

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development (ministry) reconsideration decision dated May 8, 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 Section 9 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 her employment program as she failed to attend regularly scheduled appointments. The ministry further determined that the appellant was able to attend for work as she failed to disclose any medical conditions impacting her ability to search for employment.

PART D – Relevant Legislation

Employment and Assistance Act – EAA – Sections 9

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 15, 2011. The terms of the EP included provisions requiring the appellant to participate in specific employment-related programs.
- 2- The EP signed by the appellant on January 30, 2012. The terms of the EP included provisions requiring the appellant to meet with the contractor on February 7, 2012 for employment assessment, and beginning April 2, 2012 participate in the new EP. The EP states that the appellant understood that her participation in the program is mandatory to be eligible for income assistance;
- 3- Client Employability Profile completed on January 30, 2012. The profile stated that the appellant was unemployed for over 3 years; she has post secondary education, has adequate shelter and is fluent in English and has good health. The document further states that the appellant does not have any limitation for employment due to disability.
- 4- Request for reconsideration dated May 1, 2012 in which the appellant stated that she is on the verge of being evicted and has no place to go. The appellant submitted that she will redo the employment plan after realizing the importance of it; however, she stated that she would be seeking doctor's advice for her medical problems and she has to look after her spouse at home. The appellant further submitted that she needs to apply for hardship assistance.

In the Notice of Appeal, the appellant stated that there were several different reasons why she missed her appointments with the contractor. The appellant submitted that she was unable to reschedule her missed appointment with the contractor due to an unstable living environment. The appellant stated that she lived in an apartment building with neighbors who were involved in drug use and drug trafficking and that her boyfriend was beaten and she was held by the attackers. They stole her purse, her ID and her cell phone. The appellant said that "this was why I missed one of my appointments". The appellant further submitted that she did not have a land line to contact the contractor as she was told to call in the night before the appointment to let them know if she was not able to attend. The appellant stated that her boyfriend is diagnosed with schizophrenia which has added to her missing her appointments with the contractor. The appellant submitted that she is homeless and has had no support from the authorities. The appellant stated that she does realize the importance of the employment plan that she signed, she is not lazy and once in a safer environment, she can and will continue with her employment plan.

The panel admits the appellant's submission in support of information and records before the minister at the time of the reconsideration pursuant to section 22.4 of the EAA.

The ministry relies on the reconsideration decision and did not submit any new evidence. The reconsideration decision dated May 8, 2012 stated that the appellant was referred to the employment contractor on November 15, 2011. The appellant file was returned to the ministry on January 5, 2012 because she did not attend the required 40 hours within her first month of being accepted into the BC Employment Plan (BCEP). The appellant was given a second opportunity, on January 30, 2012, to attend the EP. The ministry staff reviewed the EP with the appellant, provided information and made sure that the appellant understood all the requirements. The appellant did not attend her schedule intake appointment on February 7, 2012. The contractor rescheduled the appointment for February 14, 2012; the appellant attended this appointment and was accepted into the program. However, on March 9, 2012, the contractor returned the appellant's file because she did not attend the required 40 hours within her first month of being accepted into the program.

The ministry further confirmed that the appellant was able to look for work as she did not disclose any medical conditions impacting her ability to search for employment. The ministry determined that the appellant is not

eligible for income assistance because she did not demonstrate reasonable efforts to comply with the terms and conditions of her employment plan nor did she confirm medical condition that prevented her from participating in her EP.

The panel finds that:

- There is no sufficient evidence before the panel confirming that the appellant has a medical condition that prevents her from participating in the EP;
- The appellant signed the EP on November 15, 2011 agreeing to comply with the conditions set out in the plan;
- The appellant did not attend the required 40 hours within her first month of being accepted into the plan;
- The appellant signed the second EP plan on January 30, 2012 acknowledging that it is a condition of eligibility that she signs the EP and that she complies with the conditions set out in the plan;
- The appellant did not attend the required 40 hours within her first month of being accepted into the second employment plan.

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 contractor'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.

Section 9(2) of the EAA states that a dependent youth, 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.

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.

Section 9(5) of the EAA states that If a dependent youth fails to comply with subsection (2), the minister may reduce the amount of income assistance or hardship assistance provided to or for the family unit by the prescribed amount for the prescribed period.

Pursuant to section(6) of the EAA, the Minister may amend, suspend or cancel an employment plan and section 9(7) of the EAA states that 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 reconsideration decision stated that the appellant entered into an EP agreement on November 15, 2011. The appellant did not comply with the conditions of her EP. The ministry gave the appellant a second opportunity and on January 30, 2012 the appellant entered to an EP agreement. Again she failed to comply with the conditions of her EP. The appellant did not mention that she had any medical condition that would prevent her from participating in her EP. 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 further stated that the appellant did not notify the ministry or the contractor of any changes in her circumstances and regarding her medical problem. The appellant failed to comply with the conditions of her EP and as such her file was closed.

In the Notice of Appeal, the appellant stated that she missed the employment plan because of her living environment. The appellant stated the she was robbed and lost her cellular phone and as a result was not able to contact the contractor informing them that she was not able to attend the scheduled appointment. The appellant further stated that she is homeless and needs assistance and that she is willing to redo her EP as long as she is in a safe living environment.

The panel accepts the appellant statement about her living condition and that she did not have her cellular phone to contact the contractor the evening prior to her first appointment. However, the panel finds that the appellant failed to contact the contractor and/or the ministry in the following days informing them that she was

not able to attend her meetings with the contractor due to her living environment and/or her medical condition. The panel finds that the appellant failed to attend the required 40 hours within her first month of being accepted into the second employment plan. The panel further finds that the appellant did not provide any reasonable explanation for not making a follow up appointments or informing the ministry of her situation.

The panel finds that there is no supporting evidence before the ministry at the reconsideration indicating that the appellant's medical condition prevented her to fully participate in her EP. The appellant did not contact the ministry prior to her file being closed to inform the ministry of her barriers for attending the EP. The panel finds that the appellant was not in compliance with the conditions of her employment plan and did not provide supporting evidence that her medical condition was a reason for ceasing to participate in the program.

Therefore, the panel finds that the ministry reasonably determined that the appellant failed to demonstrate reasonable efforts to comply with the conditions of her EP by failing to fully participate in the EP.

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.