

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (ministry) reconsideration decision dated August 8, 2013, which held that the appellant was not eligible for income assistance because she failed to comply with the terms and conditions of her employment plan (EP) pursuant to Section 9 of the *Employment and Assistance Act (EAA)*. The ministry determined that the appellant is not eligible for income assistance because she did not demonstrate a reasonable effort to participate in the employment program by failing to attend workshops and the appointment with her Case Manager and that she did not provide information to establish that she had a medical condition that prevented her from participating in her EP.

PART D – Relevant Legislation

Employment and Assistance Act – EAA – Sections 9 (1) 9 (3) and 9 (4)

PART E – Summary of Facts

The evidence before the ministry at the time of the reconsideration decision consisted of:

1. A copy of the appellant's Employment Goals (EG) signed by the appellant on March 11, 2013 indicating that the appellant has a long term employment goal and needs employment with flexible hours to work around her schooling. The terms of the EG included provisions requiring the appellant to attend appointments with her Case Manager, attend groups and workshops as booked, do active job search and advise the Case Manager of any changes in her employment status.
2. The Employment Plan (EP) signed by the appellant on May 3, 2013. The terms of the EP included provisions requiring the appellant to participate in the EP programs regularly and as directed by the service provider, complete all tasks assigned including any activities that may be set out in an action plan, participate in the program fully and to her best of the ability, and notify the service provider if, for any reason, she is unable to attend.
3. A copy of the appellant's resume.
4. Copies of Work Search Records from January 1, 2013 to March 7, 2013.
5. Copies of the appellant's student timetable and learning plan.
6. Copies of three cheques dated May 3, June 21, and July 3, 2013 issued to the appellant as a young achiever for the total amount of \$375.
7. A copy of the appellant's workshops.
8. A copy of the letter from the service provider to the appellant dated May 24, 2013 informing her that the ministry, unsuccessfully, made several attempts to contact her regarding continuation of her employment services. The ministry requested that the appellant attend an appointment with her Case Manger on June 11, 2013.
9. A copy of the ministry's letter to the appellant dated May 27, 2013 stating that the appellant's cheques would be held at the office for non-compliance with the activities of her EP and advising her to contact the ministry.
10. Request for reconsideration decision dated July 25, 2013.

In the request for reconsideration the appellant wrote that the records in her file do not accurately account for her hardship and effort. She wrote that she signed the EP months after termination from her most recent job. At that time, she was desperately trying to find immediate work and could not keep up with her expenses which resulted in her phone being disconnected and her losing contact with her worker until she could regain a reliable form of communication. The appellant wrote that she had difficulty finding a full-time job due to her level of education and decided to enroll in few courses. She wrote that she discussed her situation with her worker to balance her schedule; however, one of her courses and the "Fast Track" workshop were set on the same day. She wrote that she was under the assumption that the workshop could be rescheduled to assist her to continue her studying. The appellant wrote that she contacted her worker informing that she needed assistance to continue abiding by her EP. The appellant wrote that she dropped her schooling and attended the workshop which helped her to complete her resume. On her birthday, her family decided to have a visit with her and her child and because she needed the support of her family. The appellant wrote that she sincerely apologizes that she did not go to her workshop and decided to meet her family. She wrote that she has actively applied for several positions and she feels confident that she will be employed shortly.

In the Notice of Appeal, the appellant wrote that she is a single mother living on her own with her young child. She wrote that she is trying to progress in life and have a career and does not understand how the ministry is overlooking her efforts.

At the hearing, the appellant said that the ministry didn't recognize that she was trying very hard to go to school, look for a job and take care of her young child. The appellant said that she dropped her schooling and attended the workshop which helped her to complete her resume. She said that she missed her appointment because she was struggling mentally and her family came to the area to visit her after three years. The appellant said that she missed two appointments in July and knows she made a mistake and takes responsibility for her actions; however, she said that she has been doing her best and is asking for a second chance.

The ministry said that the reconsideration decision is reasonable as the ministry staff reviewed the EP with the appellant, provided information and made sure that the appellant understood all the requirements. The ministry further said that the appellant failed to inform the service provider that she was unable to participate in the workshops. The ministry recognizes the barriers the appellant has; however, she failed to comply with the conditions of her EP and that there is no evidence before the ministry stating that the appellant did not participate in her EP due to illness.

PART F – Reasons for Panel Decision

The issue on appeal is whether the ministry reasonably concluded that the appellant did not comply with the conditions of her EP, by failing to demonstrate reasonable efforts to participate in her employment program through non attendance and failure to participate in the service provider's program.

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.

Pursuant to 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.

Section 9(4) of the EAA states that 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 on May 3, 2012. The appellant was referred to an employment-related program, in which she was required to participate. The ministry stated that the appellant did not comply with the conditions of the EP and did not demonstrate reasonable efforts to participate in the program. The ministry further said that the appellant did not notify the ministry of any changes in her circumstances and did not submit any evidence confirming that she was unable to participate in the EP.

The appellant submitted that she does not have access to her phone while at home and as a result she missed the phone calls made to her and did not receive information about her scheduled appointments

In this case, the panel finds that:

- The appellant signed the EP on May 3, 2013;
- Required activities were that the appellant participate in the EP programs regularly and as directed by the service provider, complete all tasks assigned including any activities that may be set out in an action plan, participate in the program fully and to her best of the ability, and notify the service provider if, for any reason, she is unable to attend.
- The appellant missed her appointments on May 14 and 24, 2013.
- On June 10, 2013 the Case Manager confirmed the appellant's appointment for June 11 but the appellant failed to show up for her appointment.
- The appellant failed to attend her workshop in the afternoon of July 10 and on July 12, 2013;
- There is no supporting evidence indicating that the appellant was unable to participate in her EP due to illness.

The panel finds that the ministry reasonably determined that the appellant failed to comply with the conditions of her EP by failing to demonstrate reasonable efforts to participate in the service provider's programs. The appellant did not attend a number of workshops and the appointment with the Case Manager. Although the appellant stated that she missed her appointment due to mental distress and visiting with her family, she did not provide any reasonable explanation for not contacting the Case Manager or the ministry informing them of her situation nor has the appellant provided substantiating evidence that illness prevented her attendance. Therefore, the panel finds that the ministry reasonably concluded that the appellant failed to demonstrate reasonable efforts to participate in the employment program and was not in compliance with the conditions of her employment plan as required by Section 9 of the EAA.

The Panel finds that the ministry's decision denying the appellant income assistance was a reasonable application of the applicable legislation in the circumstances of the appellant, and therefore, confirms the

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decision.