

Part C – Decision Under Appeal

The decision under appeal is the Ministry of Social Development and Poverty Reduction (ministry) reconsideration decision dated May 16, 2023, which determined the appellant was not eligible for income assistance as per section 9 of the Employment and Assistance Act, as he failed to comply with the conditions in his Employment Plan.

Part D – Relevant Legislation

Employment and Assistance Act (Act) section 9

Relevant sections of the legislation can be found in the Schedule of Legislation at the end of this decision.

Part E – Summary of Facts**Relevant Evidence Before the Minister at Reconsideration****Ministry Records show:**

- The appellant and his spouse have two dependent children and are receiving income assistance.
- On January 18, 2023 the appellant entered into an Employment Plan with the ministry. Compliance was discussed.
- On February 6, 2023 WorkBC reported to the ministry that they had made the following unsuccessful attempts to contact the appellant:
 - January 9: The appellant missed his first WorkBC intake because of covid and did not attend his second booking either.
 - January 18: WorkBC sent an email to the appellant requesting that he contact them to set up registration and intake appointments.
 - January 19: WorkBC attempted to call the appellant and left a voicemail asking him to get in contact with them to set up his account and book an appointment.
 - January 25: WorkBC sent a second email requesting the appellant make contact for registration and intake appointments.

As the appellant had not responded to any of these contact attempts, his referral was sent back to the ministry.

- On February 15, 2023 the ministry contacted the appellant to discuss nonparticipation in his Employment Plan. The appellant said he did not know he was receiving calls from WorkBC as his phone had been disconnected because he could not pay his bills. He explained that he thought only his spouse was on income assistance, not himself. The ministry advised the appellant that he is also a recipient of income assistance as part of the family unit. The ministry completed a compliance discussion with the appellant, advising him of the following:
 - Compliance with his Employment Plan is a condition of eligibility for income assistance.
 - The appellant must contact WorkBC within 21 business days.
 - The appellant must fully participate and attend all workshops, appointments and referrals as directed by WorkBC. If he does not attend or is late, he must provide confirmation of mitigating circumstances that prevented him from attending.

- If further non-compliance occurs the family unit may no longer be eligible for income assistance.
- The ministry also advised the appellant that it is his responsibility to maintain ongoing communication with WorkBC.

- On March 24, 2023 WorkBC reported to the ministry that they had made the following unsuccessful attempts to contact the appellant:
 - February 22: WorkBC sent the appellant an email requesting he contact them to set up registration and intake appointments.
 - February 27: WorkBC called the appellant and left a voicemail requesting he make contact.
 - March 21: WorkBC sent the appellant a second email requesting contact.

The ministry reviewed the appellant's file and noted that he had indicated through his monthly reporting that he is looking for work. The ministry attempted to contact the appellant at both phone numbers on file and left a voicemail advising him to contact the ministry within the next five business days to avoid his next assistance cheque being held. The ministry also sent the same message to "My Self Serve".

- On March 31, 2023 the ministry contacted the appellant and advised him that, according to WorkBC, he had not made contact or attended WorkBC as per the terms of his Employment Plan, despite the compliance discussion he had with the ministry on February 15, 2023. The appellant advised he had done a video appointment with WorkBC, attended their office, and printed a resume. He explained that, because his work experience was unsatisfactory, he was provided with a computer and given templates and a book to work with; he can now work on his own. The ministry advised the appellant that he is required to make an appointment with his case manager to complete an intake appointment with WorkBC, and he must fully participate with programs and services offered by WorkBC while maintaining contact with them. The appellant advised he was not aware of these requirements, as it was not explained to him that way before, and he thought he only had to go once.

The ministry explained that the appellant had already had two compliance discussions that clearly outlined the expectations of his Employment Plan. The ministry advised the appellant of WorkBC's multiple contact attempts by phone and email. The appellant explained that he did not respond to these contact attempts because he does not have minutes on his phone and has no money. Furthermore, he does not check his emails often. The appellant advised he never wanted to apply for income assistance and it was his wife who applied. He would try to find a job.

On March 31, 2023 the ministry determined that the appellant was ineligible for income assistance for failing to comply with the terms of his Employment Plan.

