

PART C – Decision under Appeal

The Decision under Appeal is the Ministry of Social Development and Social Innovation, (Ministry), Reconsideration Decision, dated June 12, 2014, which denied the Appellant Income Assistance (IA), as the Ministry determined the Appellant was non-compliant with the conditions of her employment plan, (EP), contrary to Sec. 9(1)(b) of the Employment Assistance Act, (EAA).

PART D – Relevant Legislation

EAA Employment and Assistance Act – Section 9

PART E – Summary of Facts

The evidence before the ministry at reconsideration showed that the Appellant was a single employable recipient of IA with no dependants. On Aug. 21, 2013 she signed an EP, acknowledging she understood and agreed to participate in an employment program through a program contractor; she agreed to participate regularly and as directed by the contractor. By signing the EP she also acknowledged that failing to comply with the conditions of the EP meant she would be ineligible to collect IA.

On Feb. 3, 2013, the ministry advised her of the consequences of failing to comply with the EP conditions for missing scheduled workshops. The ministry was advised the appellant was scheduled for the next day and she would continue to attend. On April 3 the contractor advised the ministry that the appellant missed workshops on Feb. 3, 4 and 6th, but she had attended Feb. 14 and 20th. The contractor advised that they would be contacting the appellant to reschedule missed workshops by April 15th. On April 28 the contractor advised the ministry that they were unable to contact the appellant. On May 20 the contractor advised they had no contact with the appellant since Feb. 20. They had sent a letter on May 13th advising the appellant that if they had not heard from the appellant by May 30 her file would be closed. On May 26 the contractor reported the appellant had contacted them to reschedule her missed workshops. On May 28th the ministry reviewed the missed workshops with the appellant. She had attended only 2 of 14 workshops and had failed to attend Feb 4, 5, and 6 after being advised again only on Feb. 3, of the consequences of failing to comply with the EP. As such, she was denied IA.

In her request for reconsideration the appellant advised she had been accepted into the program with the contractor on June 5. She promised to meet with the contractor's case manager and that the case manager has discussed with her compliance with the EP. She agreed to fully participate and attend all appointments and workshops in order to be eligible for IA. She was now fully aware of the consequences of non-compliance.

On June 12 the reconsideration decision upheld the denial of IA for failing to comply with the EP. The decision noted the appellant had been advised on Feb 3 of the consequences of failing to comply with the EP. After the appellant advised the ministry she would go on Feb 4, 5 and 6, she failed to attend and provided no information to say why she could not attend. Further, the decision noted, that no medical information had been supplied to indicate medical issues had impacted her ability to attend. As such, the ministry determined she had not demonstrated reasonable efforts to comply with the conditions of her EP. As she had not demonstrated any mitigating factors preventing her from complying, they determined she was no longer eligible for IA.

On the Notice of Appeal the appellant wrote that she had no income and that she needed IA for food and shelter as she still had no job. She was now attending classes with the contractor.

At the hearing the appellant did not attend. After confirming the Appellant was properly notified of the hearing, the matter proceeded under section 86(b) of the Employment and Assistance Regulation.

At the hearing the ministry adopted the reconsideration decision and argued the appellant had failed to comply with the EP by failing to demonstrate reasonable efforts to participate in the program and had not provided any evidence of mitigating circumstances that prevented her from complying with the EP.

PART F – Reasons for Panel Decision

The issue on appeal is whether the ministry reasonably concluded that the appellant did not comply with the conditions of her EP, by failing to demonstrate reasonable efforts to participate in her employment program through nonattendance and failure to participate in the service provider's program.

The Legislation states the following;

Employment and Assistance Act

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.

...

(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.

Under Sec 9(1), to be eligible for income assistance, each recipient, when required to do so by the minister, must enter into an employment plan, and comply with the conditions in the employment plan. The issue here is whether the Appellant was properly denied IA as being non-compliant with the conditions of her EP, contrary to Sec. 9(1)(b).

The Appellant argues in her Notice of Appeal that she would now comply and understands the consequences if she does not comply. The ministry adopts the reconsideration decision and argues the appellant was given warnings but still did not comply with the EP.

In relation to whether it was reasonable for the ministry to find the appellant was non-compliant with her EP, it is noted that the Appellant signed the EP, acknowledging she understood and agreed to participate in an employment program. The EP notes in several different places the effects of non-compliance and that compliance is a condition to receiving IA. She was warned on Feb. 3 of the consequences of non-compliance and failed to attend the very next day after promising to do so. The appellant attended only 2 of 14 workshops. She has not provided any explanation for her non-attendance. It is clear she was non-compliant with the terms of her EP and she did not demonstrate

reasonable effort to participate in the program as required under sec. 9(4)(a). Further, the appellant provided no medical evidence that would demonstrate she could not participate in the program and as such cannot bring herself within the provisions of sec. 9(4)(b).

The panel finds that the decision by the ministry, that the Appellant was non-compliant with the conditions of her EP, contrary to sec. 9(1)(b) of the EAA because she failed to demonstrate reasonable efforts to participate in her employment program and that she had no medical excuse for not participating was reasonable based on all the available evidence and the panel confirms the decision.