

### PART C – Decision under Appeal

The decision under appeal is the Ministry's Reconsideration Decision dated September 27, 2013, which held that the Appellant is ineligible for income assistance because she and her spouse failed to comply with the conditions of their employment plans. The Ministry found that the Appellant and her spouse did not submit any work search activity records as required by the conditions of their employment plans, in contravention of section 9, EAA.

### PART D – Relevant Legislation

Employment and Assistance Act (EAA) Section 9.

## PART E – Summary of Facts

Information before the Ministry at Reconsideration included:

1. A copy of an Employment Plan signed March 21, 2013 by the Appellant's spouse, including the requirement to record monthly work search activities on the ministry form and provide these to the ministry on request.
2. A copy of an Employment Plan signed March 21, 2013 by the Appellant, including the requirement to record monthly work search activities on the ministry form and provide these to the ministry on request.
3. A copy of the Appellant's Request for Reconsideration signed September 20, 2013, stating under the section "Reason for request for reconsideration": "We have no money for shelter/food at all".

Included with the Notice of Appeal were:

- two Medical Reports – Employability forms; one signed and dated by a physician August 28, 2013 stating that the Appellant had a right knee sprain due to a twisted knee and ankle, with an expected duration of 2 to 3 weeks, with restrictions stated as "unable to do lifting, prolong walking or prolong physical activity". The second form was signed and dated by a physician October 18, 2013, stating that the Appellant has a primary medical condition of drug abuse/dependence, moderate, onset 6 years, with an expected duration of more than 2 years, with a notation "likely chronic", and "unable to work because patient is dependent on drug". The physician also noted that this was the Appellant's second visit at the walk-in clinic, and that he only reviewed reports in this clinic.

- A copy of a Work Search Activities Record, undated, with the Appellant's spouse's name at the top, unsigned, blank, with two boxes checked: "Medical or physical condition which precludes employment" and "Fleeing abuse", stamped as received by the Ministry October 18, 2013.

- A copy of a Work Search Activities Record, undated, with the Appellant's name at the top, unsigned, blank, with two boxes checked: "Medical or physical condition which precludes employment" and "Fleeing abuse", stamped as received by the Ministry October 18, 2013.

The Panel did not admit the medical reports as evidence because they introduce a new issue that is not related to the issue in the record of the Ministry decision. The Appellant, in her Request for Reconsideration stated that "We have no money for food/shelter at all", and made no mention of a medical reason for failing to participate in the employment plan, nor is there a record of any medical information in the Ministry's summary of facts. Therefore, the Panel found that the medical records are not admissible under section 22(4)(b), EAA as they are not testimony in support of the information and records that were before the minister when the decision being appealed was made.

The Panel did not admit the copies of Work Search Activities Reports because they differ from the copies that were before the Ministry when the Reconsideration Decision was made. The copies before the Ministry were blank; the copies submitted by the Appellant have two boxes checked which introduce issues not before the Ministry at Reconsideration. Therefore, the Panel found that the copies of Work Search Activities Reports are not admissible under section 22(4)(b), EAA as they are not testimony in support of the information and records

that were before the minister when the decision being appealed was made.

The Appellant made no submission with her Notice of Appeal other than the records referred to above and the statement that "I disagree because I wouldn't be able to pay for rent".

The Ministry's written statement refers to the reconsideration summary, which states that the Appellant signed an employment plan on March 21, 2013, and was reminded of the need to submit reports of work search activities on June 21 and June 27, 2013, however neither she nor her spouse submitted any work search activity record to August 29, 2013, when they were found ineligible for income assistance. The Reconsideration Decision states that there is no evidence before the minister that there are any extenuating circumstances that prohibit them from complying with their employment plans.

The Panel makes the following findings of fact:

- The Appellant and her spouse signed Employment Plans March 21, 2013, requiring them to comply with the conditions of the plans, including submitting proof of work search activity if required.
- The Ministry reminded the Appellant's spouse of this requirement on June 21, 2013.
- The Ministry advised the Appellant on June 27, 2013 that no work search records had been submitted and that if she did not do so, she would be found ineligible for assistance.
- On August 29, 2013, the Ministry had not received any work search activity records from the Appellant or her spouse, and they were advised that they were ineligible for income assistance.
- There is no record of any statement by the Appellant that she was unable to participate in the program for medical reasons.

## PART F – Reasons for Panel Decision

The issue in this appeal is the reasonableness of the Ministry's decision which held that the Appellant is ineligible for income assistance because she and her spouse failed to comply with the conditions of an employment plan, contrary to the requirements of section 9, EAA..

Legislation:

*Employment and Assistance Act*

- 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's position is that she has no money for food or rent as a result of being determined to be ineligible for income assistance.

The Ministry's position is that the Appellant and her spouse failed to comply with the conditions of their

employment plans, which included submitting monthly work search activities records, and were therefore found to be ineligible for income assistance.

Section 9(1)(b), EAA, requires that for a family unit to be eligible for income assistance, each applicant or recipient in the family unit, when required to do so by the minister, must comply with the conditions in the employment plan. The Panel finds the Ministry's determination that the Appellant is ineligible for income assistance because she and her spouse failed to comply with the conditions of an employment plan was reasonably supported by the evidence. The Panel finds that the Ministry reasonably concluded that the Appellant and her spouse entered into employment plans which required them to record monthly work search activities on the ministry form and submit them upon request, but failed to do so.

The Panel therefore finds that the Ministry's decision was reasonably supported by the evidence and confirms the decision.