

PART C – Decision under Appeal

The decision under appeal is the ministry's reconsideration decision dated January 25, 2012 which held that the appellant is not eligible for income assistance pursuant to s. 9 of the Employment and Assistance Act because she was non-compliant with the conditions of her employment plan.

PART D – Relevant Legislation

Employment and Assistance Act (EAA), s. 9

PART E – Summary of Facts

The evidence before the ministry at reconsideration is that the appellant, a single employable person, entered into and signed an employment plan on October 28, 2011. The employment plan stated "If you are unable to follow through please advise the ministry" and "If you fail to comply with your EP you will be ineligible for assistance." Required activities set out in the employment plan included:

- Attend scheduled intake assessment appointment with contractor
- Complete all tasks assigned by the BC Employment Program (BCEP) in accordance with responsibilities as established with the contractor and/or in my participant plan
- Work with the contractor to address issues that may be impacting ability to secure and sustain employment
- Declare all income and report any changes to ministry caseworker
- Attend all review appointments as required
- Go alone, don't be late and attend as required by BCEP and the ministry.

Included in the appeal record are the contractor's "Client Notes" respecting the appellant for the period July 28 through November 23, 2011. Information provided respecting the period in issue is as follows:

- October 31/11 – ACC contacted client who stated she was working Nov. 2 and requested an appointment for Nov. 1.
- November 1/11 – Client attended scheduled intake appointment on November 1/11. Client stated that she is working approximately 6 hours per week. Client and case worker (CC) discussed the expectation of MSD with a goal of independence. Client expressed concern of having to participate in a program stating she is confident in her job search. Client and CC discussed importance of attending.
- November 4/11 – Client informed CC that she has a set work schedule and works Monday/Wednesday mornings and is able to participate in afternoon workshops. Client scheduled to attend on November 7/11 at 1pm, November 8/11 at 9am, November 14/11 from 1-4 pm, November 15/11 from 9-4 pm, November 18/11 from 9-4pm.
- November 7/11 – Client did not attend scheduled Module. MSD advised on non compliance on weekly FYI report. ACC attempted contact and left msg. with third party female requesting client contact office.
- November 8/11 – Contact made. Client and CC discussed missed appointment. Client stated that she had worked during the day and stayed to do some more work and then missed the bus. CC and client discussed the importance of attending, following through, expectations and importance of returning calls. Client stated she is working paid hours only and does not volunteer any longer. Client stated she understands the importance of following through and looking for work. Client and CC discussed upcoming schedule.
- November 14/11 – Client met with CC following participation in workshop. Client and CC discussed upcoming scheduled (sic) – CC and client discussed postponement of re-referral programming. Client to participate in Module 1 on November 21/11 at 9am. Client stated she will re-arrange her work schedule, however will be unable to do this on a regular basis. Client scheduled for one to one review on November 23/11 at 3:30 pm.
- November 21/11 – Client did not attend scheduled appt. MSD advised of non compliance on weekly report. ACC attempted to contact and left msg with third party female.
- November 23/11 8:51 pm – RED approves return for n/p.

Other documentation before the ministry at reconsideration comprised:

- A January 10, 2012 Request for Reconsideration submission from the appellant stating that she was in constant contact with the contractor regarding appointments she needed to attend and her work schedule. If not able to make a scheduled appointment she would call or visit the contractor's office and reschedule the appointments. The only times she missed an appointment is when she was working which the contractor is aware of. Starting as a volunteer, and subsequently being hired, she continues to work hard for her employer with the goal of receiving more hours.
- A January 10, 2012 letter from the appellant in which she requests reconsideration because: (1) she still needs assistance; (2) she has had heel pains or heel spurs for the last 5 years and has a toothache requiring a bridge and crown; and (3) she has a son with Asperger's Syndrome who is on assistance as he is unable to work because of his disability.
- A July 5, 2011 letter from the appellant to the ministry in which the appellant writes that she does not have an employment plan with a referral to a program because she is still working as a tutor, which she considers to be an employment plan.
- A July 27, 2011 employment plan for the appellant.
- A time sheet dated October 26, 2011 respecting the appellant's employment hours for October and September 2011 (author unknown).
- Documents respecting the appellant for 2009 including an employment plan, work search activities records and a letter respecting student financial assistance.

