

**PART C – Decision under Appeal**

The decision under appeal is the ministry's Reconsideration Decision dated April 16, 2012 which denied the appellant's request for income assistance for failure to comply with the terms and conditions of her employment plan as required by section 9(1)(b) of the *Employment and Assistance Act (EA Act)*. The Reconsideration Decision also states that the appellant failed to demonstrate reasonable efforts to participate in an employment related program as required by section 9(4) of the EA Act.

**PART D – Relevant Legislation**

*Employment and Assistance Act Section 9*

## PART E – Summary of Facts

At reconsideration, the documents that were before the ministry included the following:

- 1) Employment Plan signed by the appellant on December 12, 2011 stating that the appellant agreed to attend an assessment at an employment-related program on December 16, 2011.
- 2) Letter from the ministry to the appellant dated December 29, 2011 advising that the appellant was expected to comply with the term of her employment plan. The plan required her to attend an intake assessment interview at an employment-related program which she failed to attend. The ministry requested that the appellant contact the ministry by January 13, 2012 to discuss why she did not follow through with her employment plan.
- 3) Employment Plan signed by the appellant on January 26, 2012 stating that the appellant will attend an assessment at an employment-related program on February 2, 2012 and that she will participate in the employment-related program beginning April 2, 2012;
- 4) Request for Reconsideration completed March 29, 2012 in which the appellant states that she was on income assistance in city V but went to city G due to a death in her family. While in city G the appellant required emergency dental work which delayed her return to city V and this resulted in her inability to attend her appointments at the employment-related program. The appellant states that she informed the employment-related program of the reason for her missed appointments. The appellant states that upon her return to city V her front door was kicked in and most of her belongings were missing. The appellant states that her neighbor advised her that her roommate had a bad drug problem and owed money to someone and had checked himself into the hospital to hide from people he owed. The appellant states that she feared for her life and safety and was offered a place to rent with friends in city G, so she relocated to city G and is now actively looking for work. The appellant states that she has been to all employment services in city G, that it is a safer environment for her and that she has family in city G.
- 5) Letter from the ministry to the appellant dated March 7, 2012 advising that the appellant was not eligible for income assistance as she had not followed through with her employment plan requirements in that she did not participate with the scheduled programming at the employment-related program.

In the Reconsideration Decision, the ministry states that the appellant is a single recipient of income assistance with a time limit count of 18 months. The ministry states they sent the appellant a letter indicating that she was non-compliant with her employment plan and as a result, she was no longer eligible for income assistance benefits. The ministry states that the appellant advised the ministry that she had not received the ministry's letter and she requested a reconsideration of the ministry's decision to deny her income assistance. The Reconsideration Decision states that the appellant failed to participate in an employment related program as required by her employment plan and that the program advised that she was very late or missed scheduled appointments, attended on four occasions but missed 11 appointments or workshops.

In her Notice of Appeal dated April 30, 2012, the appellant states that she has been actively

searching for work every day and recently found a job as a chambermaid. The appellant also submitted an additional Request for Reconsideration form dated April 30, 2012 with her Notice of Appeal in which the appellant states that she will get a letter from her employer stating when she started work and that she only needs assistance to get her through until she gets paid and get "back on my feet". The appellant requests income assistance for interim time as she plans to stay off assistance and continue working towards a better future.

At the appeal the appellant did not attend. Having confirmed that the appellant was properly notified of the hearing, the panel proceeded with the appeal in the absence of the appellant as per section 86(b) of the *Employment and Assistance Regulation*.

At the appeal, the ministry relied on the Reconsideration Decision. The ministry stated that the appellant signed an Employment Plan, met with the employment-related program on February 2, 2012 but did not attend for further appointments as required. On March 2, 2012 the employment program returned the file to the ministry and the ministry determined that as the appellant had not complied with the terms and conditions of her Employment Plan she did not qualify for income assistance.

Based on the evidence, the panel's finding of facts are as follows:

- The appellant signed an Employment Plan in December 2011;
- There was a death in the appellant's family requiring her to go to city G and while she was there she required emergency dental treatment;
- The appellant signed a second Employment Plan on January 26, 2012;
- The appellant attended an appointment at an employment-related program on February 2, 2012; and
- The appellant missed appointments at the employment-related program and subsequently the appellant's file was returned to the ministry on March 2, 2012.

**PART F – Reasons for Panel Decision**

The issue to be decided is whether the ministry reasonably concluded that the appellant did not meet all of the terms and conditions of her employment plan as required by section 9 of the EA Act.

The relevant sections of the EA Act, provide as follows:

**Employment plan**

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 in 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.

(6) The minister may amend, suspend or cancel an employment plan.

(7) A decision under this section

(a) requiring a person to enter into an employment plan,

(b) amending, suspending or cancelling an employment plan, or

(c) specifying the conditions of an employment plan

is final and conclusive and is not open to review by a court on any ground or to appeal under section 17 (3) [*reconsideration and appeal rights*].

The appellant's evidence indicates that she was unable to attend the employment-related program as there was a death in her family requiring her to go to another city for a period of time. The appellant's evidence also indicates that while she was away she required emergency dental treatment and that she informed the employment-related program of the reasons for her absence. The appellant's position is that she did not respond to the letters from the ministry requiring her to contact the ministry regarding her missed appointments at the employment-related program because she did not receive the letters from the ministry. The appellant's evidence indicates that upon her return her home had been broken into and she then relocated from city V to city G, began searching for work and has since found employment as a chambermaid.

The ministry argues that the appellant did not participate in the employment-related program as required by her employment plan as she was late for and missed scheduled appointments. As she did not comply with the terms and conditions of her employment plan the ministry determined that the appellant was not eligible for income assistance.

The panel finds that the appellant was aware of the conditions of her Employment Plan including that she was required to contact the employment-related program and attend appointments. The evidence established that the appellant did not attend her scheduled appointments at the employment-related program as required by her Employment Plan. The panel finds that there is no evidence that the appellant made reasonable efforts to comply with the requirements of her Employment Plan as required by Section 9(4)(a) of the EA Act.

Although the appellant states that she required emergency dental treatment, there is no evidence as to the date or length of that treatment or any reason why that would have required the appellant to miss more than one scheduled appointment. The panel finds that there is no evidence that the appellant ceased to participate in the Employment Plan for medical reasons.

The panel finds that the ministry's decision to deny the appellant income assistance for failing to comply with the terms and conditions of her Employment Plan as required by Section 9 of the EA Act was reasonably supported by the evidence and was a reasonable application of the legislation in the circumstances of the appellant. The panel confirms the ministry's decision.