- On April 3, 2023 WorkBC reported the following to the ministry:
 - The appellant had attended the Resource Room at a WorkBC office on March 6, 2023 and was invited to a Job Club on March 7, 2023 but did not attend.
 - WorkBC had contacted the appellant on March 9, 2023 to book an appointment for March 24, 2023 but the appellant did not attend. The appellant has not responded or made any attempts to engage with WorkBC.
- On April 19, 2023 the appellant contacted the ministry and was advised he was not eligible for income assistance.
- On May 3, 2023 the appellant submitted his Request for Reconsideration.
- On May 5, 2023 WorkBC reported the following to the ministry:
 - The appellant did not show up to his appointment with his case manager or the workshop. He rebooked his appointment, then did not show up for his follow-up appointment.
 - WorkBC attempted to contact the appellant by phone and email, but the appellant did not respond.

Request for Reconsideration (May 3, 2023) - summary

The appellant wrote that he would like to appeal his failure to attend to WorkBC. He states he had no time on his phone so no one could get in touch with him. He has an email but it's full of junk mail and if he received anything he wasn't able to find it. He has since opened a new email account. The appellant states he did miss an appointment but re-scheduled. On April 10, 2023 he got a call from a worker saying they would be out of the office Monday to Friday and that he needed to make an appointment the following week, which he did the next Monday. He now has a one-on-one worker and an appointment for May 2, 2023.

Employment Plan (signed on January 18, 2023)

Terms of Employment Plan

Start date - January 5, 2023

End date - January 4, 2025

Name of Program/Service

WorkBC Employment Services

Details

The plan states that the appellant must meet with WorkBC on or before January 26, 2023. He must take part in WorkBC program activities as agreed to with the WorkBC contractor. The appellant must complete all tasks given to him, including any actions set out in his WorkBC Action Plan. The appellant must call WorkBC if he cannot take part in services or complete steps that he has agreed to. If the appellant does not follow this Employment Plan, the ministry may stop his income assistance payments.

Additional Information

Appellant

Notice of Appeal (May 17, 2023)

The appellant stated that wrong information was sent to the ministry, which caused his assistance eligibility to be denied. WorkBC has since given him the following correct information.

Listing of Work Activities – WorkBC (received May 17, 2023)

May 15	Appointment	In Progress	Appointment with case manager May 29, 9:30 at WorkBC
May 15	Task	In Progress	Follow up with case manager on date to complete SuperHost training online at WorkBC, 1-1 computer skills
May 15	Task	In Progress	Confirm First Aid June 17...
May 15	Task	In Progress	Apply with resume for jobs – match job search 5-10 jobs this week
May 5	Appointment	Closed	Appointment with case manager May 8, 9:30 at WorkBC sign participation agreement
May 8	Workshop	Closed	1-1 interview skills with employment facilitator May 15, 2023, 11:00 am at WorkBC
May 8	Task	Closed	Appointment with case manager May 15, 12:00 at WorkBC
April 28	Workshop	Closed	1-1 resume session with employment facilitator May 3, 2:00 at WorkBC

April 28	Appointment	Closed	Appointment with case manager May 2, 3:30 at WorkBC
May 2	Task	Closed	Contact case manager to rebook missed appointment May 2

The appellant wrote a note on the listing stating these are the activities he’s been attending at WorkBC, which was not sent to the ministry.

At the hearing, the appellant added that he lost his sister in late April 2023 and so he was preoccupied at the time. He also stated that although he didn’t have a phone in February 2023, he did visit the WorkBC office in-person. As well, he asked for paper copies of his appointments which he kept in his wallet. He re-iterated that he was unaware, until March 31, 2023 that he had to attend activities every two weeks; previously he thought he only needed to attend once. The appellant confirmed that he is working with WorkBC on the activities “In Progress” and has attended or re-scheduled every other activity on the list above.

Admissibility

The panel determined the additional information is reasonably required for a full and fair disclosure of all matters related to the decision under appeal and therefore is admissible under section 22(4) of the Act.

Part F – Reasons for Panel Decision

The ministry did not attend the hearing. After confirming that the ministry was notified, the hearing proceeded under section 86(b) of the Employment and Assistance Regulation.

