- EP with a term of March 19, 2018 to March 18, 2020, signed by the Appellant on March 20, 2018, 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:
 - To meet with the designated EP of British Columbia (EPBC) contractor (the “Contractor”) on or before March 23, 2018;
 - To take part in EPBC program activities as agreed to with the Contractor;
 - To complete all tasks given to him, including any actions set out in the EPBC Action Plan (AP); and
 - To 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.

- Request for Reconsideration form completed by the Ministry and signed by the Appellant on July 10, 2018, which outlines the Ministry’s and the Contractor’s record of contacts with the Appellant as follows:
 - **March 22, 2018** – The Contractor reported to the Ministry that they sent the Appellant a letter informing him of a booked appointment for March 29, 2018;
 - **March 29, 2018** – The Contractor reported to the Ministry that the Appellant did not show up for his booked appointment on that date, and on the same date the Ministry sent the Appellant a letter via the My Self Serve online access system (MYSS) stating that he had to meet with the Contractor or his next IA benefit cheque would be signalled and held;
 - **April 30, 2018** – The Contractor reported to the Ministry that the Appellant’s case had been closed due to no contact, following which the Ministry “signalled (the Appellant’s) June 2018 IA cheque” to require that he and his spouse “attend” the Contractor by June 18, 2018;
 - **May 23, 2018** – The Appellant contacted the Ministry and left a voice mail saying that he had no contact number;
 - **May 24, 2018** – The Appellant and his spouse contacted the Ministry to say that they were unable to meet with the Contractor because they did not have transportation and that they did not have a phone. The Ministry informed the Appellant that he and his spouse had to attend meetings with the Contractor to be eligible for IA;
 - **May 29, 2018** – The Contractor notified the Ministry that the Appellant had failed to attend a scheduled appointment. A sanction was placed on the Appellant’s file and he did not receive the next IA payment;
 - **May 30, 2018** – The Ministry sent a letter to the Appellant advising him that he would not be receiving his June 2018 IA; a letter was mailed to the Appellant because the Ministry had been unable to notify the Appellant of this by phone or via MYSS;
 - **July 5, 2018** – The Appellant contacted the Ministry to say that he had been meeting with the Contractor and that he had submitted a medical note to the Contractor which had excused him from completing a job search, and he wanted to know why he had been denied IA. The Ministry told the Appellant that he was required to provide the medical note to the Ministry too, that he had made no effort to communicate with the Ministry in person, by phone or by mail, and that he had not shown up for any Contractor appointments except for one on June 7, 2018.

The Appellant stated in his reason for the Request for Reconsideration that he felt he had legitimate reasons for not attending the EPBC program: he had an injury to his finger which he thought would exempt him from the need to search for work, that he had “brought (in) the doctor’s note”, and because he did not have a phone.

Ministry letter dated May 4, 2018 notifying the Appellant that his May 2018 IA benefit would be held by the Ministry until an EP review was completed; and

- June 7, 2018 or July 6, 2018 medical note prepared by a hospital in the Appellant's community in the name of the Appellant, addressed "To Whom It May Concern", indicating that the Appellant could return to regular work duties on either June 9, 2018 or September 6, 2018. (The dates on the note are expressed as "7/6/18" and "9/6/18" respectively.)

Additional Information

In his Notice of Appeal, dated August 3, 2018, the Appellant provided the same reason for appealing the reconsideration decision that he had provided in his request for reconsideration.

At the hearing, the Appellant relied on the reasons he had provided in his request for reconsideration, emphasizing that he had an injury to his finger which he thought would exempt him from the need to search for work and that in addition there have recently been three deaths in his family and he had rolled his car over in early July 2018. The Appellant was not able to confirm whether the medical note was signed on June 7, 2018 or July 6, 2018 but stated that he thought he had provided a copy to the Contractor in June.

At the hearing, the Ministry relied on its reconsideration decision and stated that the injury suffered to the Appellant's finger happened after the Ministry made its initial decision to deny him IA due to non-compliance with the conditions of his EP and that in any event the injury would not have prevented him from meeting with the Contractor. The Ministry also explained that, despite the hand injury, other activities leading to employment, such as the development of an AP, could still proceed.

No new evidence was presented by either party at the hearing.

PART F – REASONS FOR PANEL DECISION

The issue under appeal is the reasonableness of the Ministry's Reconsideration Decision of July 24, 2018 which denied 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 ... recipient ... 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 Appellant's position is that a number of factors, including an injury to his hand and the fact that he didn't have a car or a phone, resulted in him not being able to attend his appointments with the Contractor. He also asked that he be given another chance.

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 of the EAA provides that, when the Ministry requires a person to enter into an EP, that person must comply with the conditions in the EP in order to be eligible for IA. The evidence shows that the Appellant signed an EP on March 20, 2018 and agreed to the following conditions: that he would 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 an AP.

The Panel notes that the Appellant was reminded of the requirement to meet with the Contractor on at least three separate occasions between March 20, 2018 and June 18, 2018, that he did not attend scheduled appointments with the Contractor on March 29, 2018 or on or about May 29, 2018, and that

the Appellant did not deny that he had been contacted by the Ministry and reminded of the requirements set out in his EP.

The Panel 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 further notes that the Doctor's note eventually provided to the Ministry, dated either June 7, 2018 or July 6, 2018, was signed several months after March 23, 2018, the date by which the Appellant was initially required to meet with the Contractor. Finally, the Panel notes that the Ministry confirmed at the hearing that there are a number of job seeking activities which could have been completed in March and April 2018, which in any event was before the Appellant injured his hand in either June or July of 2018.

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 of the EAA, was a reasonable application of the legislation in the circumstances of the Appellant, and therefore confirms the Ministry's decision. The Appellant is not successful in his appeal.

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

Simon Clews

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2018/08/27

PRINT NAME

Laurie Kent

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2018/08/27

PRINT NAME

Wayne Reeves

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2018/08/27