

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (ministry) reconsideration decision dated August 19, 2013, which held that the appellant is not eligible for income assistance due to a failure to comply with the conditions of his Employment Plan (EP) pursuant to Section 9 of the Employment and Assistance Act (EAA). The ministry found that the appellant failed to demonstrate reasonable effort to meet the work search requirement that formed part of his EP, which he signed and agreed to comply with.

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 reconsideration was:

- 1) A return to school/work certificate from the appellant's doctor which stated that the appellant "presented to my office today", dated July 24, 2013 and signed;
- 2) A 21-page hand written submission indicating various job searches and the dates of those searches from March 1, 2013 to June 28, 2013, and specifically showing that the appellant completed 20 work search hours over 9 days in May 2013 and 25 work search hours over 8 days in June 2013;
- 3) An undated note stamped by a hospital – Health Records Department that states the request for health records will take 3-4 weeks to process;
- 4) An EP, dated January 23, 2013 with the acknowledgment signed by the appellant, which states that the appellant must complete 25 hours minimum per week on work search, and submit a record by the 5th of every month that shows 5 activities per day for 5 days per week;
- 5) A 3-page hand-written letter signed by the appellant summarizing that he needs assistance for one more month for rent, food, transit and gas and that he will soon receive pay from his new work;
- 6) A request for reconsideration signed and dated August 2, 2013 summarizing that the appellant's work search was not done well but that he should soon have a job as he had an interview August 1, 2013.

At the hearing the ministry explained that ministry workers are trained to understand and explain to all recipients the EP, its expectations, requirements for continued income assistance, compliance requirements and the consequences of not complying with the plan. She further explained that the purpose of the EP plan is to increase employability and transition the recipient from assistance to employment. The ministry confirmed that when the EP was developed and signed by the appellant, the worker involved made certain that the appellant understood the requirements of the plan. She also explained that in the period from January 2013 to April 2013 the appellant did not comply with the EP yet the ministry gave the appellant the benefit of the doubt, explained the EP again and issued his May 2013 cheque. The ministry points out that the denial of assistance comes after a second review of the file, in which it was found that the appellant again had not complied with the EP in that he did not complete the required weekly work searches. Due to insufficient work searches the appellant was no longer eligible for assistance.

The appellant did not attend the hearing. The panel confirmed that the appellant was notified of the hearing and then proceeded in his absence in accordance with section 86(b) of the EAR.

PART F – Reasons for Panel Decision

The issue before the panel is the reasonableness of the ministry's reconsideration decision dated August 19, 2013, which held that the appellant is not eligible for assistance pursuant to Section 9 of the EAA. The ministry determined that the appellant failed to meet the requirements of his EP by not complying with submitting 25 hours per week of various work search activities as outlined in his EP and explained to him by a ministry representative.

Section 9 of the EAA outline the stipulations of an EP and states that:

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 Ministry's position is that the appellant did not comply with his EP; specifically, he did not complete sufficient work searches as required by his EP that he agreed upon and signed.

The Appellant's position is that he needs assistance for only one more month for rent, food and transit. After this, he is hopeful that he will have received his pay from his employer.

Panel Decision

Section 9 of the EAA sets out that to be eligible for assistance, the recipient must enter into an EP and comply with the conditions of the plan if required to do so by the ministry. The panel notes that the appellant did complete some work search as outlined in his submissions, however, these searches were insufficient to meet the 25 hours minimum per week that was required in his EP. The panel finds that the Ministry was reasonable determining that the appellant has not demonstrated that compliance as required by his EP.

The evidence establishes that the criteria set out in Section 9 of the EAA have not been met by the appellant. The panel therefore finds that the ministry's decision to deny the appellant income assistance due to failure to comply with the conditions of his EP was a reasonable application of the legislation and was supported by the evidence. Thus, the panel confirms the ministry's reconsideration decision.