

PART C – Decision under Appeal

The reconsideration decision dated 18 July 2013 determined that the appellant was not eligible for continued income assistance because she failed to comply with the conditions of her Employment Plan (EP) as required under section 9 of the Employment and Assistance Act by not providing work related activities reports to the ministry.

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 the appellant was notified, the hearing proceeded under section 86(b) of the Employment and Assistance Regulation.

The evidence before the ministry at reconsideration consisted of:

- The appellant is a single, employable person with two dependent children.
- The appellant applied for income assistance on 13 July 2012.
- On 26 July 2012, the appellant signed a first EP.
- On 8 February 2013, the ministry conducted an EP review as it had expired and it was determined that the only medical evidence on file was a prescription dated 6 October 2010 by the appellant's physician stating that she could not work due to illness with no specific medical information in that respect.
- On 21 February 2013, the appellant attended the ministry's office and an appointment to meet the EP worker was set for 22 February 2013 at 11:00 AM.
- On 22 February 2013, the appellant did not attend her appointment.
- On 26 February 2013, the appellant attended the ministry's office and was given a medical form to be filled by her physician.
- A Medical Report – Employability dated 28 February 2013 completed and signed by the appellant's physician indicates she suffers from trigeminal neuralgia and fibromyalgia that caused restrictions in terms of pain, fatigue and weakness.
- On 27 March 2013, the appellant attended the ministry's office and provided the medical report dated 28 February 2013. She also discussed a new EP and agreed to sign it with the following conditions:
 - Update and distribute her resume to all potential employers;
 - Seek out and pursue all available resources and employment opportunities;
 - To record all activities that she will do that help make her more employable, eg. Counseling sessions, medical appointments, etc. and understand these activities fall within her work related activities requirements;
 - She had to spend 20 hours minimum per week on work related activities;
 - To submit her work related activities record by the 5th of every month.
- On 12 June 2013, the ministry reviewed the appellant's EP file and determined she had failed to submit any documentation and work related activities records since she signed this EP and a letter was sent to the appellant advising her of the situation and of the sanction.
- On 3 July 2013, the ministry denied assistance to the appellant for failing to comply with her EP.
- In her request for reconsideration dated 5 July 2013, the appellant states that she is in desperate need of assistance because of her physical and mental condition and because she had been taking care of her father who almost passed away and that she had to take care of her two children. She also states that she will do new disability forms because of mistakes she had made on the previous forms.

In her Notice of Appeal dated 23 July 2013, the appellant states that she disagrees with the reconsideration decision because she is very sick and that she had to take care of her father in the previous month as he almost died as well as because she is a single mother.

PART F – Reasons for Panel Decision

The issue under appeal in this case is whether the ministry's decision that the appellant was not eligible for income assistance because she failed to comply with the conditions of her EP as required under section 9 of the EAA, by not providing work related activities reports to the ministry since signing the EP on 27 March 2013, was either a reasonable application of the legislation or reasonably supported by the evidence.

The applicable legislation in this matter is s. 9 of the EAA:

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...

(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...

(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 ministry argued that the appellant was given all the opportunities to comply with her EP, as it was based on a medical report that was filed by her and the conditions were discussed with her and she indicated she could comply and signed it. Nonetheless, she failed to report her work related activities on the 5th of each month since the EP was signed and thus failed to comply with her EP.

The appellant argued that she could not comply with her EP because she was very sick and had been taking care of her father whose health was deteriorating significantly to the extent he almost passed. She also argued she is a single mother of two and is in critical need of income assistance to support her family unit.

The appellant did not provide any evidence she had complied with any of the conditions of her EP and thus, the panel finds the evidence shows the appellant did not report her work related activities

on the 5th of each month as she undertook to do in her EP and therefore it was reasonable for the ministry to determine she did not comply with the conditions of her EP. The appellant indicated her health was a reason that she did not comply with her EP but did not provide any medical evidence in support of that claim. Therefore it was reasonable for the ministry to determine that she had failed to demonstrate reasonable efforts to participate in the EP program under s. 9 of the EAA.

Therefore, the panel finds the ministry's decision was reasonably supported by the evidence and confirms the decision.