

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development (ministry) reconsideration decision dated August 16, 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 his Employment Plan (EP), due to his failure to make reasonable efforts to participate in an employment-related program and with no medical reason for his 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 June 7, 2012. The terms of the EP include provisions requiring the appellant to: attend a first appointment with the service provider within 5 days, participate in the program regularly and as directed by the service provider, work with the service provider to address any issues that may impact his employability and to complete all tasks assigned including any activities set out in an action plan, and to advise the service provider if he is unable to attend a session or when he starts or ends any employment; and
- 2) 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 his Notice of Appeal, the appellant states that he did make another appointment for the workshop program and attended. The appellant states that he thought he could manage his addiction along with the employment action plan but later realized that he was unable to balance all his present commitments. The panel admitted the appellant's written evidence as further information regarding his ability to participate 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 his Request for Reconsideration, the appellant states that his reasons for not showing up on time for the workshops are as follows: 1) his father's MS is progressing rapidly which has resulted in traumatic stress, 2) he has personal issues regarding struggles with addiction, and 3) he has had trouble with balancing scheduled commitments and has done his best to re-book prior workshops. The appellant states that he would like to have more time in between mandated curriculum considering his personal stress barriers, that he has so much to balance at times making it a struggle for him to maintain and to remember all his prior obligations.

The ministry's evidence included that the appellant has been in receipt of income assistance since 1992, has entered into at least seven employment plans since 2007 and most recently signed an EP on June 7, 2012 agreeing to the conditions as set out, and he 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: attend a first appointment with the service provider within 5 days, participate in the program regularly and as directed by the service provider, work with the service provider to address any issues that may impact his employability and to complete all tasks assigned including any activities set out in an action plan, and to advise the service provider if he is unable to attend a session or when he starts or ends any employment. On June 15, 2012, the Ministry received a report from the service provider that the appellant attended an orientation and booked an appointment with a case manager for June 21, 2012. On June 29, 2012, the ministry received a report from the service provider that the appellant attended the appointment on June 21, 2012 and booked two workshops for June 26 and July 3, 2012. The appellant failed to attend the workshops and has not contacted the service provider since June 26, 2012. On July 26, 2012, the appellant contacted the ministry to discuss the reason that he did not receive income assistance. The appellant stated that he contacted the service provider on July 23, 2012 and the reason for missing the appointments is because he was visiting his father who is ill. The appellant stated he had not contacted the service provider earlier than July 23, 2012 as he did not realize that a month had lapsed since his last contact and he thought he had contacted the service provider. The ministry confirmed with the appellant's case manager at the service provider that he failed to make contact with them between June 21 and July 23, 2012.

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 contact the service provider, with no medical reason for his 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 June 7, 2012, that he was referred to an employment-related program in which he was required to participate, and that he did not comply with the conditions of the EP as he did not demonstrate reasonable efforts to participate in the program. The ministry points out that the appellant did not attend at the service provider for appointments on June 26 and July 3, 2012 stating that he "forgot about the appointments" because of his father's medical state and the appellant's personal issues of addiction. The ministry points out that the appellant failed to connect with either the ministry or the service provider to advise of his absences either before or after his missed appointments, until he was not in receipt of income assistance. The ministry argues that the appellant failed to advise the ministry of any mitigating reasons that may hinder his ability to participate in the program, either at the time of signing the EP or before or after the missed appointments. The ministry argues that although the appellant indicated that his father is his priority because of his medical condition and that the appellant is struggling with addiction issues, the appellant has not provided any supporting documentation and did not disclose his addiction issues to the ministry. The appellant argues that his reasons for not showing up on time for the workshops are as follows: 1) his father's MS is progressing rapidly which has resulted in traumatic stress, 2) he has personal issues regarding struggles with addiction, and 3) he has had trouble with balancing scheduled commitments and has done his best to re-book prior workshops.

The panel finds that the EP signed by the appellant dated June 7, 2012 requires the appellant to, among other things, participate in the program regularly and as directed by the service provider and to advise the service provider if he is unable to attend a session. The panel finds that it is not disputed that the appellant attended a meeting with the service provider and scheduled further appointments for June 26 and July 3, 2012, but then failed to attend these appointments and did not advise the service provider that he was unable to attend these sessions. The appellant argues that he did not attend because of stress caused by his father's medical condition which is progressing rapidly, his own struggles with addiction and his trouble with balancing commitments, however the ministry points out that the appellant did not advise the ministry or the service provider of his difficulties and did not contact the service provider until July 23, 2012 to inquire about his income assistance. The panel finds that the appellant did not contact the service provider for over a month and did not attend the two appointments that he had scheduled with the service provider and did not demonstrate reasonable efforts to participate in his EP. The panel finds further that there is not sufficient information provided to establish that the appellant has personal medical issues, either from stress due his father's illness or from his own struggles with addiction, that restrict him 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.