

**PART C – Decision under Appeal**

The decision under appeal is the reconsideration decision dated July 12, 2013 in which the ministry denied income assistance to the appellant, pursuant to section 9 of the Employment and Assistance Act (EAA), for failing to comply with the conditions of her employment plan because of her failure to demonstrate reasonable efforts to participate in an employment related program and she did not have a medical reason to cease her participation.

**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 the reconsideration decision was:

- An employment plan signed by the appellant dated August 24, 2012. The agreement required the appellant to make contact with a specific program service provider (PSP) and to take part in an employment program. She was to make contact with the PSP within 5 business days. She was to attend all scheduled sessions and complete all tasks assigned to her. The plan required her to contact the PSP if she is unable to attend the program for any reason.
- An employment plan signed by the appellant dated July 19, 2011.
- A personal statement letter written by the appellant dated June 27, 2013. The letter reads that she understands that she has been given chances to follow through and she has not. She writes that the conversations that she had with her caseworker have not been accurately reported in the reconsideration decision. She adds that her husband had pneumonia and she had a kidney infection for a month that precluded her from attending her PSP appointments. The appellant adds that she suffers from anxiety when she talks to her worker.
- A Request For Reconsideration form dated June 27, 2013 signed by the appellant. The appellant made hand written notes in the margins of the ministry's decision. The appellant writes that in June 2012 she did not have a phone or a computer to receive messages and her spouse started to get ill. In the margin at the bottom of the form the appellant writes that the worker has miss-worded what she said. The document details her attendance record with the PSP and notes the attempts the ministry and the PSP made to contact the appellant. The final appointment the appellant attended with the PSP was February 5, 2013.
- A Notice of Appeal form signed the appellant dated July 24, 2013. The appellant writes that she has been in contact with her job counselor recently, following up on appointments, and has been doing job search courses.

The appellant was accompanied at the hearing by her husband who testified on her behalf. The appellant's husband gave his testimony before the appellant spoke to the panel. The appellant's husband told the panel that he has been ill for approximately 2.5 years. He told the panel that due to his pneumonia he is unable to care for their child because he falls asleep during the day.

At the hearing the appellant told the panel that she has had to miss some of her appointments with the PSP because her husband suffers from chronic pneumonia and he cannot look after their three-year-old son because he often falls asleep throughout the day. The appellant added that she does not trust anyone enough to leave her son with them for daycare. She told the panel that when she told the ministry about the difficulty she had leaving her son in the care of others the ministry replied that she had no choice and that she was obligated to search for work. In addition to these challenges, the appellant told the panel that she contracted an infection at some point in April 2013. She added that in the middle of May her infection was diagnosed by a physician and was required to attend regular hospital and physician visits over a two-month period.

At the hearing the ministry told the panel that even though the appellant's son was younger than 3 in August 2012, the appellant and her husband were required to enter into an Employment Plan because they were a two adult family with no medical conditions precluding them from working. The ministry continued that the appellant entered into her first employment plan in 2011 so she has a history of understanding the obligations and responsibilities of the contract. The appellant was made

aware that there were day-care subsidies that she could apply for so that she could seek and accept employment since her husband could not provide childcare. The appellant's February 2013 assistance cheque was held at the ministry office and the appellant was required to pick it up in person. At that time she sat with a ministry worker to discuss her poor compliance record and was warned that continued non-compliance would result in being denied further assistance. The ministry continued that prior to the appellant's denial in May 2013 there were several conversations between her and the ministry to discuss the consequences of non-compliance. At no time did the appellant discuss any medical reason for her to miss her appointments nor did the appellant ever provide a medical note from a doctor.

The panel finds that:

- The appellant entered into an employment plan on August 24, 2012 that referred her to attend an employment related program operated by a program service provider (PSP). She was required to attend all appointments scheduled for her by the PSP and to immediately notify the PSP if she was unable to fulfill her obligation.
- The appellant was made aware of the conditions on the employment plan at the time of signing.
- The appellant did not provide the ministry or PSP with any documentation of a medical condition that would preclude her from attending her appointments with the PSP.
- At the time she signed the employment plan the appellant did not disclose any reason why she could not attend the sessions, medical or otherwise.
- The appellant spoke to the ministry directly when she picked up her February assistance cheque and she was warned she would be denied further assistance if she was non-compliant with the terms of her employment plan.
- Prior to being found in non-compliance on May 13, 2013, the last appointment the appellant attended with the PSP was February 5, 2013.

## PART F – Reasons for Panel Decision

The issue under appeal in this case is the reasonableness of the ministry's decision to deny the appellant income assistance, pursuant to section 9 of the Employment and Assistance Act (EAA), for failing to comply with the conditions of her employment plan because of her failure to demonstrate reasonable efforts to participate in an employment related program and she did not have a medical reason to cease her participation.

Section 9 of the Employment and Assistance Act states:

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.

The argument of the appellant is that she made a reasonable effort to comply with the requirements of her employment plan but that due to her husband's inability to care for her son she had to stay home rather than attend the appointments she had with the PSP. She argues that her illness in April-May 2013 made it impossible for her to meet her obligations.

The argument of the ministry is that the appellant did not demonstrate a reasonable effort to participate in her employment related program as required by her employment plan and that she did not have a medical reason to not participate. The ministry argues that the appellant was made aware of her obligations under the employment plan at the signing of the plan yet she did not attend her appointments as agreed. The ministry argues that the appellant did not contact the ministry or the PSP when she felt that she could not attend the assigned employment program as required by her agreement with the ministry.

In coming to its decision the panel considered the appellant's argument that she was unable to attend her appointments because she needed to stay home to care for her son. The panel considered that the ministry informed her about a childcare subsidy that she could apply for. The panel considered the appellant's argument that she contracted an infection in April and was diagnosed in the middle of

May 2013. The panel considered that she was found to be non-compliant and denied assistance on May 13, 2013 so the physician visits that she began attending in the middle of May would not have contributed to the missed appointments that led to the ministry finding her non-compliant and denying her further assistance. The panel also considered that the last appointment that appellant attended was on February 05, 2013. The panel also considered the ministry's argument that the appellant had not provided any documentation from her physician or the hospital regarding her or her husband's condition.

The panel finds that the ministry reasonably determined the appellant did not comply with the condition of her employment plan and ceased to be eligible for income assistance under section 9 (1) because she failed to demonstrate reasonable efforts to participate in the employment program pursuant to EAA section 9(4)(a) and did not cease to participate due to a medical reason pursuant to section 9(4)(b).

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.