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**PART C – DECISION UNDER APPEAL**

The decision under appeal is the Ministry of Social Development and Poverty Reduction (ministry) reconsideration decision dated October 24, 2018, which determined that the appellant was not eligible for income assistance as the eligibility requirements set out in section 9 (1) and (4) of the *Employment and Assistance Act* (EAA) were not met.

Specifically, the ministry determined that the appellant failed to comply with the conditions of his Employment Plan (EP), as he did not demonstrate that he made reasonable efforts to participate in the program, which is a requirement under section 9 (4) of the EAA.

**PART D – RELEVANT LEGISLATION**

*Employment and Assistance Act* (EAA), sections 4, 7 and 9.

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## **PART E – SUMMARY OF FACTS**

### **Relevant Evidence Before the Minister at Reconsideration**

#### April 16, 2018 – Employment Plan (April 13, 2018 – April 12, 2020)

- The purpose of the Employment Plan (EP) is to outline the activities and expectations for the appellant to find employment or become more employable.
- If the appellant is unable to follow through with the conditions of his EP, he is to advise the ministry. If the appellant fails to comply with his EP, he will be ineligible for assistance.

#### *Conditions of the Plan - Details*

- The appellant must meet with the EPBC (Employment Program of British Columbia) contractor on or before April 27, 2018 and take part in program activities agreed to with the contractor. The appellant must call the EPBC contractor if he cannot take part in services or complete steps agreed to.

#### *Acknowledgement*

- The appellant signed his EP on April 16, 2018 acknowledging that his EP is a condition of eligibility and that he will comply with the conditions set out in the plan.

#### September 6, 2018 – Letter from the ministry to the appellant

- Advising the appellant that the next income assistance cheque issue day was September 26, 2018 and that his cheque would be held at the office because an EP review was required.
- Advising the appellant that he must ensure he is in compliance with his EP, and that he is required to follow through with his case manager. To date, the appellant has failed to do so. Therefore, his eligibility is now in question.
- Asking the appellant to contact his ministry office.

#### October 15, 2018 – Request for Reconsideration

The appellant states he is currently awaiting trial and is out on bail. On the day of his appointment with Work BC, the appellant said he had a job interview and therefore missed his appointment. The appellant advised that he didn't get the job because he was out on bail. The appellant stated that because his court date was on September 24, 2018, he never re-booked the appointment with Work BC because of possible jail time. Also, he recently injured his leg and was unable to walk.

#### Ministry records show:

- The appellant is a sole recipient of income assistance – file has been open since April 13, 2018.
- On April 27, 2018 the EPBC contractor reported that despite a phone call (April 18, 2018), email (April 18, 2018) and letter mailed to the appellant (April 23, 2018), he had not connected with them.
- On May 24, 2018 the appellant advised he thought a company had hired him but it did not work out. The ministry advised that in order to be eligible for income assistance, he must attend all EP appointments and participate to the best of his ability.
- On May 25, 2018 the appellant provided confirmation that he booked an appointment on June 5 with EPBC and his June assistance was released to him.
- On June 11, 2018 EPBC reported that the appellant did not attend the June 5 appointment and has made no contact.  
On June 29, 2018 the appellant advised he worked for two days and thought it would be full time but it did not work out. The ministry worker again discussed the importance of complying with the terms of his EP. The appellant was advised that his August assistance would be held to ensure he connected with EPBC. The appellant provided confirmation that he scheduled an appointment on July 27, 2018 and his cheque was released to him.

- On July 30, 2018 the appellant provided confirmation that he attended his appointment on July 27 and his August assistance was released to him.
- On September 4, 2018 EPBC advised the appellant missed an appointment on August 21 and they have been unable to reach him despite repeated calls to his home and cell phone on August 21, 22, 28 and 29.
- On October 1, 2018 the appellant advised he was out on bail awaiting trial on November 19. He had been looking for work but no one will hire him when he discloses to employers that he is out on bail. The ministry worker determined that being on bail did not prevent him from being able to attend EPBC appointments and, as such, he has failed to demonstrate reasonable efforts to participate in the program. The appellant was denied income assistance for failing to comply with the conditions of his EP.

