

PART C – Decision under Appeal

The decision under appeal is the reconsideration decision dated December 20, 2011 in which the ministry denied income assistance to the appellant, pursuant to section 9 of the Employment and Assistance Act (EAA), for failing to comply with the conditions of her employment plan because of her failure to demonstrate reasonable efforts to participate in an employment related program and she did not have a medical reason to cease her participation.

PART D – Relevant Legislation

Employment and Assistance Act (EAA) section 9

PART E – Summary of Facts

The evidence before the ministry at the time of the reconsideration decision was:

- An employment plan signed by the appellant dated October 7, 2011. The agreement required the appellant to make contact with a specific program service provider (PSP) and to take part in an employment program. She was to make contact with the PSP before October 21, 2011 and begin her program on November 7 and complete on December 16, 2011. She was to attend all scheduled sessions and complete all tasks assigned to her. The plan required her to contact the ministry if she is unable to attend the program for any reason.
- A letter dated November 23, 2011 from the program service provider. The letter reads that the appellant attended the office on November 23, for an intake appointment and is scheduled to begin her program on December 28, 2011.
- A personal statement letter written by the appellant undated. The letter reads that she was unable to attend the employment program because she was struggling with her methadone program that makes her feel unhealthy. She adds that she must report to probation and attend court. She writes that finding transportation is difficult since she has no money for bus fare. She concludes that she does not think that ministry's decision was incorrect and she knows what she needs to do to improve her life but she is asking for a second chance.
- The Notice of Appeal document dated Jan 3, 2012. The appellant writes that she did her best to get to the employment program but because of her methadone program she was not able to get to the program on time. She adds that she will do her best to get there in the future and that she asks for the help and guidance of the ministry to help her through this.

At the hearing the appellant told the panel that the ministry was aware of her addiction as well as the recovery program that she was enrolled in. The appellant added that she was told by a friend of hers, who is also in an addiction recovery program, about the PSP that the ministry assigned her to. The appellant said she had already made an appointment with the PSP before she met with the ministry on October 7. She said that she had an appointment with the PSP set for October 12, but due to her struggles with her methadone program she was unable to keep the appointment.

The appellant's father attended the hearing as a support person and to assist the appellant in speaking to the panel. Her father told the panel that his daughter has struggled with her recovery over the past year. He said that she has a hard time maintaining her commitments and making it to scheduled appointments due to her addiction. He added that his daughter cannot be treated as a "regular client" since she is an addict and her addiction needs to be taken into consideration when the ministry assigns her to a program.

At the hearing the ministry reviewed the dates of contact with the appellant from the time that her employment plan was signed October 7, 2011. The ministry stated that the appellant did not make contact with the PSP by October 21 as required. The appellant contacted the ministry on November 16 and said she had been attending her program and she was asked to provide documentation to support her attendance. On November 25, the appellant provided a letter to the ministry stating she first made contact with PSP on November 23 and she was enrolled in a program that begins December 28, 2011. The ministry told the panel that when her employment plan was signed the

appellant was made aware of her obligations and was asked if she had any medical issues that would restrict her from attending the employment program and the appellant stated there were no issues. The ministry added that they are aware of her addiction and they are supporting her in the methadone program that she is attending. The ministry added that the program the appellant was assigned to is specifically designed for women that are in addiction recovery. The program offers counseling and support for women to help them successfully complete their recovery and become employable.

The panel finds that:

- The appellant entered into an employment plan on October 7, 2011 that referred her to attend an employment related program operated by a program service provider (PSP). She was required to attend all appointments scheduled for her by the PSP and to immediately notify the ministry if she was unable to fulfill her obligation.
- The appellant was made aware of the conditions on the employment plan at the time of signing.
- The appellant did not attend her scheduled intake session by the required date of October 21.
- The appellant met with the PSP on November 23, 2011 and enrolled in the December 28, 2011 session of the employment program.
- At the time she signed the employment plan the appellant did not disclose any reason why she could not attend the sessions, medical or otherwise.
- The appellant is taking part in a supervised addiction recovery program.

PART F – Reasons for Panel Decision

The issue under appeal in this case is the reasonableness of the ministry's decision to deny the appellant income assistance, pursuant to section 9 of the Employment and Assistance Act (EAA), for failing to comply with the conditions of her employment plan because of her failure to demonstrate reasonable efforts to participate in an employment related program and she did not have a medical reason to cease her participation.

Section 9 of the Employment and Assistance Act states:

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.

The argument of the appellant is that she made a reasonable effort to comply with the requirements of her employment plan but that due to the addiction recovery program she was taking part in she had a difficult time attending her scheduled appointments.

The argument of the ministry is that the appellant did not demonstrate a reasonable effort to participate in her employment related program as required by her employment plan and that she did not have a medical reason to not participate. The ministry argues that the appellant was made aware of her obligations under the employment plan at the signing of the plan yet she did not make contact with the PSP by the required date. The ministry argues that the appellant did not contact the ministry when she felt that she could not attend the assigned employment program as required by her agreement with the ministry.

In coming to its decision the panel considered the appellant's argument that she found it difficult to meet her obligations because of her methadone program. The panel is satisfied that the appellant was aware of her obligations relating to the employment plan specifically to contact the ministry if

there was any reason that she could not participate in her assigned employment related program. The panel finds that the ministry was reasonable to expect the appellant to make contact with the ministry office before October 21, 2011 to say that she would have a difficulty attending the employment program, as her employment plan requires. The panel finds that the ministry gave the appellant a reasonable amount of time between signing the employment plan, October 7, 2011, and the date she was to meet with the PSP, October 21, 2011 to contact the ministry.

The panel finds that the ministry reasonably determined the appellant did not comply with the condition of her employment plan and ceased to be eligible for income assistance under section 9 (1) because she failed to demonstrate reasonable effort to participate in the employment program pursuant to EAA section 9(4)(a) and did not cease to participate due to a medical reason pursuant to section 9(4)(b).

The panel finds that the ministry's decision was a reasonable application of the applicable enactment in the circumstances of the appellant and confirms the decision.