

APPEAL #

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development (Ministry)'s reconsideration decision dated July 4, 2013, finding the Appellant is not eligible to continue to receive income assistance for failing to comply with the conditions of his employment plan in accordance with section 9 of the Employment and Assistance Act (EAA).

PART D – Relevant Legislation

The relevant legislation is section 9 of the EAA.

PART E – Summary of Facts

The Appellant is an employable recipient with a dependent spouse and one dependent child.

The Appellant signed an employment plan on November 21, 2012. This employment plan requires that the Appellant undertake reasonable job search activities for a minimum of 25 hours per week and report monthly to the Ministry on those activities by submitting a work search activities record (WSAR).

Early in 2013, the Appellant was denied income assistance for failing to comply with the conditions of his employment plan. That decision was reversed upon reconsideration on February 6 because it was deemed "unreasonable for the ministry to expect (the Appellant) to spend a minimum of 25 hours per week on (his/her) work search activities when (the Appellant was) already working."

On April 3, the Ministry reviewed the Appellant's file and sent him a letter requiring him to contact the Ministry regarding his non-compliance with his employment plan. On April 24, the Appellant contacted the Ministry and stated that he was working part time and was actively seeking work. He was advised to declare his earnings and submit his WSAR. The following day the Appellant again contacted the Ministry and stated that he could not recall what work search activities he had carried out. The Ministry again informed the Appellant of his responsibilities in regards to carrying out and reporting work search activities and the Appellant indicated that he understood those responsibilities.

On May 17, the Ministry again reviewed the Appellant's file and sent a letter to the Appellant indicating that he had still not submitted a WSAR and informed him that due to this non-compliance he was no longer eligible for income assistance. On May 31, the Appellant submitted a WSAR to the Ministry. This WSAR included job search activities carried out from April 29 to May 20. It was, however, incomplete and did not meet the requirements of the Appellant's employment plan.

As part of the Appellant's request for reconsideration he submitted a WSAR setting out job search activities carried out between June 3 and June 6, and an employment time sheet showing that he worked 23 hours between May 26 and June 1.

PART F – Reasons for Panel Decision

The issue under appeal is the reasonableness of the Ministry's finding that the Appellant is not eligible to continue to receive income assistance for failing to comply with the conditions of his employment plan.

The relevant legislation is section 9 of the EAA:

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 Appellant did not attend the hearing but in his application for appeal, he states:

"I disagree, because we have no where to go, no family to help us out. We got another child under our care too. I apologize again too, I went to the employment centre and [an employment] program to start an employment plan."

The Ministry relied upon its reconsideration decision.

The panel finds that the Appellant has consistently failed to meet the terms of his employment plan. Specifically, he has never submitted an adequate WSAR which shows that he has been engaged in work search activities or work for the minimum time required by his employment plan.

Under section 9(1)(b) of the EAA, in order to be eligible to receive income assistance, an applicant

must comply with the terms of his or her employment plan. If a recipient does not comply with his or her employment plan they are ineligible for income assistance. As to the Appellant's submission, while he may well now be engaging in employment search activities, it is clear from the record that he was not doing so at the time of the reconsideration decision, which is the decision here under appeal.

Accordingly, the Panel finds that the Ministry's decision is a reasonable application of the relevant legislation and confirms the ministry's decision pursuant to sections 24(1)(b) and 24(2)(a) of the Employment and Assistance Act.