

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development (the ministry's) reconsideration decision dated January 21, 2013 which held that the appellant is not eligible for income assistance pursuant to section 9(1)(b) as he has not complied with the conditions of his employment plan (EP) because he failed to demonstrate reasonable efforts to participate in the program pursuant to section 9(4)(a) and has not provided any medical reason to substantiate that he is unable to participate in the program pursuant to section 9(4)(b) of the Employment and Assistance Act.

PART D – Relevant Legislation

Employment and Assistance Act (EAA), section 9.

PART E – Summary of Facts

The appellant was not in attendance at the hearing. After confirming that he was notified, the hearing proceeded under section 86(b) of the Employment and Assistance Regulation.

The evidence before the ministry at the time of reconsideration included: (a) a ministry employment plan (EP) signed by the appellant and dated October 25, 2012; and (b) the appellant's Request For Reconsideration dated December 27, 2012.

On, October 25, 2012, the appellant entered into an EP with conditions as follows:

Participate fully and to the best of the appellant's ability in the activities required by the ministry or contractor as set out;

- Attend first appointment with the employment contractor on November 8, 2012 at 10:30 AM,
- Participate in EP programming regularly and as directed by the contractor,
- Work with the contractor to address any issues that may impact the appellant's employability,
- Complete all tasks assigned including any activities that may be set out in an action plan,
- Notify contractor if unable to attend a session or when starting or ending any employment,
- Declare all income, report any changes to the ministry,
- Attend all ministry review appointments,
- Report monthly by Reporting Card.

By signing his EP, the appellant acknowledged that;

- it is a condition of eligibility,
- he must comply with the conditions as set out in this plan including any condition to participate in a specific employment- related program,
- the contractors have the ability to report back on the appellant's activities,
- he may be required to provide verification of his compliance with the conditions of this plan, including proof of active work search and/or records of attendance and participation in an employment-related program as required by the ministry,
- he understands that if he fails to comply with the conditions of his EP, he will be ineligible for assistance under the Act.

On November 8, 2012, the appellant met with the case worker (contractor) and advised her that his father had been ill and that the workshops are not going to work for him at this time. The appellant was then signed in for a resume workshop so that he could do an independent work search that needed to be submitted to her every 2nd Thursday. The contractor also reviewed compliance for the 3rd time with the appellant and the importance of keeping in contact with her. The appellant failed to attend this workshop, connect with the contractor or submit the work search as mandated.

On November 29, 2012, the contractor sent a letter to the ministry advising the appellant was no longer eligible for the program due to extensive non-compliance, having not have had contact since November 8, 2012 and closed its file on December 21, 2012.

On December 20, 2012, after having notified the appellant by letter that he was no longer eligible for the program due to extensive non-compliance; he attended the ministry's office to advise that that he did participate and had emailed the contractor. As the appellant did not provide any mitigating circumstances as to why he did not participate in the EP programs; he was deemed ineligible for continued income assistance benefits.

In the appellant's reasons for his Request For Reconsideration dated December 27, 2012; he states that he

did not miss all the listed appointments and was never reviewed or given any warning for non-compliance. He indicates that he did hand in a job search form to the front desk. He states that he had told the contractor that he was thinking about moving to another province, not that he was moving. The appellant further states that he had advised the contractor, 2 weeks prior that he would be helping his father on November 22, 2012 and would miss that work shop. He indicates that in the past, he has always attended workshops and had nothing come of them, so he requested the independent work search.

Findings of Fact

The appellant is a single, employable recipient with no dependents.

The appellant was first referred to the EPBC program January 26, 2012 and signed the 2nd updated employment plan on October 25, 2012.

On October 25, 2012, the appellant entered into an EP with specific requirements and by signing his EP, the appellant agreed that he acknowledged and understood compliance with the EP and actions for non-compliance.

The last time that the appellant met with the contractor was November 8, 2012.

On November 29, 2012, the contractor advised the ministry that the appellant was no longer eligible for the program due to extensive non-compliance.

On December 3, 2012, the appellant was sent a non-compliance letter from the ministry.

On December 20, 2012, the appellant attended the ministry office to discuss his file.

PART F – Reasons for Panel Decision

The issue under appeal is the reasonableness of the ministry's decision to deny the appellant income assistance because the appellant failed to comply with the conditions of his EP pursuant to section 9 of the EAA.

Relevant Legislation

Section 9(1) of the EAA states that 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. Section 9(3) states 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. Section 9(4) states, 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. Section 9(6) states the minister may amend suspend or cancel an employment plan.

Based on the appeal record, the ministry maintains that having signed the EP, the appellant read, understood and agreed to the conditions specified in the plan. The ministry determined that there is no evidence to show that the appellant had followed through with his job search activities and submitted a job search list or contacted the contractor to state that he was unable to attend the work shop or his appointment. The ministry indicated that the appellant had missed other workshops during the year 2012. Furthermore, the appellant did not supply any medical documentation that indicates he suffers from any medical issues that would impact his ability to attend employment programming.

The appellant's position is that he did participate in his EP and that he had contacted the contractor by e-mail. Also, the appellant maintains that he handed in a job search form to the front desk. The appellant disputes the contractor's evidence to the effect that he failed to inform her that he would not attend the November 22, 2012 workshop and that he had failed to attend many workshops.

In determining the reasonableness of the ministry's decision, the panel finds that the appellant entered into an EP on October 25, 2012 which required him to participate fully and to the best of the his ability in the activities required by the ministry or contractor. The appellant states that he warned the contractor two weeks in advance, which would have been at the November 8th meeting, that he could not attend the November 22 workshop. Further, the appellant states that he handed in the work search form at the front desk while the contractor has no record of that and the appellant did not provide any specifics as to when he actually did bring in the document nor did he provide a copy of that document or a summary of his work search activities. The panel accepts the contractor's evidence that the appellant did meet with her on November 8, accepted to go to a workshop that was scheduled for November 22, that he failed to attend the said workshop without notifying the contractor that he could not attend, and that he failed to submit any work search activities as required.

By signing the EP, the appellant acknowledged that he understood the conditions as set out and agreed to them; however the panel finds that he failed to comply. The evidence is that the appellant was aware of the consequences of not complying with the conditions of his EP and there is no evidence that he did not comply due to medical reasons. Therefore, the panel finds that the ministry reasonably determined that the appellant had not made a reasonable effort to comply with his employment program pursuant to section 9(4) of the EAA, to be eligible for Income assistance pursuant to section 9(1).

The panel finds that the ministry's reconsideration decision was reasonably supported by the evidence and confirms the decision.