## **Additional Information**

### **Appellant**

At the hearing, the appellant stated that he tried to follow the conditions of his EP but has had so much on his plate - he could possibly be going to jail for 36 months. The appellant also advised that he is not computer savvy and that his friend helped him retrieve some of his emails. When he missed appointments, he didn't call anyone because he didn't have a phone. The appellant stated that once he realized he had an appointment with EPBC, he did call. However, his worker was on holidays. He advised that while he signs papers (i.e. EP), he doesn't read them. The appellant also stated that while he hurt his leg and could get a letter from a doctor confirming this injury, he didn't think it was necessary to do so. The appellant advised that he would rather be working. He also apologized for being rude when he spoke with the worker on the phone.

### October 29, 2018 - Notice of Appeal

The appellant is out on bail and every time he has a job interview and tells them about bail, they don't hire him.

### **Ministry**

At the hearing, the ministry stated that despite numerous attempts to contact the appellant, he attended only one appointment (on July 27, 2018). At this appointment, the ministry stated that the worker would have given the appellant a card, with his next appointment written on it. The ministry acknowledged the appellant's barriers to employment and explained that the focus of an EP is often not to secure employment directly through EPBC based on job referrals but to attend customized activities of the EP (e.g. resume writing, developing interview skills, etc.) which would, ultimately, lead to securing employment for the participant. What is important is that the appellant is in contact with the EPBC so that assistance may be provided which will help address any employment barriers identified by the appellant.

The ministry also stated that it has no medical or bail order information on file. The ministry advised that any medical or bail information received would be considered and a revised EP reflecting this new information could be created if necessary.

The panel considered the above additional information at the hearing and in the Notice of Appeal as information in support of the information before the ministry at reconsideration and admitted it under section 22 of the EAA.

## PART F – REASONS FOR PANEL DECISION

The issue is whether the ministry's reconsideration decision dated October 24, 2018, which determined that the appellant was not eligible for income assistance, as the eligibility requirements set out in section 9 (1) and (4) of the *Employment and Assistance Act* were not met, was reasonably supported by the evidence or was a reasonable application of the legislation in the appellant's circumstances.

Specifically, did the ministry reasonably determine that the appellant did not make reasonable efforts to participate in the employment program?

The legislation provides:

### Employment and Assistance Act

#### **Income assistance and supplements**

**4** Subject to the regulations, the minister may provide income assistance or a supplement to or for a family unit that is eligible for it.

#### **Employment-related programs**

**7** The minister may establish or fund employment-related programs for applicants, recipients or dependent youths who have difficulty finding or maintaining employment.

#### **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.

...

(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.

...

### **Appellant Position**

The appellant argues that he would rather be working but when he tells employers he is out on bail, they will not hire him. He had a lot on his plate including the possibility that he could be going to jail for 36 months. He tried to follow the conditions outlined in his EP. However, he does not have a phone and he is not computer savvy. As well, he hurt his leg and had difficulty walking.

### **Ministry Position**

The ministry argues that the appellant signed an EP on April 16, 2018 and failed to comply with the conditions of this EP. While numerous attempts were made to contact the appellant by email, phone, and written correspondence, he attended only one appointment (on July 27, 2018). The ministry also stated that it has not received any medical or bail order information that would support the appellant's reasons for not participating in the EP program.

Section 4 of the EAA states, "...the minister may provide income assistance...to or for a family unit that is eligible for it." Ministry records show that the appellant is a sole recipient of income assistance. His file has been open since April 13, 2018.

Section 7 of the EAA states, "The minister may establish or fund employment-related programs for...recipients...who have difficulty finding or maintaining employment." The EP signed by the appellant on April 16, 2018 outlines the activities and expectations to find employment or become more employable.

Section 9 (1) of the EAA states that in order "to be eligible for income assistance...each recipient...when required to do so by the minister, must... (b) comply with the conditions in the employment plan." and

Section 9 (4) states, "If an employment plan includes a condition requiring ...a recipient...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 EP signed April 16, 2018 states that if the appellant is unable to follow through, he is to advise the ministry and if he fails to comply with his EP he will be ineligible for assistance. As well, the "Conditions of the Plan" state that the appellant must meet with the EPBC contractor on or before April 27, 2018 and take part in program activities agreed to with the contractor. The EP stipulates that, the appellant must call the EPBC contractor if he cannot take part in services or complete steps agreed to.

