

APPEAL NUMBER

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry's reconsideration decision dated June 25, 2019 which held that the appellant was not eligible for benefits as per the Employment and Assistance Act (EAA), Section 9, regarding compliance with her Employment Plan (EP). Specifically, the ministry found that the appellant did not comply with the terms and conditions within the EP that she entered into on January 25, 2019.

PART D – RELEVANT LEGISLATION

Employment and Assistance Act (EAA), Section 9

PART E – SUMMARY OF FACTS

The following key dates and information were noted:

On January 9, 2019 the appellant spoke with a ministry worker who discussed her recent lack of participation with the Employment Program of British Columbia. She stated she regretted her choice to leave the program due to an employment opportunity and she stated she would be more serious moving forward with EPBC. She discussed the requirements and expectations of EPBC and the consequences for non-compliance.

On January 25, 2019 she signed a new EP referring her to the Employment Program of British Columbia's (EPBC) employment contractor. The EP stated that she would attend the program on or before January 21, 2019 and continue to participate in EPBC programming regularly and as directed by the EPBC contractor. Her EP also stated she would work with the EPBC contractor to address any issues that may impact her employability. She was to make contact with the EPBC contractor if she was unable to attend a session or when she started or ended employment. Her EP stated that if she failed to comply with the conditions of her EP she would be ineligible for assistance. By signing the EP she acknowledged the conditions of the EP and the consequences for non-compliance.

On February 26, 2019 EPBC reported that she had not been participating in EPBC programming. She spoke with a ministry worker and stated she had been working on finding housing and was staying with friends. She did not have transportation to EPBC. She was advised to contact EPBC and advise them of that and set up phone appointments. She was reminded of the expectations of the program and the consequences of non-compliance. She stated you understood.

On March 25, 2019 the appellant advised the minister that she was out of town and could not access EPBC services. She was advised to attend the nearest EPBC as her attendance was required.

On April 24, 2019 she advised the minister that she had been in contact with EPBC in the past couple of weeks. She stated she did not know who she saw, and she did not have another appointment booked with EPBC. She was advised she must submit confirmation that she was in contact with Work BC before her cheque can be released. She called back and stated she had been to Work BC but nobody told she that she would need to do an intake. She stated she would call back to book an appointment.

On May 8, 2019 EPBC reported that the appellant had not been participating in EPBC programming. Multiple contact attempts had been made between April 1 and May 8 both by phone and email.

On May 9, 2019 she advised a ministry worker that she had an appointment at a Work BC office on May 18, 2019. She was asked to provide confirmation of attendance at this appointment.

On May 24, 2019 EPBC reported she had not attended three consecutive booked appointments.

On May 30, 2019 EPBC reported she had not resumed participation with Work BC from April 1 to May 29, 2019. She had failed to attend booked appointments on April 24 and May 18.

On May 31, 2019 she attended the minister's office and stated she had travelled to another city with a friend and that is why she missed her appointment. She stated she did understand the requirements of her EP. She was advised she was no longer eligible for income assistance due to non-compliance with her EP.

On June 12, 2019 she requested a reconsideration of this decision.

On June 14, 2019 the minister received her signed Request for Reconsideration.

On June 25, 2019 the minister reviewed her Request for Reconsideration.

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The appellant failed to attend the hearing. With the consent of all attending parties, the hearing was conducted pursuant to section 22 of the Employment and Assistance Act.

At the hearing the ministry relied upon the Reconsideration Decision, stating that the appellant had been afforded multiple opportunities to comply with her EP, but had not done so.

PART F – REASONS FOR PANEL DECISION

The decision under appeal is the Ministry's reconsideration decision dated June 25, 2019 which held that the appellant was not eligible for benefits as per the Employment and Assistance Act (EAA), Section 9, regarding compliance with her Employment Plan (EP). Specifically, the ministry found that the appellant did not comply with the terms and conditions within the EP that she entered into on January 25, 2019.

Applicable Legislation:**EMPLOYMENT AND ASSISTANCE ACT**
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].

Conclusion:

In her submissions the appellant provided testimony that she has been significantly impacted by life events such as having a criminal record which makes it difficult to obtain employment and losing her belongings. She stated that the light at the end of the tunnel is getting dimmer and dimmer and that having a place to sleep where she feels safe is very important to her.

The ministry relied upon the reconsideration decision during the hearing, explaining the current legislation pertaining to this appeal and answering the attendee's questions.

All information submitted to the appeal panel was carefully reviewed and the appellant's submissions were considered.

When the appellant signed her EP, she entered into a legal agreement with the ministry to comply with the EP's conditions and requirements. It was up to the appellant to follow through with the EP's requirements and complete the expected tasks. In signing her EP, the appellant acknowledged that if she did not comply with the conditions and requirements in the EP she would be found ineligible for assistance.

The ministry has documented the appellant's non-compliance with her EP. There is no evidence that there are mitigating circumstances such as health issues keeping the appellant from complying with her EP.

The panel finds that the ministry's reconsideration decision of June 25, 2019 which held that the appellant had not complied with the terms and conditions of her EP was a reasonable application of the legislation in the circumstances of the appellant.

The panel confirms the ministry's decision of finding that the appellant was no longer eligible for benefits as per Section 9 of the EAA. The appellant is unsuccessful in her appeal.

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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

Jan Lingford

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2019/07/25

PRINT NAME

Marilyn Mellis

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2019/07/25

PRINT NAME

Lauren Forsyth

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2019/07/25