

APPEAL NUMBER
2019-00422

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the "Ministry") reconsideration decision dated December 6, 2019 which held that the appellant was denied income assistance ("IA") due to non-compliance with the employment plan ("EP") that the appellant signed on January 26, 2018.

PART D – RELEVANT LEGISLATION

s. 9, s. 22(3)(b), s.22(4) of the Employment and Assistance Act ("EAA")

PART E – SUMMARY OF FACTS

The evidence before the Ministry at reconsideration was:

- The appellant is years old and a sole recipient of IA.
- On January 26, 2018 the appellant completed an application for IA. The appellant was found to be eligible for IA and completed an EP to participate in the employment program of BC ("EPBC") with WorkBC. The EP expires January 26, 2020.
- The EP is found at page 33 of the appeal record. In the EP the appellant acknowledges that they must:
 - o meet with the EPBC contractor by February 9, 2018;
 - o take part in the EPBC program activities as agreed to with the EPBC contractor;
 - o complete the tasks given to them including any actions set out in the EPBC action plan;
 - o call the EPBC contractor if they cannot take part in services or complete steps agreed to, or when they find work; and
 - o within one week of a move to a new community they must ask the EPBC contractor serving the new area to transfer the EPBC case file.
- In part 5 of the EP the appellant also acknowledged that to be eligible for assistance they must comply with the terms of the EP.
- WorkBC indicated that the appellant failed to attend an appointment on August 13, 2018 and the appellant's IA cheque for October, 2018 was signalled.
- On September 20, 2018 the appellant contacted the Ministry to state that they relocated after their roommate stopped paying the rent. At that time the Ministry advised the appellant about the importance of compliance with the EP.
- The appellant attended an appointment on September 25, 2018 and was accepted into the program in the new community.
- WorkBC advised the Ministry that the appellant failed to attend scheduled appointments on November 8, 2018, November 20, 2018, November 21, 2018, December 3, 2018, and December 18, 2018.
- The Ministry signalled the appellant's IA cheque for February 2019 and the appellant was sent a message through My Self Serve.
- On January 23, 2019 the appellant spoke with the Ministry. The ministry advised the appellant that if they are noncompliant with the EP they may no longer be eligible for IA.
- On January 28, 2019 the appellant moved to another community in BC. On January 30, 2019 the appellant's file was transferred to the new community.
- The appellant attended their appointment on February 12, 2019.
- On May 7, 2019 WorkBC advised the Ministry that the appellant failed to attend scheduled appointments on April 12, 2019. Further WorkBC could not get a hold of the appellant on April 26, 2019, April 29, 2019 or May 7, 2019.
- The appellant's IA cheque for June was signalled.
- On May 10, 2019 the appellant contacted the Ministry stating they were not able to use computers and that they did not receive any of the messages from WorkBC. The Ministry reminded the appellant of the importance of compliance with the EP.
- WorkBC informed the Ministry that the appellant failed to attend their appointments on June 7, 2019 and August 8, 2019.
- The appellant's December 2019 IA cheque was signalled.
- On November 19, 2019 the Ministry determined the appellant was ineligible for IA for failing to demonstrate efforts to participate in the EPBC. The Ministry found the appellant to therefore be noncompliant with this EP.
- In November, 2019 the appellant reported that they took one month off for holidays but had resumed their work search. The appellant did not attend his appointments but stated they were in touch with a case manager. The appellant stated they have no barriers to employment.
- On November 22, 2019 the appellant requested reconsideration of the Ministry decision.

The appellant's request for reconsideration states:

- They had extreme miscommunication with WorkBC as they only communicate through email;
- They had difficulty speaking directly with their WorkBC worker; and

- If the appellant found work for a day, they would email WorkBC to reschedule but would never receive an email back with the new scheduled appointment.

The documentary evidence available at reconsideration is:

- The EP signed by the appellant January 26, 2018
- The signal letter dated October 25, 2019

The appellant's notice of appeal states:

- need January rent none-the less or I be homeless;
- Its Christmas; and
- Miscommunication with work BC via email as I don't have a computer.

The panel determined the additional evidence set out in the appellant's notice of appeal was admissible pursuant to s.22(4) of the EAA as it was information in support of the records before the minister at reconsideration.

PART F – REASONS FOR PANEL DECISION

The issue on appeal is whether the Ministry's decision to deny the appellant IA due to non-compliance with the EP that the appellant signed on January 26, 2018 is reasonably supported by the evidence or a reasonable application of the applicable legislation in the circumstances of the appellant.

The legislation provides:

S.9 EAA

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].

With the consent of both parties, the hearing was conducted as a written hearing, pursuant to section 22(3)(b) of the EAA.

The panel finds:

The appellant does not dispute that they signed and agreed to enter into an EP on January 26, 2018. The appellant does not dispute the terms of the plan. The appellant argues that there were miscommunications with WorkBC as they were only able to communicate through email. The appellant indicates some difficulty in speaking directly with their WorkBC worker. The appellant states that they would email to reschedule appointments but that WorkBC would not give him new appointment dates. In his notice of appeal the appellant states that they doesn't have a computer to email WorkBC.

The evidence of the Ministry is that WorkBC attempted to communicate with the appellant via email and via telephone. This evidence is not supported by documentation, but the appellant does not dispute this evidence. The appellant does not dispute that they missed numerous appointment dates or that the EP required the appellant to attend these appointments. The appellant gave evidence that they went on a one-month holiday and that they had no barriers to employment. The appellant does not claim to have a medical reason for being unable to comply with the EP.

The panel finds that while the appellant may have had difficulty in communicating with WorkBC due to barriers with access to computers, there were other options for communication which included telephone and attending the office in person. The panel also finds that even if there were barriers to communication, the appellant agreed in the EP that "they must call the EPBC contractor when they cannot take part in services and when they find work." The appellant states that they would email the EPBC contractor to notify them that they would miss an appointment, but then fail to follow up with a phone call or to reschedule appointments. The appellant did not notify the EPBC contractor via telephone of the day jobs that they took or notify the EPBC contractor at all of the one-month holiday the appellant took.

S.9(1)(b) of EAA states that after entering into an EP a person must comply with the conditions of the EP. S.9(4)(a)(b) EAA states that after entering into an EP a person is not compliant if they fail to demonstrate reasonable efforts to participate in the program, or ceases, except for medical reasons, to participate in the program.

The panel finds that it was reasonable for the Ministry to determine that the appellant was not compliant with the EP. The appellant failed to call their EPBC contractor when they could not take part in services or complete the steps agreed to. They also failed to notify their EPBC contractor via telephone of a one-month holiday and of the work they took. The appellant did on occasion send emails to the EPBC contractor but that was not consistent, and the appellant did not follow up with EPBC to reschedule missed appointments. The appellant missed eight appointments since January 26, 2018 without proper notification. Further since August 8, 2019 the appellant completely stopped contacting their EPBC contractor. The panel finds that it was reasonable for the Ministry to determine that appellant also did not demonstrate reasonable efforts to participate in the program.

For these reasons, the panel finds the Ministry's decision was reasonably supported by the evidence and confirms the 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
MEGHAN WALLACE

SIGNATURE	DATE (YEAR/MONTH/DAY)
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PRINT NAME
RICK BIZARRO

SIGNATURE OF MEMBER	DATE (YEAR/MONTH/DAY)
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PRINT NAME
ROBERT MCDOWELL

SIGNATURE OF MEMBER	DATE (YEAR/MONTH/DAY)
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