In her Notice of Appeal, the appellant writes that she only receives \$300.00 per month from employment, always looks for work but nobody wants to hire her, and would like to relocate to find a full-time job.

The panel admitted the appellant's written testimony in the Notice of Appeal respecting her employment 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 she did not comply with the conditions of her employment plan 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 is that she has demonstrated reasonable efforts to participate in her employment plan as she only missed appointments due to her employment, arguing that the contractor was aware of her employment and that she always remained in contact with the contractor. The appellant further contends that it is not reasonable for her to lose a job in order to attend a program to help find a job and that she requires assistance due to her medical conditions, financial needs having only \$300.00 per month in employment income, and because her son is disabled and on assistance.

The ministry's position is that the appellant has not made reasonable efforts to participate in her employment program and is therefore non-compliant with her employment plan and ineligible for income assistance. The ministry states that the appellant missed two appointments with the contractor, noting the appellant's explanation that she missed first appointment because she worked late and missed the bus and missed the second appointment because it conflicted with her work which she was unable to re-schedule. The ministry states that in both cases the appellant failed to contact either the contractor or the ministry. Further, on November 14, 2011 all of the appellant's program dates were postponed to accommodate her schedule on the condition that she attends an appointment on November 21, 2011, which she did not attend. The ministry states that at the time her appointments were re-scheduled, the appellant stated that she would rearrange her work schedule and would attend. The ministry argues that the appellant had a week to rearrange her work schedule and did not advise either the ministry or the contractor she would be unable to attend. The ministry notes that the appellant has been found non-compliant with previous employment plans and was fully aware she was responsible for attending meetings with the contractor. The ministry also notes that the appellant is not working sufficient hours to become independent of income assistance, and therefore, as an employable person, is expected to fully comply with the conditions of her

employment plan.

The panel finds that the contractor's record establishes that the appellant did not attend her scheduled appointment with the contractor on November 7, 2011 despite the contractor having set the time and day for that appointment to accommodate the appellant's work schedule. The panel finds that the appellant did not advise the contractor of her inability to attend until the following day when she attended a scheduled appointment, at which time she stated that she had missed her bus. The panel also finds that the contractor's record establishes that the appellant's scheduled appointments for November 15th and 18th of 2011, which had been scheduled to accommodate the appellant's work schedule, were postponed in consultation with the appellant who agreed to reschedule her work, on the condition that she attend an appointment on Monday November 21st at 9 am. The appellant did not attend this appointment nor did she advise the ministry or the contractor of an inability to attend. The evidence also establishes that the contractor repeatedly rescheduled appointments to accommodate the appellant's work schedule and that the appellant was working what is reasonably viewed as minimal hours per week, approximately 6 hrs per week for total earnings of \$300.00 per month. The evidence establishes that this was not the first employment plan into which the appellant entered and that she was repeatedly reminded of the need to attend scheduled appointments with the contractor. While the appellant argues that it is unreasonable to expect that she attend the contractor's appointments at the cost of paid employment, and that she should continue to receive income assistance because she has heel pain, a toothache, and a son who is disabled and on assistance, the panel notes that the appellant is a one-person family unit with no dependents and finds that the evidence does not substantiate that any of these circumstances would prevent the appellant from attending her scheduled appointments with the contractor, noting that the appellant never contacted the contractor in advance of the appointments she did not attend to advise that she was unable to attend for any of these reasons. In conclusion, the panel finds that the ministry reasonably determined that the appellant did not comply with the conditions of her 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.