The issue on appeal is whether the ministry's reconsideration decision was reasonably supported by the evidence or was a reasonable application of the legislation in the circumstances of the appellant.

Specifically, was the ministry reasonable to decide that the appellant is not eligible for income assistance as he failed to comply with the conditions in his Employment Plan.

Appellant Position

The appellant argues in February 2023 he had no time on his phone so no one could get in touch with him. He had an email account but it was full of junk mail and if he received anything he wasn't able to find it. In addition, he argues he initially thought only his spouse was on income assistance and it wasn't until March 2023 that he understood participation in activities with WorkBC was on-going. The appellant also argues that he is working with WorkBC on the activities "In Progress" and has attended or re-scheduled every other activity on the list from WorkBC.

Ministry Position

The ministry argues that by signing the Employment Plan the appellant confirmed that he read, understood and agreed to the conditions specified in the plan and was required to comply with activities agreed upon with WorkBC.

The ministry also added that during a discussion on February 15, 2023, it informed the appellant that it is his responsibility to fully participate and attend all workshops, appointments and referrals as directed by WorkBC. Furthermore, it is his responsibility to maintain ongoing communication with WorkBC. As such, the ministry argues the appellant would have been aware of his responsibility to comply with the conditions of his Employment Plan on an ongoing basis, and to monitor his phone and email for correspondence from WorkBC. The ministry adds that there is no indication that the appellant ever advised WorkBC of his issues with maintaining communication via phone and email. The ministry argues, as such, it is not satisfied that these circumstances prevented the appellant from making a reasonable effort to comply with the conditions of his Employment Plan.

Panel Analysis

Section 9, Act – employment plan compliance and participation

Section 9 (subsections (1)(a) & (b) and (4)) of the Act state for a family unit to be eligible for income assistance each recipient in the family unit must enter into an employment plan, comply with the conditions and make reasonable efforts to participate in any specific employment-related programs.

The panel notes the Employment Plan signed by the appellant on January 18, 2023 shows the appellant entered into an Employment Plan from January 5, 2023 to January 4, 2025. Details in the Employment Plan state the appellant must take part in WorkBC program activities as agreed to with WorkBC, complete all tasks given to him and call WorkBC if he cannot take part in services or complete steps that he has agreed to.

The panel notes ministry records demonstrate several unsuccessful attempts by WorkBC and the ministry (from January to March 2023) to contact the appellant and review his participation in his Employment Plan. The panel finds having no time left on a phone account and an email account where information from WorkBC cannot be found, cannot be considered reasonable justification for not complying with the conditions of the Employment plan.

However, the panel also finds that the appellant has now provided evidence, in the form of a listing of activities from WorkBC, to demonstrate that he has been complying with the conditions in his Employment Plan and making reasonable efforts to participate in specific employment-related programs, as of May 2023.

The panel finds, at reconsideration, the ministry reasonably determined the appellant is not eligible for income assistance as per section 9 of the Act. However, the panel also finds that with new information, the appellant has now met the requirements under section 9 of the Act.

Conclusion

In conclusion, the panel finds the ministry decision, which determined that the appellant is not eligible for income assistance as he failed to comply with the conditions in his Employment Plan is no longer reasonably supported by the evidence.

The appellant is successful on appeal.

Schedule of Legislation

Employment and Assistance Act

Part 1 — Introductory Provisions

Interpretation

1 (1) In this Act:...

"dependant", in relation to a person, means anyone who resides with the person and who

- (a) is the spouse of the person, or
- (b) is a dependent child of the person;...

"family unit" means an applicant or a recipient and his or her dependants...

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...recipient to participate in a specific employment-related program that, in the minister's opinion, will assist... to

- (a) find employment, or
 - (b) become more employable.
- (4) 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....

(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*].

APPEAL NUMBER 2023-0143

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)

Section 24(2)(a) or Section 24(2)(b)

Part H – Signatures

Print Name

Connie Simonsen

Signature of Chair

Date (Year/Month/Day)

2023/05/31

Print Name

Mimi Chang

Signature of Member

Date (Year/Month/Day)

2023/05/31

Print Name

Peter Mennie

Signature of Member

Date (Year/Month/Day)

2023/05/31