

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (Ministry) Reconsideration Decision dated September 2, 2014, which denied the Appellant further income assistance due to non-compliance with her 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 her employment plan and denied her further assistance.

PART D – Relevant Legislation

Employment and Assistance Act (EAA) Section 9

PART E – Summary of Facts

Information before the Ministry at Reconsideration included:

- Copies of appointment reminder notes for the dates May 20, 21, 30 and July 4.
- A copy of the Appellant's job search record for the dates May 1 to June 23.
- A copy of the Appellant's Employment Plan signed by the Appellant April 25, 2014, which includes the requirement to attend a first appointment with an employment service contractor by May 2, 2014, participate in programming regularly and as directed by the contractor, to work with the contractor to address any issues that may impact employability, complete all tasks assigned and to notify the contractor if she is unable to attend a session or when she starts employment and to provide verification of compliance with the plan as required.
- A copy of the Appellant's Request for Reconsideration dated August 19, 2014, with attachment.
- A copy of a Certificate of Death dated June 26, 2014.

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.

The Appellant, in the appendix to her Request for Reconsideration, stated that she has no other income except income assistance. She stated that she has had internet trouble and could not read the emails from the contractor, and apologized for missing appointments. She also stated that she has been dealing with the death of her son's grandfather, which has been hard on her and her son. She stated that the contractor told her she will no longer receive help to find work but that if she has not found a job in three months, she could come back. In her Notice of Appeal to the Tribunal, the Appellant stated that she was told there is nothing more the employment service contractor can do for her, and in three months she can go back if she still doesn't have a job.

At the hearing, the Ministry stated that the employment service contractor told them that the Appellant was extremely difficult to contact. They stated that the Appellant did not provide any medical reports to confirm that she was unable to participate in the program, and that the contractor attempted to contact the Appellant after she missed her July 4 appointment but was unable to do so. In response to questions from the Panel, the Ministry stated that the Appellant's current employment plan started April 24, 2014, but there appear to have been previous contacts with the Appellant including an employment program in 2013. The Ministry stated that the employment service contractor reported that the Appellant had failed to attend appointments and failed to make contact with the service provider as required. The Ministry concluded that the Appellant did not make a reasonable effort to participate in her employment plan.

PART F – Reasons for Panel Decision

The issue in this appeal is the reasonableness of the Ministry of Social Development and Social Innovation (Ministry) Reconsideration Decision dated September 2, 2014, which denied the Appellant further income assistance due to non-compliance with her 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 her employment plan and denied her 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 she has had to deal with the stress of the death of her son's grandfather, that she has no other income than income assistance and that she was told by the employment service provider that there is nothing more they can do for her, so she should go back to them if she hasn't found employment in three months.

The Ministry's position is that the Appellant failed to attend scheduled appointments without medical reports to confirm that she was unable to participate in the program, that she was not in contact with the service provider as required and that she was extremely difficult to reach. The Ministry concluded that the Appellant failed to demonstrate reasonable efforts to comply with her employment plan.

The Panel notes that the Appellant provided a Certificate of Death dated June 26, 2014, which would presumably excuse the Appellant from attending or participating in her employment plan for that period, however there is no medical or other information provided to explain the Appellant's failure to maintain contact with the service provider prior to that date or after. Although the evidence indicates that the Appellant has the skills to continue a job search independently, the Appellant was required to maintain regular contact with the service provider and the evidence, including the Appellant's admission that she missed appointments, indicates that she failed to do so.

The Panel therefore confirms the Ministry's decision that the Appellant is not eligible for income assistance because she failed to comply with her employment plan as required by Section 9 of the Employment and Assistance Act as reasonably supported by the evidence.