

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation's (the ministry) reconsideration decision dated June 25, 2014 which found the appellant ceased to be eligible for income assistance for failure to comply with the terms and conditions of his employment plan as required by section 9(1)(b) of the *Employment and Assistance Act (EAA)*. The reconsideration decision also states that the appellant failed to demonstrate reasonable efforts to participate in an employment related program as required by section 9(4) of the EAA.

PART D – Relevant Legislation

Employment and Assistance Act (EAA) sections 9

PART E – Summary of Facts

The evidence before the ministry at the time of reconsideration consisted of:

- 1) Employment Plan signed by the appellant on August 14, 2013 in which the appellant agreed to attend with an employment contractor and participate regularly in the employment program;
- 2) Letter from the ministry to the appellant dated January 31, 2014 advising the appellant that he is expected to comply with the terms of the Employment Plan;
- 3) Letter from the ministry to the appellant dated May 30, 2014 advising the appellant that as he failed to participate in the employment program that he is no longer eligible for income assistance; and
- 4) Request for Reconsideration in which the appellant states that he was out of town to attend three funerals. He also states that he was out of town for two funerals and did not get his mail. He states that he told his landlord that he would be paying when he got back to town and did not know that he had to go to the ministry office and talk to someone. The appellant states that he received an eviction notice and he does not want to lose his place as it is quite inexpensive compared other places. He also states that he was in a motor vehicle accident which also prevented him from attending at the ministry office. He states that he is in pain, and cannot walk around but when he is back in health he will attend the required job search. The appellant requests that the ministry help him through this tough time. He states that he has not been eating well because he has no money, and cannot move in his current condition.

In his Notice of Appeal dated June 26, 2014 the appellant states that he disagrees with the ministry's reconsideration decision, because "*non-compliance with employment plan*".

The appellant did not attend the hearing. Having confirmed that the appellant was notified of the hearing, the panel proceeded with the hearing pursuant to EAR section 86(b).

The ministry relied on the reconsideration decision and submitted no new information. The ministry's evidence is that the employment program advised the ministry that the appellant had missed four appointments and requested his file to be closed but the ministry chose to keep the file open and speak to the appellant about the importance of complying with the employment plan. The ministry's evidence is that the appellant attended at the ministry office on April 7, 2014 and was advised to contact and comply with the employment program before the ministry would release his April cheque. The ministry states that on April 10, 2014 the employment program had scheduled another appointment with the appellant for April 22, 2014 so they released his cheque. On May 30, 2014, the ministry was notified that the appellant did not attend his appointment and there was no further contact with the employment program. The ministry then determined that the appellant was no longer eligible for assistance as he had not complied with the employment plan.

PART F – Reasons for Panel Decision

The issue to be determined at appeal is whether the ministry reasonably concluded that the appellant ceased to be eligible for income assistance for failure to comply with the terms and conditions of his employment plan as required by section 9 of the EAA.

The relevant sections of the EAA are as follows:

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.

(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 evidence as set out in his Request for Reconsideration is that he was out of town to attend funerals and did not know that he received mail from the ministry advising him that he had to attend and speak to someone at the ministry office. The appellant's position is that because of pain and inability to walk around, his condition prevents him from complying with his employment plan but that he will do so once his health improves.

The ministry's position is that by signing the employment plan, the appellant had read, understood and agreed to the requirements of attendance and compliance with the program as well as the consequences of non-compliance. The ministry's position is that if the appellant had communicated with them about the motor vehicle accident and provided some supporting documentation they could have worked with him to arrange another employment plan. However, as the appellant did not communicate with them or comply with the employment plan he was no longer eligible for assistance.

Panel Decision

The panel finds that the appellant was aware of the conditions of his Employment Plan, including that he was required to contact the employment-related program and attend appointments. The evidence established that the appellant did not attend his scheduled appointments at the employment-related program as required. The panel finds that there is no evidence that the appellant made reasonable efforts to comply with the requirements of his Employment Plan as required by Section 9(4) of the EAA.

Although the appellant states he was away and does not have a cell phone the panel finds reasonable the ministry's position that there were other forms of communication such as email or personal attendance available to the appellant but he did not make efforts to participate in the Employment Plan. In addition, the appellant did not take any steps to communicate with the ministry regarding his absences from town, missed appointments, or his motor vehicle accident and did not provide any documentation confirming the accident or his injuries arising from the accident that made him unable to comply with the employment program. Moreover, the appellant missed scheduled employments with the employment contractor prior to the motor vehicle accident.

The panel finds that the ministry's decision that the appellant ceased to be eligible for income assistance for failing to comply with the terms and conditions of his Employment Plan as required by Section 9 of the EAA was reasonably supported by the evidence and was a reasonable application of the legislation in the circumstances of the appellant.

The panel therefore confirms the ministry's reconsideration decision.