

APPEAL #

**PART C – Decision under Appeal**

The decision under appeal is the Ministry's Reconsideration decision dated February 15, 2013 wherein the Ministry denied the appellant's request for employment assistance pursuant to section 9(1) of the Employment and Assistance Act (EAA) for non compliance with the terms and conditions of her employment plan.

**PART D – Relevant Legislation**

Employment and Assistance Act Section 9

**PART E – Summary of Facts**

The appellant has been denied assistance. On January 16, 2013, the appellant was advised that she was not eligible for further income assistance due to non compliance with her employment plan obligations. Specifically, the appellant did not participate in the employment program for three months. When asked by the ministry why she did not connect with the program, the appellant indicated that she had a toothache and that she travelled out of town with her family. She also indicated that she has depression which she said has been confirmed by her doctor.

On February 1, 2013 the appellant submitted a request for reconsideration. The Ministry reconsidered the matter on February 15, 2013 and again denied the request. It is the reconsideration decision that is now under appeal.

The evidence before the Ministry included the reconsideration request which contained an employment plan dated September 16, 2011, a medical letter dated January 31, 2013, and a dental invoice dated January 31, 2013.

At the top of page 1 of the employment plan it reads as follows:

“...It is important that you follow through with the conditions of the EP. If you are unable to follow through please advise the ministry. If you fail to comply with your EP you will be ineligible for assistance.”

On page 2 it reads:

“To be eligible for assistance, each applicant or recipient in the family unit must, when required to do so, enter into an employment plan, and comply with the conditions set out in the employment plan. The purpose of an employment plan is to help a person a) find employment, or b) become more employable. Assistance will be discontinued if a person a) fails to demonstrate reasonable efforts to participate in a program in which he or she is required to participate, or b) ceases, except for medical reasons, to participate in the program.”

The medical note is from the appellant's doctor. It indicates that the appellant is depressed and using alcohol at times. He says the appellant is not employed, yet responsible for herself and her daughter. The doctor says the appellant needs financial help to afford housing, food and other necessities, she is desperate, and needs urgent social assistance.

The dental invoice indicates that the appellant was out of town for retreatment of a root canal on January 31, 2013.

The evidence before the ministry also included a letter from the appellant dated January 28 (2013?). In her letter, the appellant says that she is applying because she has been really sick with the flu and that she is in pain as a result of needing a root canal. She says she cannot afford dental coverage and cannot find employment, she is stressed and depressed. She says she receives no help from the father of her five year old daughter because he has been deported back home. She has a

student loan, and does not have enough money for living expenses. The appellant says she requires help from income assistance until she can find a job.

In her notice of appeal, the appellant adds that she has not yet found work and cannot resolve her life issues. She says it is making her crazy. She states that she has a daughter whom she cannot support, and she pleads for income assistance until she can put herself together.

In her written submission, the appellant explains that she does not understand why she is being denied with no valid explanation. She says she is a single mom, and that she understands that she needs to get a job and start working in order for her to move forward. She says she is depressed as confirmed by her doctor, and that she just needs a bit more time (about 3 months) to get herself stabilized.

The panel has considered the new evidence submitted by the appellant and finds that it is admissible under section 22(4) of the Employment and Assistance Act as it is evidence in support of the information and records that were before the Ministry when the reconsideration decision was made.

**PART F – Reasons for Panel Decision**

The issue on this appeal is whether the Ministry reasonably concluded that the appellant is ineligible for income assistance due to non compliance with the terms of her employment plan.

The following legislation applies to this decision:

**Employment and Assistance Act:**

**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].

The appellant signed an employment plan on July 11, 2012. At the top of page 1, the employment plan reads as follows:

“...It is important that you follow through with the conditions of the EP. If you are unable to follow through please advise the ministry. If you fail to comply with your EP you will be ineligible for assistance.”

On page 2 it reads:

“To be eligible for assistance, each applicant or recipient in the family unit must, when required to do so, enter into an employment plan, and comply with the conditions set out in the employment plan. The purpose of an employment plan is to help a person a) find employment, or b) become more employable. Assistance will be discontinued if a person a) fails to demonstrate reasonable efforts to participate in a program in which he or she is required to participate, or b) ceases, except for medical reasons, to participate in the program.”

Despite her obligation to follow through with the conditions of her employment plan, the appellant failed to participate in the employment program for a three month period. When the ministry asked her why she failed to connect with the program, the appellant replied that she had a toothache and had to travel out of town for dental work. She also said that she had been depressed as confirmed by her doctor.

The ministry acknowledged the fact that the appellant underwent dental work, and further acknowledged that the appellant suffers from depression. However, it is the ministry's position that these medical issues are not impediments that ought to have prevented the appellant from making efforts to comply with the employment program for a three month period.

The panel finds that the employment plan is clear that failure to comply with the terms will result in ineligibility of assistance. In this case, the appellant failed to comply and/or contact the employment program provider for a three month period. The panel finds there is nothing in the evidence to explain this lack of contact for such a long period.

The appellant's dental appointment was on one occasion. It alone could not have prevented the appellant from complying with her employment plan during a three month period.

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With respect to her symptoms of depression, while the appellant's doctor may have confirmed the appellant's depression, he does not indicate or suggest in any way that her depression prevented her from complying with her employment plan obligations.

Therefore, in considering all of the evidence, and after applying the legislation to the facts of this case, the panel finds that the Ministry reasonably concluded that the appellant is not eligible for further income assistance due to non compliance with the terms of her employment plan for failing to make reasonable efforts to participate in her employment program. Accordingly, the panel finds that the Ministry's decision was a reasonable application of the legislation and confirms the decision pursuant to section 24(1)(a) and (b) and 24(2)(a) of the Employment and Assistance Act.