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PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry's reconsideration decision dated February 20, 2019 which held that the appellant did not meet the legislated criteria in section 9 of the Employment and Assistance Act (EAA) to receive the benefit he had requested. Specifically, that the appellant is not eligible for income assistance due to non compliance with his employment plan (EP).

PART D – RELEVANT LEGISLATION

The relevant legislation pertaining to this appeal is:

Section 9 of the Employment Assistance Act (EAA)

PART E – SUMMARY OF FACTS

The following information was considered by the ministry at the time of the reconsideration decision:

The appellant has received income assistance as a sole recipient.

In June of 2015, the appellant had an EP created for him and began working with an Employment Plan BC (EPBC) sub contractor to assist him in completing the EP. He was informed of and stated he understood the conditions of his EP.

In October 2018 the EPBC reported that he had failed to abide by the EP contract.

On November 1, 2018 his benefits were placed on hold. The appellant then had a new EP created for him on November 14, 2018 at which time he stated that he understood and would comply with the conditions listed in the EP.

On December 7, 2018 EPBC reported that he had failed to attend 3 appointments. On December 11, 2018 his benefits were again placed on hold, pending his attendance at a mandatory meeting scheduled for December 21, 2018.

On December 13, 2018, the EPBC reporting the following information:

- Scheduled appointments on August 4, 2018, November 20 & 21, 2018 were not attended
- On September 12, 2018 the appellant attended a meeting during which it was noted that he had failed to complete any items identified on his Action Plan in 2 years. The appellant failed to schedule further appointments
- EPBC attempted to contact the appellant on October 18, 19, 29, 2018, November 21 and 22, 2018 and December 5, 2018 without success

On December 18, 2018 the appellant was unable to provide the ministry with any mitigating circumstances, including any medical considerations, as to why he had failed to attend and participate in the EPBC program to date. He was reminded of his obligation to attend and participate fully in the EPBC program and that failure to do so would result in the loss of benefits. He stated that he understood these conditions and the ministry cleared the hold on his January 2019 benefits.

On December 21, 2018 the appellant attended his mandatory appointment with EPBC, arriving 25 minutes late. During the meeting, the appellant stated that he attends mandatory appointments only so as not to place his income assistance benefits at risk. EPBC advises that he has failed to complete or cancel items identified in his Action Plan and is unwilling to disclose any barriers to employment he may have. He is not willing to participate in the EPBC program or seek employment.

On December 28, 2018 the ministry denies the appellant further income assistance due to non-compliance with his EP as per section 9 of the EAA. A letter notifying him of this was mailed to him.

At the appeal hearing, the appellant stated that:

- His benefits were cut off without notice on December 28, 2018 and he is starving
- He missed a couple of appointments with EPBC
- He failed to attend one of the appointments because his father was in a bad car accident
- One of the appointments was incorrectly scheduled by EPBC in the wrong town
- He was late for another of his appointments because he couldn't find the new office location
- He suffers from bad asthma which flares up in winter and with stress, however he has not gone to his doctor to seek a medical letter to submit to the ministry regarding his EP
- He is aware that failure to comply with the conditions in his EP will result in the denial of benefits

[Redacted]

The ministry relied upon the reconsideration decision during the appeal hearing. The appellant's ministry file was closed on March 16, 2019.

[Redacted]

PART F – REASONS FOR PANEL DECISION

The issue before the panel is to determine the reasonableness of the Ministry's reconsideration decision dated February 20, 2019 which held that the appellant did not meet the legislated criteria in section 9 of the Employment and Assistance Act (EAA) to receive the benefit he had requested. Specifically, that the appellant is not eligible for income assistance due to non compliance with his employment plan (EP).

Applicable legislation is:

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]*.

In the Request for Reconsideration decision, the ministry details the appellant's failure since 2015 to comply with the conditions of the two Employment Plans (2015 and 2018) that he has entered into, despite being fully informed and acknowledging the consequences of non-compliance.

The appellant stated that he could try harder to go to more potential employers and that he has a car to get him there. He also stated that he was aware of the EP conditions and their implications regarding his benefits being denied.

Conclusion:

The panel finds that the ministry's reconsideration decision, which held that the appellant was no longer eligible for benefits as he does not meet the criteria for funding under section 9 of the EAA, specifically that he has failed to comply with the conditions of his EP, was a reasonable application of the legislation in the circumstances of the appellant. The panel confirms the ministry's decision. The appellant is unsuccessful in his appeal.

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PARTG-ORDER

THE PANEL DECISION IS: (Check one) <input checked="" type="checkbox"/> UNANIMOUS <input type="checkbox"/> BY MAJORITY
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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

LEGISLATIVE AUTHORITY FOR THE DECISION:
<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"/>

PARTH-SIGNATURES

PRINT NAME Jan Lingford	
SIGNATURE OF CHAIR	DATE (YEAR/MONTH/DAY) 2019-03-19

PRINT NAME Bill Haire	
SIGNATURE OF MEMBER	DATE (YEAR/MONTH/DAY) 2019-03-19

PRINT NAME Bill Reid	
SIGNATURE OF MEMBER	DATE (YEAR/MONTH/DAY) 2019-03-19