

APPEAL #

PART C – Decision under Appeal

The appellant appeals the ministry's reconsideration decision of February 6, 2012 in which the ministry determined that the appellant was not eligible for income assistance as a result of his non-compliance with the terms and conditions of an employment plan required by section 9 of the *Employment and Assistance Act*.

PART D – Relevant Legislation

Employment and Assistance Act, section 9 ("EAA").

PART E – Summary of Facts

The evidence before the ministry at the reconsideration was an employment plan signed and dated by the appellant on September 21, 2011, and the appellant's request for reconsideration with his handwritten submission dated January 27, 2012.

On September 21, 2011, the appellant entered into an employment plan ("EP") for a term from September 21, 2011 through May 30, 2013. The EP is 2 pages. The appellant initialed the first page of the EP. The section on the first page of the EP, "A note about your employment 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."

In the list of "required activities", the EP requires that the appellant:

- Make an appointment with the contractor for an intake assessment visit;
- Attend an intake assessment with the contractor;
- Complete all tasks assigned by the contractor in accordance with the appellant's responsibilities as established with the contractor and/or in his participant plan;
- Work with the contractor to address issues that may be impacting the appellant's ability to secure and sustain employment;
- Declare all income and report any changes to the appellant's ministry caseworker, and
- Attend all review appointments as required.

The second page of the EP also contains the following acknowledgement above the appellant's signature and date of September 21, 2011:

I acknowledge that it is a condition of eligibility that I sign this employment plan and that I comply with the conditions set out in this plan, including any condition to participate in a specific employment-related program. ...

I further acknowledge and understand that, if the ministry refers me to a specific employment-related program, I will participate fully and to the best of my ability in the activities required by the ministry contractor. ...

On October 6, 2011, the appellant attended the required intake assessment and was accepted to the contractor's employment program. The appellant did not attend any scheduled appointments with the contractor and on December 22, 2011, the contractor returned the appellant's file to the ministry for non-compliance.

The appellant said that he has had addiction issues for several years and is now in a treatment facility, where he has been since early February 2012. The appellant told the panel that his addiction made him incapable of meeting the scheduled appointments with the contractor or pursuing employment, but that he had not been honest in the past with the ministry about his addiction and its impact on his life. The appellant did not provide confirmation to the panel of the date he entered the treatment facility, although he referred to a doctor's note of March 2012 confirming his addiction and that he was in treatment, which had been faxed to the ministry, but was not before the panel.

The ministry told the panel that the appellant had participated in employment plans in 2009 and 2010 and his file had been returned to the ministry several times for non-compliance. The ministry

said that there was no confirmation of the appellant's addiction or its impact on his ability to participate in the EP on his ministry file at the time of the reconsideration decision.

The panel makes the following findings of fact:

- The appellant entered into an EP on September 21, 2011;
- The appellant agreed to the conditions of the September 21, 2011 EP which required him to attend a specific employment-related program with the contractor;
- The appellant attended the EP required intake assessment with the contractor on October 6, 2011;
- The appellant did not attend any further appointments with the contractor after October 6, 2011;
- The appellant did not provide to the ministry medical confirmation of his addiction and its impact on his ability to participate in an EP.

PART F – Reasons for Panel Decision

The issue on this appeal is the reasonableness of the ministry's reconsideration decision of February 6, 2012, denying the appellant income assistance for non-compliance with an employment plan, as required by section 9 of the *Employment and Assistance Act* ("EAA").

Section 9(1) of the EAA states that in order for a family unit to be eligible for income assistance, each applicant, 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. Subsection 9(3) provides that the minister may specify the conditions in an employment plan including, without limitation, participation in a specific employment-related program that will assist the applicant in finding employment or becoming more employable. Subsection 9(4) of the EAA also requires that if an employment plan includes a condition requiring an applicant 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 the decision to deny him income assistance for non-compliance with the employment plan is unreasonable. The appellant says that he struggles with severe addiction issues that affected his ability to participate in an employment program and/or comply with the terms of the employment plan. However, the appellant acknowledges that he was not forthcoming about his addiction with the ministry and that he did not provide medical confirmation of his addiction to the ministry. The appellant says that he is now in a treatment program, where he has been for almost 2 months and that he has turned his life around and needs the income assistance to continue to participate in the treatment program.

The ministry's position is that the denial of income assistance was reasonable. The ministry says that the appellant entered into and signed an EP on September 21, 2011 and agreed to the conditions in the EP, which included attending at the contractor's office as required, and that he knew he was obliged to comply with the conditions of the EP in order to receive income assistance. The ministry says that the appellant failed to comply with the terms of the EP because he failed to attend any appointments with the contractor after the initial intake assessment on October 6, 2011.

The ministry says that the appellant did not provide to the ministry or the contractor confirmation of his addiction (such as a doctor's note) or confirmation that his addiction caused him to miss scheduled appointments with the contractor and prevented him from participating in the EP. The ministry submits that the appellant is aware of the requirement to comply with the conditions of an EP as he has had several EPs in the past. The ministry says that the appellant did not provide confirmation of medical reasons that caused him to cease participating in the program, as required by the legislation.

The panel finds that the appellant was aware of the terms and conditions of his EP, including that he was required to attend scheduled appointments with the contractor. The panel finds that the appellant did not provide any evidence confirming that his addiction caused him to cease participating in the EP, as required by s. 9(4)(b) of the EAA. The panel finds that the ministry's decision to deny the appellant income assistance for failing to comply with the terms of the employment plan as per section 9 of the EAA is reasonably supported by the evidence. The panel confirms the reconsideration decision.