

### PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development (ministry) reconsideration decision dated April 20, 2012, which held that the appellant was not eligible for income assistance because she failed to comply with the terms and conditions of her employment plan (EP) pursuant to Sections 9 (1) (b), and 9 (4) of the *Employment and Assistance Act (EAA)*. The ministry determined that the appellant is not eligible for income assistance because she did not make reasonable efforts to participate in the employment program as she failed to attend a single appointment with the service provider and did not advise the ministry that the service provider was no longer accepting clients until after she was found non-compliant with her EP.

### PART D – Relevant Legislation

*Employment and Assistance Act – EAA – Sections 9 (1) 9 (3) and 9 (4)*

## PART E – Summary of Facts

The evidence before the ministry at the time of the reconsideration decision consisted of:

1. The Employment Plan (EP) signed by the appellant on November 7, 2011. The terms of the EP included provisions requiring the appellant to make an appointment with the service provider for an intake assessment, attend the program regularly as specified by the service provider, contact the service provider to make an appointment within five days to complete intake, participates in the program fully and to her best of the ability, and notify the service provider if, for any reason, she is unable to attend.
- 2- A letter to the appellant dated January 18, 2012 advising her that her income assistance cheque for the month of February was on hold as a review of her EP was required;
- 3- Copies of two e-mails dated January 18, 2012 from the Employment and Assistance Worker and the service provider indicating that the appellant did not attend the scheduled intake session on December 2, 2011 due to car issue and that the appellant did not make a follow-up appointment;
- 4- A copy of an application for registration indicating an application for a child care registration;
5. Request for reconsideration decision dated March 21, 2012.

In the request for reconsideration the appellant's advocate submitted that the appellant requested to participate in an EP program and booked an appointment with the ministry to discuss registering for the program. The appellant's advocate further stated that the appellant, due to car problems, was not able to attend the scheduled appointment with the service provider. The appellant informed the service provider of her problem and that she did not have child care in place. The appellant also advised that she would be contacting the service provider when she had child care in place.

The Advocate further stated that on January 9, 2012, the appellant contacted the service provider to inform them that she could start her program as she had secured child care. The appellant was advised that the service provider was no longer accepting clients from her community. The appellant requested a confirmation that she spoke with the service provider and informed the ministry. The appellant's advocate submitted that the appellant made every reasonable effort to attend the program and complied with her EP requirements; however, due to circumstances beyond her control she was not able to follow through.

At the hearing, the appellant stated that on November 22, 2011, she attended the service provider's office requesting to register in an employment program and provided her personal information. She made a further appointment for December 2, 2011 but she had car problem and did not attend the meeting. The appellant said that she contacted the service provider on the same day informing them about the problem she had with her car and also told them that she was looking for child care and was unable to participate in the program until January when she could secure a child care service. The appellant further stated that she contacted the program many times and spoke to the staff but she did not know the author of the e-mail included in the appeal package and she had never spoken to this person.

The ministry stated that the reconsideration decision is reasonable as the ministry staff reviewed the EP with the appellant, provided information and made sure that the appellant understood all the requirements. The ministry further stated that the appellant never registered with the service provider and she did not contact the ministry regarding her problems and reasons for not attending the intake meeting.

The panel finds that:

- The appellant signed the EP on November 7, 2011;
- Required activities were that the appellant contact the service provider within five days to complete intake, participate in the program fully and to the best of her ability, attend review appointments as

required by the ministry caseworker and/or service provider and notify the service provider if, for any reason, she was unable to attend the program.

## PART F – Reasons for Panel Decision

The issue on appeal is whether the ministry reasonably concluded that the appellant did not make reasonable efforts to comply with the conditions of her EP, through non-attendance, and failure to participate in the service provider's programs.

Section 9(1) of the EAA provides that, when the ministry requires, a person must enter into an EP and comply with the conditions in the EP in order to be eligible for income assistance.

Pursuant to Section 9(3) of the EAA, the ministry has the authority to specify conditions in an EP, including a requirement that the person participate in an employment-related program.

Section 9(4) of the EAA states that if an EP includes a condition requiring a person to participate in a specific employment-related program, that condition is not met if the person fails to demonstrate reasonable efforts to participate in the program or if the person ceases, except for medical reasons, to participate in the program.

The ministry's position is that the appellant entered into an EP agreement on November 7, 2011. The appellant was referred to an employment-related program, in which she was required to participate. The ministry stated that the appellant did not comply with the conditions of the EP and did not demonstrate reasonable efforts to participate in the program.

The ministry argued that the appellant did not notify the ministry of any changes in her plan and regarding her problem with the child care. The ministry stated that the appellant could have asked someone to look after her child in order to complete the intake process. The ministry submitted that the appellant failed to complete the intake process and as such her file was closed in December 2011 by the service provider.

The appellant submitted that she went to the service provider and made an appointment. The appellant stated that she thought the initial appointment was the intake appointment. The appellant argued that she was not able to attend her following appointment due to car problems and that she informed the service provider that she would contact them as soon as she secured child care. The appellant argued that she contacted the service provider as soon as she arranged for child care and was told that they did not accept anyone from her community. The appellant further submitted that she went to the "faculty organizer" who confirmed the information that was provided by the appellant in her request for reconsideration.

In this case, the panel finds that:

- The appellant contacted the service provider on November 22, 2011 to discuss registering in their program;
- The appellant made an appointment for intake on December 2, 2011 which she failed to attend due to car problem;
- The appellant did not contact the service provider for a follow up meeting until January 9, 2012;
- The appellant contacted the service provider on January 9, 2012 and was told that her file was closed in December 2011 and that the program no longer accepted applicants from her community
- There is no supporting evidence indicating that the appellant contacted the ministry to inform them of her barriers for attending the EP.

The panel finds that the ministry reasonably determined that the appellant failed to comply with the conditions of her EP by failing to fully participate in the service provider's programs. The appellant did not attend the intake appointment and failed to complete the intake process. Although the appellant stated that she went to the service provider, she did not provide any reasonable explanation for not making a follow up appointment to complete the intake process or informing the ministry of her situation. Therefore, the panel finds that the ministry reasonably concluded that the appellant failed to demonstrate reasonable efforts to participate in the employment program and was not in compliance with the conditions of her employment plan.

The Panel finds that the ministry's decision denying the appellant income assistance was a reasonable application of the applicable legislation in the circumstances of the appellant, and therefore, confirms the decision.