

PART C – Decision under Appeal

The decision under appeal is the ministry's reconsideration decision of January 14th, 2012, which denied further income assistance to the appellant. The ministry found that the appellant did not make a reasonable effort to participate in the employment program, nor did he provide verification to establish a medical condition that prevented him from attending the appointments or participating in the program; therefore, the appellant was not eligible for further income assistance, per Section 9 of the Employment and Assistance Act.

PART D – Relevant Legislation

Employment and Assistance Act (EAA) – Section 9

PART E – Summary of Facts

Although notified in the prescribed manner on February 02/12 of the place, date and time of the hearing, the Appellant was not present at the hearing, nor was anyone on his behalf. Therefore, as allowed by Section 86, (b), of the Employment and Assistance Regulation, the Panel proceeded with the hearing in the absence of the Appellant.

The evidence before the Panel was provided in part in the appeal record and in part through oral evidence submitted at the hearing by the ministry. In the appeal record, as part of the evidence, were copies of the following documents:

- 1) The Employment Plan (EP) signed by the appellant and dated August 25/11. The terms of the contract required the appellant to (1) contact the service provider within three business days; (2) attend the appointment booked by the service provider, to meet the employment counselor and complete an Action Plan; (3) provide a copy of the Action Plan to the ministry office by the 15th of the following month; (4) attend the service provider a minimum of once a week and follow through on all recommended programs/job search assistance; (5) advise the ministry office and service provider of any reason he would not be able to continue in the program.
- 2) The appellant's Request for Reconsideration dated January 13/12 with a statement that he was not aware of the requirements "for tracking of visits" to the service provider; that he had been advised by his physician to present his drug-addiction as a mitigating circumstance in his inability to look for or find work; that his physician was willing to fill out any form that was needed as further evidence of his long term addiction; finally, that he felt ashamed to disclose his addiction but he had no other choice.
- 3) The appellant's Notice of Appeal, dated January 25/12 with a statement partially unintelligible, with the appellant stating that he "felt the infraction was (unintelligible) and unduly (unintelligible) too"; that he "was unaware of the requirement to document.

The ministry restated the position as it is set out in the reconsideration decision, reaffirming the appellant had not made a reasonable effort to comply with the conditions of his EP. The ministry informed that at the moment the Appellant signed the EP, he affirmed that he had read, understood and agreed to follow the terms and conditions of the Plan and that he had clearly understood the consequences of not doing so; that on two more occasions the appellant was reminded about the consequences of not complying with the EP's conditions, but that in spite of this, he did not attend the intake appointment as previously scheduled; that he attended the intake appointment a month later; that he did not attend the following appointment with the service provider; that he did not provide a copy of his Action Plan to the ministry by Dec. 15, as required.

The ministry informed that from December 17/09 to August 24/11 the appellant attended a Medical Employment Plan, where he received counseling for depression, with no information provided about any physical restrictions. The ministry stated that the appellant never brought up his problems with drug addiction; that if the ministry knew about his condition it would have taken a different approach to help him; that if a medical reason for non-compliance is presented, at any time, the ministry instantly changes the EP and a new plan is provided; that all the appellant needed was to provide verification of his drug-addiction condition, which he did not do. The ministry pointed out that the purpose of the EP was to help and assist the appellant with his barriers to get and sustain employment, but that that work could not be done because he did not follow its conditions. Finally, the ministry stated that because the appellant had not demonstrated reasonable efforts to comply with his EP, nor did he appear to have a medical condition that prevented him from participating in his Plan, the ministry found him ineligible for assistance, per Section 9 of the Employment and Assistance Act (EAA).

At the hearing the ministry submitted a copy of the appellant's Action Plan, signed by the appellant and dated September 30/11, where he committed to carry out the activities and interventions of this plan. The panel reviewed the submitted document and it was held to be in support of the information and records that were before the ministry when the reconsideration decision was made. As a result, and in accordance with the Employment and Assistance Act, section 22(4), the panel admitted the ministry's new evidence.

PART F – Reasons for Panel Decision

The issue in this case is the reasonableness of the ministry's decision to deny the appellant income assistance because the appellant did not make reasonable efforts to comply with the conditions as set out in his EP, nor has he provided any verification to establish that a medical condition prevented him from participating in the EP, pursuant Section 9 of the Employment and Assistance Act (EAA).

The Employment and Assistance Act, section 9, provides:

- (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.*
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- (3) *The ministry 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 a job*
 - (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*
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The ministry's position is that the appellant failed to comply with the EP he signed on August 24/11; that the consequences of non-compliance were explained to him on three occasions, but in spite of that, he did not make reasonable efforts to comply with his EP. The ministry informed that the appellant failed to attend the intake appointment as previously scheduled; that he attended the intake appointment a month later; that he did not attend the following appointment with the service provider; that he did not provide a copy of his Action Plan to the ministry by Dec. 15, as required; that he did not indicate to the ministry that he had medical problems with drug addiction that would prevent him from participating in the program, and that he only disclosed this fact at the Request for Reconsideration; that he did not submit any verification from a health professional as evidence of any medical impediments to comply with his EP. The ministry added that since the appellant was not complying with the terms of his EP, his file was closed and the appellant was considered ineligible for Income Assistance.

The appellant argued in his notice for reconsideration that he did not attend the program due to a drug-addiction problem; that he would provide medical evidence of his condition; that he had not told the ministry before about his drug-addiction because he felt ashamed of this problem.

The Employment and Assistance Act in Section 9 and sub-sections, as set out above, clearly gives the minister authority to prescribe conditions of an Employment Plan to maintain eligibility for income assistance. These conditions, acknowledged and agreed to by the appellant, include completing all tasks as assigned, making a series of appointments and attending them regularly, and, in case of not being able to do so, notifying the ministry's caseworker of his impediments.

The panel finds that the evidence demonstrates that the appellant was aware of the requirements of attending the appointments, participating and submitting the required documents; that he was aware of the consequences of not doing so (it was explained to him by the ministry worker at the moment he signed his EP on August 25/11 and on two more occasions); nevertheless, the appellant did not follow through on the EP's conditions. The panel finds that the evidence demonstrates that the appellant did not contact the service provider, as expected, for the intake appointment within three business days after signing the EP, but only a month later and after the ministry worker had contacted him twice to remind him of this obligation. The evidence also demonstrates that after attending the intake appointment, the appellant did not attend any of the other appointments the service provider had scheduled for him; that he did not provide the ministry with a copy of his Action Plan by 15th of December 2011, as required on his EP.

The panel finds that the evidence demonstrates that the appellant did not disclose to the ministry during his EP period that he had problems with drug addiction that were preventing him from attending the program, and that it was only when filling out the Request for Reconsideration form that he informed the ministry about this problem; that although he stated that he would provide the ministry with evidence from a health professional of his drug-addiction problem, he did not submit any verification of this fact to the ministry.

The Employment and Assistance Act, section 9, 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. As such, the panel is satisfied that the evidence demonstrated that the appellant did not make a reasonable effort to participate in the program, nor did he demonstrate having a medical condition that prevented him from attending the appointments or participating in the program. Given that the consequence of not complying with the conditions of the EP is ineligibility for income assistance, the panel finds that the ministry reasonably concluded that the requirements, as prescribed in Section 9 of the EAA, were not met.

Therefore, the panel finds that the ministry's decision to deny income assistance to the appellant was reasonably supported by the evidence and the applicable legislation, and therefore, confirms the decision of the ministry under Section 24 (1)(a)(b) and 24(2)(a) of the Employment and Assistance Act.