

**PART C – Decision under Appeal**

Pursuant to EAA s.9(4), the ministry, in its reconsideration decision dated January 12, 2012, found that the appellant failed to make reasonable efforts to participate in an employment related program as stipulated in her employment plan. Pursuant to EAA s. 9(1)(b) the ministry found the appellant failed to comply with the conditions of his employment plan. As a result the appellant was no longer eligible for income assistance.

**PART D – Relevant Legislation**

EAA – Employment and Assistance Act s.9

## PART E – Summary of Facts

The evidence before the panel is contained in the appeal record and statements given at the hearing by the appellant and the ministry. Contained in the appeal record is:

- a Notice of Appeal from the appellant, 2012/Jan/17
- a request for the reconsideration, 2011/Dec/28
- the reconsideration decision, 2012/Jan/12
- a copy of the appellant's Employment Plan, signed by the appellant, 2011/Sept/12
- a copy of the Job Wave client notes, 2011/Sept/12 – Dec/04
- a Medical Report – Person with Persistent Multiple Barriers, 2011/Dec/29

The appellant in her Notice of Appeal states:

“Because I need a place for me and my daughter we will be living on the street and I will be glad if I didn't have to be on welfare if I can my health gets in the way, my feet and nees hurt a lot when I am on my feet”

The appellant in her Request for a Reconsideration states:

“Sorry I have no idea how to put this in words my spelling is tarable. I only have a grade eight and I have trouble with spelling and the word to use When I go to tranngle(?) and job wave it is difficult to keep up and understand everything just gets me more stressed out I had health problems for most of my adolt life with Rhemuntord othrotis pain in my joints and I get depressed a lot.”

The appellant, at the hearing, reiterated her submissions in the Request for the Reconsideration and the Notice of Appeal. When asked whether she missed meetings she stated that she could not always remember. As well she stated that she did not always understand. She emphasized that she is not well as she suffers from rheumatoid arthritis and depression. This is also noted in the Medical Report – Person with Persistent Multiple Barriers. The appellant emphasizes that she has no other means of support except income assistance.

The ministry states in the reconsideration decision that the appellant is a single employable person, that she signed an employment plan on 2011/Sept/12 which the appellant confirmed that she had read, understood and agreed to the conditions and consequences of not complying. The ministry states that the appellant was referred to Job Wave where she was “required to schedule an assessment appointment, complete all assigned tasks, work with Job Wave to address any barriers to employment,...and attend all review appointments”. The ministry states that they were advised by Job Wave on December 8, 2011 that the appellant's file was closed because she was not participating in the program. The ministry advised the appellant that she was not eligible for income assistance as she had failed to comply with the conditions of her Employment Plan.

The ministry states that the appellant said that she “had missed only two appointments, once because you were babysitting and once because you were out of town”. The Job Wave notes indicate that the appellant did not attend scheduled appointments on October 18, 28, November 24 and December 2, 2011 and did not make contact with Job Wave to rebook or acknowledge that she

had missed appointments. In the case of the October 19<sup>th</sup> appointment that the appellant missed the ministry states that the appellant made contact and booked another appointment for October 28<sup>th</sup> but missed that appointment. In the case of the November 24<sup>th</sup> appointment, the ministry states that this appointment was made because the appellant missed her November 18<sup>th</sup> appointment because she had a doctor's appointment. She missed the November 24<sup>th</sup> appointment and there was no contact from the appellant. The December 2<sup>nd</sup> appointment was a "reconnect" appointment. The appellant did not attend the appointment or contact Job Wave to rebook. Job Wave closed the appellant's file on December 2, 2011.

The ministry, in its decision, writes that the appellant said she has difficulty spelling, that she "finds the Job Wave program difficult to understand and keep up with and you have health problems with depression and rheumatoid arthritis". The ministry acknowledged that the appellant had provided a Medical Report which states the appellant has rheumatoid arthritis and depression "resulting in restrictions due to chronic pain, decreased concentration and increased fatigue".

The ministry states in its decision that the appellant missed several appointments without contacting Job Wave without providing adequate reasons. The ministry states that "the restrictions caused by your medical condition as noted in the Medical Report do not preclude attendance at the Job Wave program or the requirement to advise Job Wave if not able to attend".

## **PART F – Reasons for Panel Decision**

The issue under appeal is whether the ministry reasonably concluded that the appellant was not entitled to receive income assistance as she had failed to make reasonable efforts to participate in an employment-related program which she agreed to do when she signed her Employment Plan.

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.

The appellant's position is that she has difficulty keeping up, understanding everything at Job Wave and remembering. This causes her stress. Her rheumatoid arthritis causes pain in her joints and depression. She states that she can not remember missing all of the appointments. She does acknowledge that she missed two appointments.

The ministry's position is that the appellant agreed to attend Job Wave and participate in the employment program. The appellant signed a contract, the Employment Plan, which outlined her commitment to attend meetings and participate in the program. The appellant did miss several meetings and did not advise Job Wave of her non-attendance. As result her income assistance was terminated.

The ministry acknowledges that the appellant has rheumatoid arthritis and depression "resulting in restrictions due to chronic pain, decreased concentration and increased fatigue". But these medical conditions "do not preclude attendance at the Job Wave program or the requirement to advise Job Wave if not able to attend".

Pursuant to EAA s. 9(4)(b), the panel finds that the ministry reasonably determined that the appellant failed to demonstrate a reasonable effort to participate in the employment program. The panel makes a finding of fact that the appellant did miss four appointments without contacting Job Wave to rebook as recorded the Job Wave "Client Notes". The panel finds that the appellant provided reasons for missing appointments but these reasons did not explain why she could not participate in the program. The panel accepts the ministry position that the appellant's medical condition does not preclude her from participating in the Job Wave program. As the legislative test has not been met, the panel confirms that the ministry's decision was reasonable.

Therefore, pursuant to EAA s.9(1)(a) and (b) as the panel finds that the appellant, as one of the requirements to receive income assistance, did enter an employment plan but did not comply with the conditions in the employment plan by failing to make reasonable efforts to participate in the employment program, the ministry reasonably determined she was not eligible for income assistance.

The panel finds that the decision of the ministry was reasonably supported by the evidence and therefore confirms the decision of the ministry pursuant to Section 24(2)(a) of the EAA.