

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development (ministry) reconsideration decision dated July 25, 2012 whereby the appellant was found to be ineligible for income assistance pursuant to Section 9 of the Employment and Assistance Act (EAA) for not complying with the conditions of her Employment Plan (EP), due to her failure to make reasonable efforts to participate in an employment-related program and with no medical reason for her non-participation.

PART D – Relevant Legislation

Employment and Assistance Act (EAA), Section 9

PART E – Summary of Facts

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

- 1) Employment Plan (EP) signed by the appellant dated March 21, 2012. The terms of the EP include provisions requiring the appellant to: contact the service provider within 3 days, to attend the appointment booked by the service provider, to meet with her employment counselor, to complete an action plan and provide a copy of her action plan to the ministry by the 15th of the next month; to attend at the service provider at minimum once per week and follow through on all recommended programs/job search assistance; advise the ministry and service provider of any reason she is not able to continue;
- 2) Letter dated June 29, 2012 from the appellant's physician which states in part that the appellant would like to apply for medical disability and requests that she be provided with the forms and help to find an assessor to complete the section applicable; second copy of letter with handwritten note which states "...anxiety and depression issues";
- 3) Letter dated July 4, 2012 from the appellant's friend to the ministry which states in part that the appellant has suffered from debilitating anxiety disorder for many years, that her grandfather committed suicide and that her aunt and sister also have great anxiety. The friend states that the appellant has had serious childhood trauma and has difficulty talking about many things due to embarrassment about her background, anxiety disorder and learning difficulties. The friend states that the appellant had learning problems in school and only completed grade 5, she finds it difficult to understand written materials and to follow directions, and she is an oral learner;
- 4) Print out from Accountability and Resource Management System for the service provider stating in part that on April 25, 2012, the appellant was given a job search form and created a resume and that, on July 5, 2012, she was given a job search form and information for a College;
- 5) Direct Load Enrollment Form for a credit card in the appellant's name; and,
- 6) Request for Reconsideration- Reasons.

The appellant did not attend the hearing. After confirming that the appellant was notified, the hearing proceeded under Section 86(b) of the Employment and Assistance Regulation.

In her Notice of Appeal, the appellant states that she has anxiety and she has a doctor's letter saying this which she thinks has not been looked at, that she takes pills for anxiety and that she has for the past 3 years. The panel admitted the appellant's written evidence as further information regarding her medical condition and being in support of the information and records before the ministry on its reconsideration, pursuant to Section 22(4) of the Employment and Assistance Act. In her Request for Reconsideration, the appellant states that she has a hard time following through due to anxiety issues and was assisted with completing the Request for this reason.

The ministry's evidence included that the appellant has been in receipt of income assistance as a single employable person. The appellant signed an Employment Plan (EP) on March 21, 2012 agreeing to the conditions as set out, and she was referred by the ministry into an employment-related program with a service provider. The terms of the EP included provisions requiring the appellant to: contact the service provider within 3 days, to attend the appointment booked by the service provider, to meet with her employment counselor, to complete an action plan and provide a copy of her action plan to the ministry by the 15th of the next month; to attend at the service provider at minimum once per week and follow through on all recommended programs/job search assistance; advise the ministry and service provider of any reason she is not able to continue. The ministry clarified that at the time of signing the EP, the appellant agreed to connect with the service provider within 3 days and also to submit an action plan to the ministry by April 15, 2012.

On April 23, 2012, the appellant was verbally reminded of her responsibilities regarding her EP during a phone call with the ministry; the consequences of non-compliance were also reviewed and explained and the appellant confirmed that she understood. On April 25, 2012, the appellant attended her first appointment with

the service provider. On June 29, 2012, the ministry determined that the appellant had failed to submit an action plan as directed, which was due by April 15, 2012. The ministry confirmed with the appellant's employment counselor that she connected with the service provider on April 25, 2012 but failed to attend her subsequent scheduled appointments and she did not contact them regarding her absence. The appellant was advised that she was no longer eligible for income assistance due to non-compliance with her EP and the appellant offered no information to indicate any mitigating reason for her non-compliance. On July 9, 2012, the ministry received information from the appellant's friend and contacted the appellant who stated that she had been attending the program and she had confirmation as well as a doctor's letter. On July 11, 2012, the ministry received the doctor's letter advising that the appellant intends to apply for Persons With Disabilities (PWD) status, as well as confirmation from the service provider that the appellant attended the program on July 5, 2012. On July 16, 2012, the ministry determined that the appellant had still not submitted a copy of her action plan to the ministry.

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 provide an action plan to the ministry, with no medical reason for her absence and that, therefore, the appellant is not eligible for income assistance pursuant to Section 9 of the Employment and Assistance Act (EAA).

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. Under 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. Pursuant to Section 9(4) of the EAA, 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 dated March 21, 2012, that she was referred to an employment-related program in which she was required to participate, and that she did not comply with the conditions of the EP as she did not demonstrate reasonable efforts to participate in the program. The ministry points out that when the ministry spoke with the appellant on April 23, 2012, she was verbally reminded of her responsibilities regarding the EP as well as the consequences of non-compliance and the appellant confirmed with the ministry that she understood. The ministry points out that the appellant did not attend at the service provider until April 25, 2012 and she did not attend further appointments nor contact the service provider regarding her absence. The ministry points out that the appellant also did not submit a copy of an action plan to the ministry, that she had still not provided it by July 16, 2012, nor provide any reason that it has not been submitted. The ministry argues that the appellant did not identify a medical condition as a barrier to her participation in the program and the medical note provided by the appellant does not indicate that the appellant is unable to work or that her medical issues may hinder her ability to participate in an EP. The appellant argues that she has anxiety and she has a doctor's letter saying this which she thinks has not been looked at, that she takes pills for anxiety and that she has done so for the past 3 years. The appellant points out that she has a hard time following through due to anxiety issues.

The panel finds that the EP signed by the appellant dated March 21, 2012 requires the appellant to, among other things, complete an action plan and provide a copy to the ministry by April 15, 2012, and to advise the ministry and the service provider of any reason she is not able to continue in the program. The panel finds that it is not disputed that the ministry verbally reviewed the responsibilities of the EP as well as the consequences of non-compliance with the appellant in a telephone conversation with the appellant on April 23, 2012 and that the appellant confirmed with the ministry that she understood. The panel finds that it is also not disputed that, as of July 16, 2012, the appellant had not provided a copy of an action plan to the ministry. The appellant argues that she has a hard time following through due to anxiety issues, however the panel finds that the letter dated June 29, 2012 from the appellant's physician states that the appellant would like to apply for medical disability and it could not be determined who added the handwritten notes, "...anxiety and depression issues," to the second copy of the letter. Although the appellant's friend states in a letter dated July 4, 2012 that the appellant has suffered from debilitating anxiety disorder for many years, the panel finds that this information has not been confirmed in the letter provided from the appellant's physician, who is the health professional. The panel finds that there is not sufficient information provided to establish that the appellant has medical issues that restrict her from participating in an EP. The legislation requires that the appellant demonstrate reasonable efforts to participate in the program, or to provide a medical reason for ceasing to participate in the program, and the panel finds that the ministry reasonably concluded, pursuant to Section 9 of the EAA, that the requirements have not been met in this case.

The panel finds that the ministry decision was a reasonable application of the applicable enactment in the circumstances of the appellant and confirms the decision.