

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (Ministry) Reconsideration Decision dated May 13, 2014, which denied the Appellant further income assistance due to non-compliance with his employment plan. Section 9 of the Employment and Assistance Act directs that a recipient must comply with the terms of an employment plan in order to maintain eligibility for income assistance. The Ministry found that the Appellant failed to make reasonable efforts to attend or participate in an employment-related program which formed part of his employment plan and denied him further assistance.

PART D – Relevant Legislation

Employment and Assistance Act (EAA) Section 9

PART E – Summary of Facts

The Appellant was not in attendance at the hearing. After confirming that the Appellant was notified, the hearing proceeded under Section 86(b) of the Employment and Assistance Regulation.

Information before the Ministry at reconsideration included:

- A copy of the Appellant's Employment Plan signed July 2, 2013, which includes a requirement to participate in programming as directed and to notify the contractor when unable to attend.
- A copy of the Appellant's attendance record at the employment service contractor, noting "no show" on 10 occasions and attendance on 2 occasions during the period June 24, 2013 to April 8, 2014.
- The Appellant's Request for Reconsideration, signed April 29, 2014.

The Appellant stated in his Notice of Appeal to the Tribunal that he has been dealing with drug addictions and bullying from drug dealers and other mental health problems. In his Request for Reconsideration, the Appellant stated that he has not been able to attend employment workshops due to a severe addiction issue which has now spiraled out of control, and that he is in the process of meeting with a new doctor. The Appellant requested a medical exemption rather than to be obligated to go to an employment program.

At the hearing, the Ministry stated that the Appellant was denied income assistance due to non-compliance with the conditions of his employment plan. The Ministry stated that the Appellant had been reminded of his obligations on several occasions, but he missed many scheduled appointments for workshops. The Ministry referred to the attendance record contained in the appeal record, and noted that the Appellant failed to report for scheduled appointments on ten occasions.

In response to questions from the Panel, the Ministry stated that the Appellant did not mention an addiction to them and never provided any medical documentation. The ministry stated that at the time the Appellant completed his application he did not provide any information regarding drug addiction or any other medical problems. The Ministry stated that the Appellant advised them that he was working part-time in March, 2014 and stated that he had medical issues that he would rather not discuss. The Ministry stated that they had a discussion with the Appellant, but he did not provide any proof of mitigating circumstances - in particular his alleged medical and drug-related problems - that would excuse his failure to attend his appointments with the employment service provider.

The Panel makes the following findings of fact:

- The Appellant signed an Employment Plan on July 2, 2013, which included a requirement that he participate in programming as directed and to notify the contractor when unable to attend.
- The Appellant's attendance record shows that he failed to attend 10 out of 12 scheduled appointments in one year.
- The appellant did not provide the ministry with any documentation that he had a medical or drug addiction related reason that precluded him from participating in his Employment related program.

PART F – Reasons for Panel Decision

The issue in this appeal is the reasonableness of the Ministry's decision dated May 13, 2014, which denied the Appellant further income assistance due to non-compliance with his employment plan. Section 9 of the Employment and Assistance Act directs that a recipient must comply with the terms of an employment plan in order to maintain eligibility for income assistance. The Ministry found that the Appellant failed to make reasonable efforts to attend or participate in an employment-related program which formed part of his employment plan and denied him further assistance.

Legislation

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's position is that he has a medical reason, an addiction, that prevents him from attending employment workshops as required.

The Ministry's position is that the Appellant did not provide proof of medical circumstances at the time he signed the Employment Plan or subsequently and that despite having been reminded of the need to comply a number of times, he failed to attend 10 out of 12 appointments with the service provider over the period June, 2013 to April, 2014, therefore he did not comply with the conditions of his employment plan.

The Panel notes that the Appellant signed an Employment Plan requiring the Appellant to attend an appointment with a service provider and to participate in their programming regularly and as directed, to work with the service provider to address any issues that may impact employability, to notify if unable to attend and to complete all tasks assigned. The evidence provided by the Ministry shows that the Appellant failed to attend his first appointment and was recorded as "no show" for four subsequent appointments, attending two in the month of August, 2013, then was recorded as "no show" for the remainder of the time period, which ended in April, 2014. The Appellant failed to provide a sufficient explanation for his inability to attend a single appointment in the following seven months, nor did he ever advise the contractor if he was unable to attend for medical reasons, as required by the employment plan.

The Panel confirms the Ministry's decision to deny the Appellant income assistance for failing to comply with his Employment Plan pursuant to Section 9 of the EAA as reasonably supported by the evidence.