

PART C – Decision under Appeal

The decision under appeal is the reconsideration decision dated July 7, 2014 in which the ministry denied income assistance to the appellant, pursuant to section 9 of the Employment and Assistance Act (EAA), for failing to comply with the conditions of his employment plan because of his failure to demonstrate reasonable efforts to participate in an employment related program and he did not have a medical reason to cease his participation.

PART D – Relevant Legislation

Employment and Assistance Act (EAA) section 9

PART E – Summary of Facts

The information before the ministry at the time of reconsideration included the following:

- An employment plan signed by the appellant dated May 17, 2013. The agreement required the appellant to attend all appointments with a specific program service provider (PSP) and to take part in an employment program. He was to complete all tasks assigned to him by the PSP. The plan required him to contact the ministry if he is unable to attend the program for any reason.
- A laboratory requisition form in the appellant's name dated June 27, 2014 instructing him to attend the laboratory for blood and other tests.
- A page of Case Notes from the PSP in the name of the appellant. The notes include the following entries:
 - Dec 13, 2013, appellant attended office for bus tickets
 - Feb 27, 2014, unable to contact, telephone number out of service, file returned as no show
 - Mar 26, 2014, received call from ministry, booked appointment for appellant Mar 31.
 - Mar 31, 2014, appellant did not attend scheduled appointment
 - Apr 24, 2014, appellant called and made appointment for April 28.
 - April 28, 2014, appellant attended meeting, registered for workshops.
 - May 5, 2014, appellant did not attend as scheduled.
 - May 12, 2014, appellant did not attend scheduled follow-up meeting. Unable to leave message.
 - May 12, 2014, unable to contact, line always busy.
 - May 20, 2014, telephone out of service.
 - May 23, 2014, sent file to ministry.
- Comments written by the appellant on his Request for Reconsideration form dated June 27, 2014. He writes that he has been suffering from major medical issues, he does not have a family doctor, and the walk-in clinics have been busy. He adds that he has been signing in (at his PSP) but that he has been too sick. He now has a laboratory requisition.

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. In his notice of appeal dated July 14, 2014, the appellant wrote that he didn't have all of the paperwork to give the ministry for them to make a decision. He added that he has been going to local clinics and the hospital for lower abdominal pain and that he is waiting for results.

At the hearing the ministry reviewed the reconsideration decision including the dates of contact with the appellant from the time that his employment plan was signed on May 17, 2013. When the ministry was made aware, on June 25, 2014, that he may have a medical condition that would preclude him following through with his obligations under the EP he was asked to provide supporting documents. He provided the laboratory requisition, however, it does not specify any medical condition or how the condition affects his ability to continue with his EP obligations.

PART F – Reasons for Panel Decision

The issue under appeal in this case is the reasonableness of the ministry's decision to deny the appellant income assistance, pursuant to section 9 of the Employment and Assistance Act (EAA), for failing to comply with the conditions of his employment plan because of his failure to demonstrate reasonable efforts to participate in an employment related program and he did not have a medical reason to cease his participation.

Section 9 of the Employment and Assistance Act states:

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.

The argument of the appellant is that he made a reasonable effort to comply with the requirements of his employment plan but due to his medical condition he could not attend the appointments he made with the PSP.

The argument of the ministry is that the appellant did not demonstrate a reasonable effort to participate in his employment related program as required by his employment plan and that he did not have a medical reason to not participate. The ministry argues that the appellant was made aware of his obligations under the employment plan at the signing of the plan yet he did not attend his appointments as agreed. The ministry argues that the appellant did not contact the ministry or the PSP when he felt that he could not attend his appointments as required by his EP.

In coming to its decision the panel considered the appellant's argument that he found it difficult to meet his obligations because of his medical condition. The panel is satisfied that the appellant was aware of his obligations relating to the employment plan specifically to contact the ministry if there was any reason that he could not participate in his assigned employment related program. The panel finds that the ministry was reasonable to request additional supporting documentation of his medical condition when the appellant informed the ministry on June 25, 2014. The panel notes that the

appellant had missed at least four appointments with the PSP between February and June 2014 but did not inform the ministry that he had a medical condition until June 25. The panel finds that the ministry was reasonable to determine that the laboratory requisition form does not provide sufficient support to establish a medical condition that would preclude him from following through with his obligations under the EP.

The panel finds that the ministry reasonably determined the appellant did not comply with the condition of his employment plan and ceased to be eligible for income assistance under section 9 (1) because he failed to demonstrate reasonable effort to participate in the employment program pursuant to EAA section 9(4)(a) and did not cease to participate due to a medical reason pursuant to section 9(4)(b).

The panel finds that the ministry's decision was a reasonable application of the applicable enactment in the circumstances of the appellant and confirms the decision.