

APPEAL # \_\_\_\_\_

**PART C – Decision under Appeal**

The decision under appeal is the Ministry's reconsideration decision dated July 15, 2013 which held that pursuant to section 9 of the Employment and Assistance Act, the appellant was denied income assistance for failing to comply with the conditions of the employment plan, due to her failure to make reasonable efforts to participate in an employment-related program and with no medical reason for her non-participation.

**PART D – Relevant Legislation**

Employment and Assistance Act, section 9 (EAA)

## PART E – Summary of Facts

Neither the appellant nor the ministry attended the hearing. After confirming that both the appellant and the ministry were notified, the hearing proceeded under Section 86(b) of the Employment and Assistance Regulation.

The evidence before the ministry at reconsideration was:

- On March 13, 2013, the appellant signed an employment plan agreeing to participate in employment programming and indicating an understanding that the consequences of failing to comply with the conditions of the employment plan was to become ineligible for assistance under the Employment and Assistance Act;
- On April 26, 2013, the ministry was informed that the appellant failed to attend a workshop;
- On May 8, 2013, the ministry discussed with the appellant the requirement for compliance and participation in the employment plan and the requirement for medical documentation if non-attendance was due to medical reasons;
- On May 15, 2013, the appellant attended an appointment with the case manager and was advised to register into workshops and to connect with a Job Developer on May 24;
- On May 13 and May 30, 2013, the appellant failed to attend workshops;
- On May 24, 2013, the appellant failed to attend the meeting with the Job Developer;
- On May 28, 2013, the appellant failed to attend the appointment with the case manager;
- On June 4, 2013, the ministry was advised that the appellant had not registered for any workshops;
- On June 6, 2013, the appellant rescheduled an appointment to meet with the case manager on June 14;
- On June 12, 2013, the ministry contacted the appellant to discuss the requirement for participation and compliance with the work plan; at that time, the appellant indicated that the bus service was very low in the area and the appellant's residence was very far away from the employment office;
- On June 17, 2013, the ministry was advised that the appellant contacted the employment service and confirmed dates and times for all appointments and workshops;
- On June 18, 2013, the ministry was informed that the appellant cancelled workshops and was not available to discuss and reschedule the workshops;
- On June 27, 2013, the ministry was advised that the appellant had not attended any workshops from June 18 to June 21, and further, on the same day, the appellant advised the ministry of a methadone delivery at 9 am every day that interfered with the scheduled workshops and explained that the unavailability was due to a telephone that died; and further, the appellant was not able to provide medical confirmation regarding the methadone deliveries or any other mitigating information to explain the missed appointments and workshops.

In the Request for Reconsideration, the appellant indicated that the location of the employment service centre is not the right location, that it is too far away and bus service is poor; that the methadone treatment is delivered daily at 9 am and is provided by the ministry; that losing financial assistance will mean a loss of the methadone treatment as well as shelter.

In the Notice of Appeal, the appellant wrote that she is unemployed and besides missing a few appointments, she has always completed all work search forms and she has attended numerous courses and appointments. The appellant wrote that if she is transferred to a new employment centre on a bus route, she can attend any and all appointments. She has had conversations stating that she needs to be transferred to a new employment centre.

## PART F – Reasons for Panel Decision

The issue on appeal is whether the ministry's decision to find the appellant ineligible for income assistance for failing to comply with the conditions of the employment plan as required by EAA section 9, is reasonably supported by the evidence or is a reasonable application of the applicable legislation in the circumstances of the appellant.

The legislation provides:

### **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).

The ministry's position is that the appellant entered into an employment plan that contained conditions requiring participation in programs including a requirement to complete all tasks set out in the plan and an agreement to contact the employment service provider if unable to attend. The ministry argued that the appellant failed to either reasonably participate in the program or provide medical or other mitigating evidence to explain her limited or lack of participation.

The appellant's position is that she is unemployed and besides missing a few appointments, she has always completed all work search forms and she has attended numerous courses and appointments. The appellant argued that if she is transferred to a new employment centre on a bus route, she can

attend any and all appointments. The appellant argued that her methadone treatment is delivered daily at 9 am and this restricts her ability to attend appointments and that losing financial assistance will mean a loss of the methadone treatment as well as loss of her shelter.

The panel finds that the ministry's determination that the appellant understood and agreed to the conditions specified in the employment plan was reasonably supported by the evidence as the panel found that the plan set out all the criteria and consequences, and by signing the plan the appellant thereby agreed to the conditions in it. Further, the panel finds that the ministry reviewed the requirements on several occasions to ensure the appellant understood the requirements and the consequences of non-compliance.

The panel finds that the ministry's determination that the appellant failed to demonstrate reasonable efforts to participate in the program was reasonably supported by the evidence as the panel found that the appellant missed several workshops and appointments, failed to make necessary or any arrangements to facilitate attendance at future workshops and appointments. Although the appellant argued that the employment centre is not on a bus route, the appellant does not describe any efforts made by her to get to her appointments. The panel finds no evidence that the appellant made reasonable efforts to participate in the program.

Further, the panel finds that the appellant failed to provide any mitigating evidence as to her inability to participate in the program due to medical reasons. The appellant did not provide a doctor's letter or any other evidence to support the claim regarding the methadone treatment or delivery time or any evidence to indicate an attempt to change delivery times, if possible, to enable attendance at workshops.

The panel finds that the ministry's decision was a reasonable application of the applicable enactment in the circumstances of the appellant and confirms the decision.