Ministry records show:

- On April 27, 2018 the EPBC contractor reported that despite a phone call (April 18, 2018), email (April 18, 2018) and letter mailed to the appellant (April 23, 2018), he had not connected with them.
- On May 24, 2018 the appellant advised he thought a company had hired him but it did not work out. The ministry advised that in order to be eligible for income assistance he must attend all appointments and participate to the best of his ability.
- On May 25, 2018 the appellant provided confirmation that he booked an appointment on June 5 with EPBC.
- On June 11, 2018 the EPBC reported that the appellant did not attend the June 5 appointment and had made no contact.
- On June 29, 2018 the appellant advised he worked for two days and thought it would be full time but it did not work out. The EP worker again discussed the importance of complying with the terms of the EP.
- On July 30, 2018 the appellant provided confirmation that he attended an appointment on July 27, 2018.
- On September 4, 2018 EPBC advised that the appellant missed an appointment on August 21 and they have been unable to reach him despite calls to his home and cell phone on August 21, 22, 28 and 29.
- On October 1, 2018 the appellant advised he was out on bail awaiting trial on November 19 and he had been looking for work but nobody will hire him when he tells employers he is on bail.

Although the panel acknowledges that the appellant is dealing with a number of difficult issues during the time period in question, including the fact that employers may be reluctant to consider him for employment because he is out on bail, the panel finds the appellant has not complied with the conditions in his EP in that he failed to demonstrate reasonable efforts to participate in the program as required

under section 9 (4) (a) of the EAA.

Since the appellant signed his EP on April 16, 2018, he has missed scheduled appointments on April 27, June 5 and August 21, 2018. This occurred even after the EPBC contractor and ministry made various attempts to contact him by phone, email and letter (April 18 and 23, 2018 and August 21, 22, 28 and 29, 2018), and reminded him of his obligation to make contact if he is unable to attend scheduled appointments (May 24, June 29 and September 6, 2018).

As well, the appellant's delay in contacting the ministry and reasons for missing his appointments do not demonstrate a reasonable effort to participate in the employment program.

The appellant was to meet with the EPBC contractor on or before April 27, 2018 and on May 24, 2018 advised he did not attend his appointment because he thought he had found employment, although it did not work out. The appellant then missed a June 5, 2018 appointment and on June 29, 2018 advised he worked for two days and thought it would be full time. On October 1, 2018, the appellant advised he missed his August 21, 2018 appointment because he was out on bail awaiting trial on November 19.

And, although the appellant recently injured his leg, the panel finds this evidence is insufficient to support non-participation in the EP, as required under section 9 (4) (b) of the EAA.

**Conclusion:**

The panel finds that the ministry was reasonable in concluding that the appellant failed to comply with the conditions of his Employment Plan in accordance with section 9 of the EAA.

The panel therefore finds that the ministry's decision to deny the appellant income assistance is reasonably supported by the evidence.

The panel confirms the ministry's reconsideration decision of October 24, 2018. The appellant is not successful with the appeal.

<b>PART G – ORDER</b>	
THE PANEL DECISION IS: (Check one) <input checked="" type="checkbox"/> UNANIMOUS <input type="checkbox"/> BY MAJORITY	
THE PANEL <input checked="" type="checkbox"/> CONFIRMS THE MINISTRY DECISION <input type="checkbox"/> 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? <input type="checkbox"/> Yes <input type="checkbox"/> No	
<b>LEGISLATIVE AUTHORITY FOR THE DECISION:</b>	
<i>Employment and Assistance Act</i>	
Section 24(1)(a) <input checked="" type="checkbox"/> or Section 24(1)(b) <input type="checkbox"/>	
and	
Section 24(2)(a) <input checked="" type="checkbox"/> or Section 24(2)(b) <input type="checkbox"/>	

<b>PART H – SIGNATURES</b>	
PRINT NAME Connie Simonsen	
SIGNATURE OF CHAIR	DATE (YEAR/MONTH/DAY) 2018/November/19

PRINT NAME Susan Ferguson	
SIGNATURE OF MEMBER	DATE (YEAR/MONTH/DAY) 2018/November/19
PRINT NAME Sandra Chan	
SIGNATURE OF MEMBER	DATE (YEAR/MONTH/DAY) 2018/November/19