

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (ministry) reconsideration decision dated December 13, 2013, which held that the appellant is not eligible for income assistance due to a failure to comply with the conditions of her Employment Plan (EP) or provide confirmation of a medical condition that prevented her from participating in her EP as pursuant to Section 9 of the Employment and Assistance Act (EAA). The ministry found that the appellant failed to demonstrate reasonable effort to meet the requirements that formed part of her EP, which she signed and agreed to comply with, specifically she did not complete 25 hours of work search activities per week.

PART D – Relevant Legislation

Employment and Assistance Act (EAA) section 9

PART E – Summary of Facts

The following evidence was before the Ministry at the time of reconsideration:

- 1) Request for Reconsideration signed and dated November 28, 2013, which states the following:
 - She needs further assistance;
 - She suffers from depression and anxiety. She has a very hard time with being around big crowds, as she gets panicky and scared with people;
 - She just got over a relationship in which she was strangled by her boyfriend and is now dealing with the court proceedings and attending therapy;
 - She is doing her best with completing the work searches;
 - She has a medical form for her doctor to complete but he is in Vancouver and she has no way of getting to him. The doctor will not accept a faxed copy of the form.
- 2) A 2-page hand written submission indicating various work search activities for the months of September and October 2013 (specific dates are not identified). There are 9 work search activities for September with a total of 49 hours to complete those activities, and 8 work search activities for October with a total of 30 hours to complete those activities.
- 3) Employment Plan, signed and dated August 12, 2013, acknowledging the appellant is aware of the requirements of her EP and aware of the consequences of not complying with the EP, and states that the appellant will:
 - Update and distribute her resume to all potential employers;
 - Seek out and pursue all available resources and employment opportunities;
 - Record monthly work search activities and provide these to the ministry;
 - Record activities that help make her more employable, including medical and counselling appointments;
 - Spend 25 hours minimum per week on work search activities;
 - Submit her work search record to the ministry every 5th of the month showing 5 activities/day, 5 days/week;
- 4) A record of work search activities for September 2013, which shows 3 work search activities (12hrs) and 1 doctor's appointment (3hrs), for a total of 15 hours.
- 5) A record of work search activities for October 2013, which shows 3 work search activities (12hrs), a visit to the hospital (6hrs) and 2 interviews (one indicates 2hrs and the other does not indicate the number of hours), for a total of 22 hours.

In the Notice of Appeal, signed and dated December 20, 2013, the appellant states that she searched for work to the best of her ability and that she has medical conditions that prevented her from searching for work, as outlined by the ministry.

The appellant did not attend the hearing. The panel confirmed that the appellant was notified of the hearing and proceeded in her absence in accordance with section 86(b) of the EAR.

At the hearing, the ministry relied on its reconsideration decision and added that:

- It is a requirement for all recipients of assistance to enter an EP;
- A medical condition must be confirmed by a medical practitioner;

- The appellant was required to complete 25 hours of work search activities per week (5 activities, 5 days per week) and submit those activities every 5th of the month;
- It is unclear to the ministry why the appellant has allocated 4 hour periods to drop off resumes at possible work sites;
- The ministry asked the appellant to support her claim that medical conditions prevent her from participating in the EP but she has yet to provide the ministry with a doctor's confirmation of her medical conditions;
- Activities such as medical appointments and counselling sessions are included the appellant's 25 hours of work search activities per week.

PART F – Reasons for Panel Decision

The issue before the panel is the reasonableness of the ministry's reconsideration decision dated December 13, 2013, which held that the appellant is not eligible for assistance pursuant to Section 9 of the EAA. The ministry determined that the appellant failed to meet the requirements of her EP by not complying with submitting 25 hours per week of work search activities on the 5th of every month, nor did she provide confirmation of a medical condition that prevented her from participating in her EP, as outlined in her EP and explained to her by a ministry representative.

Section 9 of the EAA states that:
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's position is that she has medical conditions that prevent her from completing her work search activities. Specifically, she suffers from depression and anxiety which make it difficult for her to be around big crowds without getting scared and panicky. Added to this is the fact that she has just ended an abusive relationship and is still dealing with the ramifications of being in that relationship, such as dealing with court proceedings and attending therapy.

The ministry's position is that the appellant did not comply with her EP; specifically, she did not complete sufficient work search activities nor did she provide confirmation of a medical condition to establish that mitigating circumstances prevented her from complying with her EP that she agreed upon and signed.

Panel Decision

Section 9 (1) of the EAA sets out that to be eligible for assistance, the recipient must, when required to, enter into an EP, and comply with the conditions of the plan. As well, Section 9 (4) states that if an employment plan includes a condition requiring an applicant or a recipient 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 panel notes that evidence establishes that the appellant was aware of the requirements of her EP and aware of the consequences of not complying with the EP. The panel further notes that the appellant did complete some work search activities as outlined in her submissions, however, these searches were insufficient to meet the 25 hours minimum per week that was required in her EP and that she did not provide confirmation of a medical condition or conditions that prevented her from complying with the conditions of her EP. The panel also notes that the appellant indicated in her Request for Reconsideration that she attends therapy as a result of her abusive relationship. The ministry states and it is also written in the appellant's EP that, in the case of the appellant, time spent in counselling session can be credited as work search activities. However, the appellant failed to submit any hours she attended therapy in her work search record.

The evidence establishes that the terms and conditions set out in the appellant's EP have not been met, and no medical evidence has been provided to show that she could not complete her work search activities. As a result, the ministry reasonably determined that the criteria set out in Section 9 of the EAA have not been met by the appellant. The panel therefore finds that the ministry's decision to deny the appellant income assistance due to failure to comply with the conditions of her EP was a reasonable application of the legislation and was supported by the evidence in the circumstance of the appellant. Thus, the panel confirms the ministry's reconsideration decision.