

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 13, 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 Employment Plan by not demonstrating reasonable efforts to participate in her employment program as required under Section 9 of the Employment and Assistance Act, and that she did not have a medical condition that prevented her participation.

PART D – RELEVANT LEGISLATION

Employment and Assistance Act (EAA), Section 9

PART E – SUMMARY OF FACTS

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

The evidence before the Ministry at reconsideration was as follows:

- the Appellant's Employment Plan, dated October 17, 2011,
- the record from the agency contracted to assist with retraining and obtaining employment for the Appellant ('the contractor'), covering the period from October 17, 2011 to December 16, 2011, and
- the record of the Ministry's interaction with the Appellant contained in the original Ministry decision.

- On October 17, 2011, the Appellant signed an employment plan with the Ministry. In it, the plan states: "It is important that you follow through with the conditions of the EP. If you are unable to follow through please advise the Ministry. If you fail to comply with your EP you will be ineligible for assistance."

The EP required the Appellant to attend an intake session with the contractor, report changes in income, complete tasks assigned by the contractor, work with the contractor to address issues which would prevent employability and attend appointments as required.

- The Appellant met with the contractor on October 19, 2011 and maintained appropriate contact through October 27, 2011.
- On October 28, 2011, the Appellant advised the contractor that she was unable to attend as she was ill. She was rescheduled for November 4, 2011. In speaking with a staff member from the contractor on October 31, 2011 she admitted that Friday was the only day to do laundry and this was why she missed the appointment. She was advised of the importance of attending her appointments.
- The Appellant did not attend the November 4, 2011 appointment, informing staff afterward that her son had suffered a mild concussion. She was advised that she must inform the contractor prior to her appointments and was rescheduled for November 8, 2011.
- The Appellant missed the November 8, 2011 appointment, citing car troubles and informed the staff that she could not attend that week. Staff advised her that she must attend at least once per week and was rescheduled for November 14 and 18, 2011.
- She missed the November 14, 2011 appointment, stating that she thought it was the 15th and missed the 18th as she thought the office would be closed for snow. She was rescheduled for the 25th and advised that non-attendance would result in her being considered 'incomplete.'
- The Appellant kept her appointment on November 25, 2011 and was scheduled for a further appointment on the November 29, 2011. She missed this appointment and did not respond to telephone messages left for her that day and the next. The message on the 30th required her to attend on December 7, 2011. She did not attend and was sent a letter advising that her appointment was rescheduled for December 16, 2011, which was a 'reconnect' appointment.
- The Appellant did not appear for this meeting and her file was returned to the Ministry for non-attendance.
- The Appellant came to the Ministry office on December 21, 2011 requesting her assistance cheque but was told it was withheld due to her non-participation with her EP.

- The Appellant told the Ministry that she had successfully completed the program but the Ministry determined this was not the case after contacting the contractor.
- On December 23, 2011, the Appellant wrote the Ministry to explain her actions on November 18, 2011 and for the 'reconnect' meeting (assumably the meeting referred to by the contractor as December 16, 2011). She explained that she thought the contractor's office would be closed on the November 18, 2011 due to snow, and that she does not have a mailbox key so did not receive the contractor's correspondence regarding the 'reconnect' meeting.

PART F – REASONS FOR PANEL DECISION

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 the conditions of her Employment Plan by not demonstrating reasonable efforts to participate in her employment program as required under Section 9 of the Employment and Assistance Act, and that she did not have a medical condition that prevented her participation.

The legislation relevant to this appeal is found in the Employment and Assistance Act ("the EAA"). Section 9 (1) states:

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

The conditions of the employment plan are not met if the applicant:

- 9(4)(a) fails to demonstrate reasonable efforts to participate in the program, or
- (b) ceases, except for medical reasons, to participate in the program.

The Ministry submits that the Appellant failed to comply with the conditions of her EP because of her lack of attendance as required by the contractor and the fact that she had no medical reason for non-compliance.

The Appellant made the following arguments in her submissions:

- On November 18, 2011, she left a message with the contractor asking whether the office was closed because of snow but they informed her they did not check their messages.
- Regarding the 'reconnect' meeting, she had a job interview on that day and was told to reschedule. She does not have a key for her mailbox so must rely on her landlord to provide her mail for her. She asserts that she did not receive written communication from the contractor.

The Appellant missed a total of eight appointments with the contractor: October 28, 2011, November 4, 2011, November 8, 2011, November 14, 2011, November 18, 2011, November 29, 2011, December 7, 2011 and December 16, 2011.

The Appellant did not attend the Hearing to present her reasons for missing appointments but even accepting her excuses for missing her November 18, 2011 appointment and the 'reconnect' meeting on December 16, 2011, she had six other missed appointments.

Section 9(1) states that to be eligible for assistance the recipient must, when required by the Minister, enter into and comply with the conditions in an employment plan. Section 9(4)(b) states that "[t]he conditions of the employment plan are not met if the applicant ... ceases, except for medical reasons, to participate in the program."

As well, the EP made it clear to the Appellant the consequences of not participating in the

employment plan.

The Panel finds the Ministry reasonable in finding that she was not complying with the conditions of the employment plan. By missing this number of appointments she was not demonstrating reasonable efforts to participate in the program. The Ministry reasonably found that the Appellant bore a responsibility to stay in touch with the contractor and make efforts to comply with her employment plan. Nor is there evidence of medical reasons which caused her to cease attending in the weeks prior to her being found non-participating.

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 employment plan without medical reasons for doing so.

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