

APPEAL # _____

PART C – DECISION UNDER APPEAL

This is an appeal of a reconsideration decision ('the decision') issued by the Ministry of Social Development ('the Ministry') on January 10, 2012.

In the decision, the Ministry denied the Appellant income assistance on the basis that the Appellant failed to comply with the conditions of her assignment of maintenance rights by not attending appointments when required to do so by the Ministry. The terms required to be contained in the assignment are contained in section 24 of the Employment and Assistance Regulation. Section 25 permits the Minister to declare an assignor ineligible for income assistance for failure to comply with the terms of the assignment.

PART D – RELEVANT LEGISLATION

Employment and Assistance Regulation (EAR), Sections 24(c)(iii) and 25

PART E – SUMMARY OF FACTS

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The evidence before the Ministry at reconsideration was as follows:

- The Appellant was in receipt of income assistance as a single parent with three dependent children. She signed an assignment of maintenance rights on October 1, 2010; then again on September 13, 2011. One condition of such an assignment is “attending all appointments, meetings and court proceedings...”
- The Appellant missed her first appointment on October 20, 2011 without asking to reschedule the appointment. The Appellant explained that she had a sick child and the appointment was excused and rebooked for November 17, 2011.
- The November 17th appointment was also missed without excuse or rescheduling.
- The Appellant contacted the Ministry on November 22, 2011 advising that her child had had heart surgery. She was rescheduled to November 28, 2011 and instructed to contact the Ministry if she was unable to attend the appointment. This appointment was also missed although the Appellant called to reschedule to December 6, 2011. The Ministry informed the Appellant of the requirement to be available for meetings or face being ineligible for assistance payments.
- The Dec 6th appointment was missed with no phone call to reschedule. The Appellant was deemed to be in non-compliance with her assignment of maintenance rights and therefore ineligible for income assistance.

At the hearing, the following evidence was presented.

- The Ministry explained that the appointments were by telephone.
- The Appellant explained that she missed the first two appointments because of her son's heart surgery. The other two for lack of a cell phone.

PART F – REASONS FOR PANEL DECISION

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The issue to be decided is whether the Ministry's reconsideration decision, which denied the Appellant income assistance, was reasonably supported by the evidence, or a reasonable application of the applicable enactment in the circumstances of the person appealing the decision. The Ministry denied the Appellant on the basis that she failed to comply with her assignment of maintenance rights by not attending appointments when required to do so by the Ministry. The terms required to be contained in the assignment are contained in section 24 of the Employment and Assistance Regulation. Section 25 permits the Minister to declare an assignor ineligible for income assistance for failure to comply with the terms of the assignment.

The legislation relevant to this appeal is found in the Employment and Assistance Regulation. Section 24(c)(iii) states:

24 An assignment under this Division must include all of the following terms:

(c) agreement by the assignor to cooperate with the minister and the director of maintenance enforcement as necessary to obtain, vary or enforce the assignor's maintenance agreement or maintenance order including

(iii) attending at all appointments, meetings and court proceedings relating to the assigned rights when requested to do so by the minister or the director of maintenance enforcement

25 (1) If an assignor who is receiving income assistance or hardship assistance fails to comply with the terms of an assignment as prescribed in section 24 (c) [*terms to be included in the assignment*], the assignor's family unit may be declared ineligible for income assistance or hardship assistance.

(2) This section does not apply if the minister is satisfied that the failure of the assignor to comply with the terms of the assignment is beyond the control of the assignor

The Ministry argued that the Appellant showed a pattern of non-compliance by missing four appointments. The excuses for the first two were accepted by the Ministry but the last two were not excused. The Ministry noted that these were appointments by telephone.

The Appellant argued that, as well as the medical problems faced by her son, her cell phone was not working properly so she couldn't meet her appointments.

The requirements of the assignment of maintenance rights are very clear: the assignor (the Appellant in this case) must attend all meetings when requested to do so by the Minister. The Appellant signed the assignment of rights, which is evidence that she was aware of this requirement, in addition to the verbal warnings from the Ministry. Additionally, section 25 of the EAR requires an assignor to comply with the terms of the assignment or "be declared ineligible for income assistance or hardship assistance."

The Ministry excused her first two absences but not the last two. The Panel finds this a reasonable conclusion on the Ministry's part. Even in the absence of a working cell phone, the Appellant could have called in to the Ministry using another telephone. As well, when contacted by the Ministry, or when she initiated the contact, she used a telephone. The Ministry showed patience in giving the Appellant four chances to meet her appointments. Section 25 contains some flexibility for the Ministry to excuse non-compliance but the Panel finds the Ministry was reasonable in finding the Appellant non-compliant in attending meetings.

Therefore, the panel finds that the Ministry reasonably determined that the Appellant was not eligible for income assistance because of her failure to comply with the conditions in her assignment of maintenance rights.

The panel finds that the Ministry's decision was reasonably supported by the evidence and confirms the reconsideration decision.