

PART C – Decision under Appeal

The decision under appeal is the Ministry's Reconsideration Decision dated January 13, 2012, which held that the Appellant was not eligible for Income Assistance for failure to comply with the terms and conditions of his employment plan (EP) pursuant to Sections 9 (1) (b) and 9 (4) of the *Employment and Assistance Act – EAA*. The ministry determined that the appellant is not eligible for income assistance because the appellant did not make reasonable efforts to comply with the conditions of his EP; he failed to participate in the service provider's program and failed to advise the ministry that he was unable to attend. Furthermore, the appellant failed to provide any confirmation of a medical condition preventing him to participate in the program.

PART D – Relevant Legislation

Employment and Assistance Act – EAA – Sections 9 (1) 9 (3) and 9 (4)

PART E – Summary of Facts

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

1. The Employment Plan signed by the appellant, 2 pages, dated April 12, 2011. The terms of the EP include provisions requiring the appellant to make an appointment with the service provider for an intake assessment visit, attend the intake appointment, complete all tasks assigned by the service provider, work with the service provider to address issues that may be impacting the appellant's ability to secure and sustain employment, and attend all review appointments as required.
2. Request for reconsideration dated December 21, 2011. The appellant stated that he went to the service provider and signed in with them. The service provider asked him to come back the next day. The appellant stated that he forgot about his appointment and when he received his cheque, he thought that he did not have to go back. The appellant further stated that he never followed up with the service provider.

The appellant was not in attendance at the hearing. After confirming that the appellant was notified, the hearing proceeded under Section 86(b) of the Employment and Assistance Regulation.

At the hearing, the ministry stated that the ministry staff reviewed the EP with the appellant, provided information and made sure that the appellant understood all the requirements. The ministry further stated that the appellant never registered with the service provider, he did not contact the ministry to inform the reasons for not attending the EP. The ministry mailed him a letter requesting more information. The appellant went to the ministry's office and stated that he had a broken foot and was not able to attend the program. The ministry requested medical information indicating that he had a broken foot; however, the appellant did not provide any information confirming his medical condition.

The appellant in the request for reconsideration stated that he did go to the service provider. He further stated that the service provider told him to come back the next day, but he forgot to go. The appellant further stated that when he received his cheque he assumed that he did not have to go back.

The appellant in the Notice of Appeal stated that he went to the service provider, he is living with a friend and he hates to get kicked out in the middle of winter. The appellant further stated that he didn't know what else to say and he is sorry.

The panel finds that:

- The appellant signed the EP on April 12, 2011;
- Required activities were that the appellant contact the service provider, attend the program as scheduled and provide the ministry office written confirmation of acceptance into the next program, Continue to work with the program upon completion, for job search and program assistance;
- The appellant did not attend the program and did not contact the ministry;
- There was no medical information provided to confirm the appellant's foot injury..

PART F – Reasons for Panel Decision

The issue on appeal is whether the ministry reasonably concluded that the appellant did not make reasonable efforts to comply with the conditions of his EP, through non-attendance, failure to participate in the service provider's programs, failure to advise the ministry that he was unable to attend and the appellant did not provide proof of his medical condition and therefore, the appellant is not eligible for income assistance.

Section 9(1) of the EAA provides that, when the ministry requires, a person must enter into an EP and comply with the conditions in the EP in order to be eligible for income assistance.

Under Section 9(3) of the EAA, the ministry has the authority to specify conditions in an EP, including a requirement that the person participate in an employment-related program.

Pursuant to Section 9(4) of the EAA, if an EP includes a condition requiring a person to participate in a specific employment-related program, that condition is not met if the person fails to demonstrate reasonable efforts to participate in the program or if the person ceases, except for medical reasons, to participate in the program.

The ministry's position is that the appellant entered into an EP dated April 12, 2011 for a period of one year. The appellant was referred to an employment-related program, in which he was required to participate, and that he did not comply with the conditions of the EP and he did not demonstrate reasonable efforts to participate in the program. The appellant did not attend appointments with the service provider and failed to provide information regarding his claim that he had a broken foot and was not able to participate in the program.

The appellant submitted that he went to the service provider and was asked to come back the next day. He stated that he forgot to attend the program and when he received his cheque, he thought he did not have to go to go back to the agency.

The panel finds that the ministry reasonably determined that the appellant failed to comply with the conditions of his EP by failing to fully participate in the service provider's programs. The appellant did not attend the program and failed to inform the ministry. Although the appellant stated that the reason for his non-attendance was that he had a broken foot, the appellant did not provide any evidence to support his medical condition. He merely stated that he forgot to attend the program. He also did not contact the ministry until the ministry contacted him in December 2011.

The panel also finds that although the appellant, in the request for reconsideration, stated that he went to the program, the appellant did not provide any reasonable explanation for not going back to the service provider or not contacting the ministry.

Section 9 of the EAA requires that the appellant demonstrate reasonable efforts to participate in the program, or to provide a medical reason for ceasing to participate in the program. The Panel finds that the appellant did not provide any information regarding his medical condition (broken foot). Therefore, the panel finds that the ministry reasonably concluded that these requirements have not been met in this case.

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