

PART C – Decision under Appeal

The decision under appeal is the Reconsideration Decision dated August 14, 2012, in which the Ministry of Social Development (“Ministry”) confirmed its decision to deny the Appellant income assistance. The Ministry denied income assistance on the basis that the Appellant was not in compliance with the terms and conditions of her employment plan as required by s. 9 of the Employment and Assistance Act (EAA). Specifically, the Ministry found that the Appellant did not meet the requirements that she submit a monthly record of her work search activities which were to include at least 25 hours per week of work search activity.

PART D – Relevant Legislation

The relevant legislation is section 9 of the EAA.

PART E – Summary of Facts

The Appellant began receiving income assistance in December 2010.

On May 12, 2012 the Ministry mailed the Appellant a letter advising her that she needed to complete a new Employment Plan. On May 18, the Appellant attended the Ministry Offices and entered into an Employment Plan (EP) that required her to spend a minimum of 25 hours per week in work search activities and provide the Ministry with records of her work search activities on the 5th of every month showing five activities per day per week. This EP is included in the evidence before the Panel. At that meeting the Appellant was also advised of the requirement to comply with her EP in order to remain eligible for income assistance.

On June 18, the Appellant submitted a record which included four days and seven work search activities. This record is included in the evidence before the Panel. The Ministry subsequently reviewed this record but determined to await the next record due on July 5 to make a final assessment.

On July 11, the Ministry reviewed the Appellant's file and found that no record had been submitted on July 5. The Ministry then determined to sanction the Appellant by making her ineligible for income assistance. On July 12 the Ministry sent a letter to the Appellant to this effect.

On July 23, the Appellant called the Ministry to inquire about her August income assistance cheque and was informed of her ineligibility.

In Section 3 of Reason for Request for Reconsideration dated July 27, 2012, the Appellant states that she started a new record for June 1 – 30 and turned it in with her stub for August.

In its Reconsideration Decision, the Ministry states that it has no record of any job search activities submitted after the work search activities in May.

In oral testimony the Ministry stated that the requirements of the EP were explained to the Appellant and that she acknowledged that she understood them.

At the time of the reconsideration decision the Appellant was receiving income assistance as a single parent.

PART F – Reasons for Panel Decision

The issue under appeal is the reasonableness of the Ministry's decision to deny the Appellant income assistance for failing to comply with the conditions of her EP.

The relevant legislation is section 9 of the EAA:

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.

(2) 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.

(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.

(5) 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.

(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*].

In her reconsideration submission, the Appellant stated that (1) she did not meet the requirements of her EP in June due to the fact that she did not enter into it until June 18, and (2) that she is doing her best to "deal with [her] 18 year old son who is taking methadone to get off heroin."

In her appeal submission, the Appellant states that she did not know that she was required to carry out job search activities 5 days per week nor that she was required to submit records on the 5th of each month.

The panel finds that section 9 of the EAA provides that the minister may require that an applicant or recipient enter into an EP and comply with the terms of the EP in order to be eligible for income

assistance.

In this case, the Appellant has failed to provide the Ministry with a record of her employment search activities as required by the Ministry. In these circumstances, section 9(1) of the EAA empowers the Ministry to declare the Appellant ineligible for income assistance.

The Appellant's argument that she was not aware that she was required to provide these records on the 5th of the month is not borne out by the facts. The Ministry states that it is usual for the requirement to be explained to recipients and that it was actually explained to the recipient in this case. The panel finds this statement by the Ministry to be credible and that the Appellant was made aware of the requirement to submit records on the 5th of the month.

The Appellant states that she has subsequently submitted a record to the Ministry. The Ministry states that at the time of the reconsideration decision there was no record before the Ministry except the incomplete record of June 18. This record does not appear in the Appeal documents, so there is no corroborating evidence to suggest that the Appellant has actually submitted a second record to the Ministry. The panel finds that there was only the record of June 18 before the Ministry at the time of the reconsideration decision.

Based on this analysis the Panel finds that the Appellant had not complied with the terms of her EP at the time of the reconsideration decision. The Ministry's decision to deny the Appellant income assistance was reasonably supported by the evidence.

Accordingly, the Panel confirms the Ministry's decision.