

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development (Ministry)'s reconsideration decision dated September 24, 2013, finding the Appellant is not eligible to continue to receive income assistance for failing to comply with the conditions of her 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 signed an employment plan on April 23, 2013. This employment plan requires that the Appellant participate fully and to the best of her ability in an employment program provided by an employment services provider.

The Appellant was scheduled for but failed to attend employment workshops on the following dates:

April 30, May 1, 2, 13 and 14;
June 19 and 20;
June 26 and 27 (cancelled by the Appellant);
July 2, 3 and 4 (cancelled by the Appellant);
July 16, 17, 18, 24, 25, 30 and 31;
August 1, 8 and 9.

A number of these dates were the result of the employment service provider rescheduling workshops missed by the Appellant.

The Ministry was in contact with the Appellant, both in person and by mail, and explained the consequences of not complying with her employment plan on a number of occasions including: April 23, May 31, July 2, 10, 15, August 30 and September 9.

The Appellant presented a number of reasons for failure to attend the required workshops. These were:

In early June the Appellant took and failed a flagging course;
In late June and early July the Appellant was working part time as a house painter;
In early July the Appellant was in a car accident, she was not injured but her car was wrecked;
On July 17 the Appellant was working preparing a quote for a house painting;
The Appellant did not attend the July 18 workshop as she had missed the first day of the course;
On July 25 the Appellant's mother was ill;
Around July 25 the Appellant had an abscess tooth and was on medication;
August 8 and 9 the Appellant states she was again preparing house painting quotes.

The Appellant did not have reasons for missing any of the other employment workshops.

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 her 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 her application for appeal, she states:

"I disagree I did my job search for all those months and did attend a work shop which was not mentioned I think I should get another chance to attend these work shops It would be a hardship if I was denied assistance."

The Ministry relied upon its reconsideration decision.

The panel finds that the Appellant has consistently failed to meet the terms of her employment plan. Specifically, she has consistently failed to attend required employment workshops. Some of the Appellant's excuses for not attending these workshops may be valid, however, the panel considers that many are not and that the Appellant has missed some without an excuse. There is an obvious pattern of behaviour over a number of months indicating that the Appellant is not willing to comply

with her 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. 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.