

**PART C – Decision under Appeal**

Under appeal is the Ministry of Social Development and Social Innovation's June 9, 2014 reconsideration decision, which held that the appellant was denied further income assistance for non-compliance with his employment plan as required by the Employment and Assistance Act, section 9 (1) and (4).

**PART D – Relevant Legislation**

EAA Employment and Assistance Act, section 9 (1) and (4)

## PART E – Summary of Facts

In the reconsideration decision the reconsideration officer stated that although there were three separate employment plans mentioned in the decision, the decision focused on whether the appellant was compliant with the most recent employment plan, dated March 20, 2014.

The evidence before the ministry at reconsideration was as follows:

- the appellant is a single employable male.
- an employment plan signed by the appellant on January 2, 2013.
- an employment plan signed by the appellant on February 26, 2014.
- an employment plan signed by the appellant on March 20, 2014, stating he will participate in the program regularly and as directed by the contractor, and as in the previous two employment plans he acknowledged he understood that if he did not comply with the conditions of the plan his assistance will be discontinued.
- a request for reconsideration form, listing contacts from November 22, 2013 to May 29, 2014 between the ministry and the appellant, and with the provider of the employment-related program. On March 20, 2014 there was a second referral to a program provider. The appellant attended the appointment with the provider March 26, and missed an April 16 appointment. On April 23 another appointment was made for April 24, and the appellant was told by the ministry that failure to attend would result in denial of benefits for non-compliance with his employment plan. The appointment was not kept. The appellant booked another appointment for May 29, at which he advised the provider he was moving to seek employment and would not be requiring their services.
- the appellant's reason for request for reconsideration, in which he stated that he had no money for food, rent due, minimal summer clothing, and that he was attempting to move to another community for work.

In his notice of appeal, the appellant said because he was moving to a different community he could not complete his employment plan in the previous town, that he needed to buy food, clothes, hydro and pay rent. He said he was now enrolled in another employment program.

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

The ministry said on March 20, 2014 the appellant signed an employment plan under which he was referred to a program provider. The appellant attended an appointment with the program provider on March 26, but missed his April 16 appointment without calling the provider to notify or reschedule. An appointment was re-booked for April 24, but the appellant did not attend. At his May 29 appointment the appellant told the provider he was moving and would no longer require their services. The appellant did not talk to the ministry about transferring his employment plan. It was not until June 27 that the ministry was advised the appellant had moved to yet another community. The ministry said the appellant had entered into multiple employment plans and knew the plans could be changed to suit his circumstances, but he did not pursue updating the last plan. The ministry determined the appellant was not compliant and had ceased to participate in the employment plan. The ministry said it was not aware of any condition of the appellant's to make it difficult or impossible for him to comply with the March 20 employment plan.

## PART F – Reasons for Panel Decision

The issue is the reasonableness of the ministry's reconsideration decision that the appellant is ineligible for further income assistance for failing to comply with his employment plan, as required by section 9 (1) and (4) of the EAA.

### Relevant Legislation

## Section A.1 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.

**(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.

### Appellant's Position

In his notice of appeal, the appellant stated that he was moving to another community and could not complete his employment plan in his former town of residence. He stated that he needs money to buy food, clothes and hydro. He must also pay rent. He is now enrolled in another employment program and hopes he will not be in need of assistance much longer.

### Ministry's Position

The ministry argues that the appellant did not make a reasonable effort to attend or participate in the program specified in the March 20, 2014 work plan, in which the appellant confirmed he had read,

understood and agreed to the conditions listed in the work plan. The ministry says that although the appellant attended the first appointment with the program provider, he missed two appointments, then was given another appointment at which the appellant told the provider he was moving and no longer needed their services. The ministry says the appellant was aware from his previous employment plans that they could be changed to suit his circumstances, but he did not pursue updating the March 20, 2014 plan, nor did he provide adequate information to establish he was unable to meet the obligations of his employment plan.

### **Panel's Decision**

The reconsideration decision under appeal addressed the March 20, 2014 employment plan that required the appellant to participate in a contractor-provided program, to work with the contractor, complete any activities set out in an action plan, and to notify the program provider if he was unable to attend a session. In each of the three employment plans signed by the appellant, he acknowledged that if he did not comply with its conditions, he understood his assistance would be discontinued.

If a recipient is required by the minister to enter an employment plan, Section 9 (1) of the Employment and Assistance Act states that to be eligible for income assistance, the recipient must comply with the conditions of the employment plan. Section 9 (4) states when an employment plan includes a condition requiring a recipient to participate in a specific employment-related program, if the recipient fails to demonstrate reasonable efforts to participate in the program or ceases, except for medical reasons, to participate in the program, the condition is not met. In this case the appellant missed appointments without notifying the program provider, and ceased to participate in the program, saying he was moving elsewhere to seek employment. He did not indicate there were medical reasons nor did he provide any supporting evidence of a medical condition that would preclude his participation in the employment plan, and he did not ask the ministry to amend his employment plan to accommodate his move to another community.

The panel finds the ministry's determination that the appellant is ineligible for further income assistance for failing to comply with his employment plan was reasonably supported by the evidence, and confirms the decision.