

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development (ministry) reconsideration decision dated April 25, 2012, which held that the appellant was not eligible for income assistance because he failed to comply with the terms and conditions of his 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 he did not make reasonable efforts to participate in his employment program as he failed to attend regularly scheduled appointments. The ministry further determined that the appellant failed to provide medical information confirming that his medical condition prevented him from participating in his employment plan.

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 January 30, 2012. The terms of the EP included that the appellant returns the required medical documentation to the ministry within 30 days of signing the EP for review by a case worker;
2. The EP signed by the appellant on February 22, 2012. The terms of the EP included provisions requiring the appellant to meet with the contractor on February 28, 2012 at 9:30 AM for employment assessment, participate in employment program, attend the program regularly as specified by the contractor, and notify the contractor if, for any reason, he is unable to attend;
- 3- A copy of the participation report history indicating that the appellant was referred to the EP on February 22, 2012 for intake assessment (February 22 to March 14, 2012);
- 3- A note from a medical centre dated April 18, 2012 stating that the appellant is not able to work for the next 4-8 weeks due to having had surgery;
- 4- Request for reconsideration decision dated March 23, 2012 in which the appellant requested 10 extra days to gather information.

In the request for reconsideration the appellant requested 10 days to provide medical information to the ministry. A copy of the telephone log in the file dated April 24, 2012 states that the appellant said that he contacted the ministry by phone on April 19, 2012 and spoke with one of the staff. According to this document, the appellant stated that he informed the staff that he had a medical report which indicated that he had recently undergone surgery on his leg and he was unable to look for work at that time. The note further stated that the appellant submitted that the staff told him he would be eligible to receiving income assistance if he would submit the medical report to the ministry by April 25, 2012. According to this document, the appellant stated that he did not need to submit further information for a reconsideration extension as he now had information that indicated he was eligible to receive income assistance.

In the Notice of Appeal, the appellant stated that he missed the employment plan because he attended a funeral for his cousin. The appellant further stated that he needs the April and May cheques in order to pay rent and he would start working the first week of June.

At the hearing, the appellant stated that he didn't attend the assessment appointment on February 28, 2012 because his cousin passed away a week prior and he was not mentally ready to start the program. The appellant stated that "I was not thinking about work at that time". The appellant further stated that his legs were broken on December 16, 2011 and he had surgery the same day or the next day. The appellant further submitted that his family physician was away on holiday and when he returned, the appellant had to make an appointment to see him in order to get a medical note indicating he was not able to work. The appellant said that was the reason he didn't obtain the medical note before April 18, 2012.

The appellant said that he has found employment and will be going back to work in a week or two, all he needs is the income assistance cheque for this month. The appellant agreed that he did not contact the ministry from February 22 when he signed the EP to March 22, 2012 when he contacted the ministry asking for his April cheque. The appellant stated that the doctor note stated that he is not able to work for 4-8 weeks from the date the note was written, April 18, 2012.

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 informed the ministry he was not able to participate in the EP as a result of surgery. The ministry submitted that when the appellant signed the EP, he told the ministry he was ready to start the program. The ministry further submitted that the appellant did not provide any medical confirmation about his condition prior to his file being closed on March 12, 2012.

The panel finds that:

- The appellant had two broken legs as a result of an incident on December 16, 2011;
- The appellant signed the EP on January 30, 2012 agreeing to provide medical information to the ministry on February 22, 2012;
- The appellant did not provide medical confirmation regarding his medical condition in February or March 2012;
- The appellant signed the EP on February 22, 2012 agreeing to attend an assessment meeting on February 28, 2012;
- The appellant did not attend the assessment appointment or inform the ministry why he was not able to participate in the EP;
- The appellant contacted the ministry on March 22, 2012 requesting his April check;
- The appellant provided a note on April 19, 2012 from a medical clinic indicating that he was not able to work for the next 4-8 weeks.



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 his 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 February 22, 2012. The ministry initially gave the appellant a month in order to deal with his injuries. On February 22, 2012, the appellant was walking, he informed the ministry that he was ready to start the employment program and did not mention about his friend having passed away. The appellant was referred to an employment-related program, in which he 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 his circumstances and regarding his problem dealing with the death of his cousin. The ministry submitted that the appellant failed to complete the intake process and as such his file was closed in March 2012.

In the Notice of Appeal, the appellant stated that he missed the employment plan because he attended a funeral for his cousin. The appellant further stated that he needs the April and May cheques in order to pay rent and he would start working the first week of June.

The appellant stated that he does not want to be on income assistance and is going to work shortly. The appellant argued that he could not attend the assessment appointment as he was mentally unable to think about working. All he needs is a cheque for this month in order to be able to get ready for work.

The panel finds that:

- The appellant did not contact the ministry informing them that he was grieving and that he was not able to start the EP due to his cousin's death;
- The appellant failed to attend the intake assessment appointment on February 28, 2012;
- The appellant did not contact the ministry until his file was closed;
- There is no supporting evidence indicating that the appellant contacted the ministry prior to his file being closed to inform the ministry of his barriers for attending the EP.

The panel finds that the ministry reasonably determined that the appellant failed to comply with the conditions of his 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. The panel further finds that the appellant did not provide any reasonable explanation for not making a follow up appointment to complete the intake process or informing the ministry of his situation. Although the appellant provided a letter dated April 18, 2012 from a medical clinic indicating that he is unable to work for the next 4-8 weeks, the panel finds that it does not relate to the time of the appellant's missed appointment with the contractor and it does not address the appellant's ability to attend the program.



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 his employment plan and that he did not have a medical reason for ceasing to participate in the program.

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.