

PART C – Decision under Appeal

The decision under appeal is the ministry's reconsideration decision dated February 15, 2012 which held that the appellant is not eligible for income assistance pursuant to s. 9 of the Employment and Assistance Act because he did not make reasonable efforts to comply with the conditions of his employment plan and did not provide documentation to confirm that family issues or medical reasons prevented him from complying with his employment plan.

PART D – Relevant Legislation

Employment and Assistance Act (EAA), s. 9

PART E – Summary of Facts

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

The evidence before the ministry at reconsideration is that the appellant entered into and signed an employment plan on December 5, 2011 which required the appellant to:

- Update and distribute his resume to potential employers
- Seek out and pursue all available resources and employment opportunities
- Submit a work search including a minimum of 3 work search activities per day Monday through Friday with his monthly income assistance stub.

Additionally, the employment plan stated:

- the appellant is aware that he must meet with a worker each month to review and discuss his work search and that it is not sufficient to place the work search in the mailbox and that the appellant is clearly aware that his cheque will be held until the work search is submitted, and
- if the work search does not meet the requirements, he will be ineligible for benefits.

The appellant's initials appear on the employment plan at the bottom of the above provisions.

The ministry's evidence is that the above provisions were reviewed with the appellant on December 5, 2011 and that the work search requirements were stressed to the appellant. Additionally, the ministry reports that it advised the appellant that his January benefits would not be released until he submitted his work search activities list for October and November 2011. Those benefits were subsequently provided on January 5, 2012. It is the ministry's evidence that on January 27, 2012, when in attendance at the ministry office enquiring about his February benefits, the appellant stated that he did not complete a December work search list and was reminded of the requirement to submit his monthly work search. On January 31, 2012, the appellant submitted his work search activities for December 2011 stating that the information that he had not completed the December work search was incorrect as he had simply forgotten the work search at his grandmother's home. The appellant was advised that the December 2011 work search would be reviewed. The ministry states that various listed potential employers were contacted but that the ministry was not able to confirm that any of the employers received the appellant's resume/application for employment. Following the appellant's explanation that he had distributed his resumes via e-mail, he was asked to provide confirmation of his "sent" e-mails for the approximately 43 contacts which he identified as being via e-mail. The appellant subsequently provided copies of his g-mail "inbox" account. On February 1, 2012, the ministry received confirmation from company "A" that it had received the appellant's resume and that the appellant would commence work on February 5. Later that same day, the appellant was advised that as he had not provided confirmation of the sent e-mails he was denied income assistance for failing to comply with his employment plan. The ministry notes that the appellant has had a total of 4 employment plans since December 2008.

Included in the appeal record are copies of the appellant's work search records for September through December 2011 as well as copies of the appellant's December 5, 2011 and July 8, 2011 employment plans.

The appellant's evidence as stated in his Request for Reconsideration is that he has major anxiety about looking for work, dyslexia, and has had a lot of family issues.

In his notice of appeal, the appellant reiterates that he has been going through a lot lately, that his father has been in the hospital, and that he will have employment in the next 2 months.

At the hearing, the ministry provided information respecting its contact with the appellant respecting employment prior to the December 5, 2010 employment plan. The ministry read from its written record of contact which stated that on February 1, 2011, the appellant provided the ministry with a record of two e-mails sent from the appellant's g-mail addressed to potential employers which contained a date in the body of the

email but not the date that the e-mails were sent. The ministry also stated that the appellant never submitted any documentation respecting a medical condition.

The panel determined that the appellant's written testimony in the Notice of Appeal was further description of the appellant's family issues and that the ministry's oral testimony referenced evidence relied on in its reconsideration decision. Therefore, the panel admitted the written testimony of the appellant and the oral testimony of the ministry under s. 22(4) of the EAA as being in support of the information and records before the ministry at reconsideration.

PART F – Reasons for Panel Decision

The issue under appeal is whether the ministry's decision that the appellant is not eligible for income assistance pursuant to s. 9 of the EAA because he did not make reasonable efforts to comply with the conditions of her EP and did not provide documentation confirming mitigating circumstances which prevented his compliance was reasonably supported by the evidence or was a reasonable application of the legislation in the appellant's circumstances.

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 of 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 as stated in his Request for Reconsideration and Notice of Appeal is that he should not be found ineligible for income assistance because he has anxiety about looking for work, dyslexia, and has had a lot of family issues to deal with, including the hospitalization of his father.

The ministry's position is that the appellant's December 5, 2011 employment plan required him to submit monthly work search reports to the ministry and to meet with a ministry worker to review and discuss the work searches. The ministry argues that despite being made aware of these conditions at the time of signing the employment plan and having been reminded of the need to comply, the appellant did not comply with his employment plan because he did not provide confirmation of "sent" e-mails which were requested as part of the ministry's review of the appellant's December work search report. The ministry also argues that the appellant did not provide documentation confirming that family circumstance or medical issues prevented him from complying with his employment plan.

The panel finds that, in accordance with the conditions set out in the December 5, 2011 employment plan, the appellant was requested to provide confirmation that he sent his resume/application via e-mail to those employers listed on his December 2011 work search report that the appellant indicated were contacted via e-mail. The panel also finds that, although the appellant provided copies of e-mails to some employers, the copies did not indicate the date the e-mails were sent; therefore, the panel finds that the appellant did not provide confirmation that he sent the e-mails listed in his December 2011 work search. Further, the panel finds that the appellant did not provide confirmation respecting the family issues he referenced at reconsideration and on appeal or confirmation that he has dyslexia, anxiety, or any other medical condition. Therefore, the panel finds that the ministry reasonably determined that the appellant did not comply with the conditions of his employment plan and is ineligible for income assistance pursuant to s. 9 of the EAA.

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