

PART C – Decision under Appeal

The decision under appeal is the reconsideration decision dated September 17, 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.

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:

1. An employment plan signed by the appellant dated January 3, 2014. The agreement required the appellant to attend his first appointment with a specified program service provider (PSP) within five business days and to participate in any programming assigned to him by the PSP. The plan required him to participate regularly and as directed, contact the PSP if he is unable to attend the program for any reason, and to contact the ministry if he is unable to follow through with the EP for any reason.
2. Three pages of case notes from the PSP outlining the attendance and interactions between the appellant and the PSP between the dates of March 14, 2014 and July 24, 2014. The notes regarding his attendance include:
 - June 2, 2014. Client has not been following through with his agreed action plan to attend three weeks full time w/s series. He started May 27, 2014 but was a no-show on the afternoons of May 29, 30, and June 2, 2014.
 - June 27, 2014. Client showed up 45 minutes late for his 11am scheduled appointment. It has been rebooked for June 27 at 12:30. Client completed 18 workshops but struggled with attendance. [He will start] three-week full time life and employment skills workshop. He agreed to attend each day on time and to participate fully to the best of his ability.
 - June 27, 2014. Client was a no-show for his 12:30 appointment.
 - July 10, 2014. Client was a no-show for his July 7 follow-up appointment. The appointment was made in person with the client and an appointment reminder card was provided
3. A request for reconsideration form dated September 9, 2014 completed by the appellant. He writes he has been attending his employment program to the best of his ability however he has been without a fixed address. Due to his search for permanent housing, he missed the afternoon portions of the May 29, 30, and June 2 sessions and he had informed the receptionist of the PSP that he would not be attending in the afternoons. He believes he did attend the July 7, 2014 appointment but was late due to trying to find housing and employment.

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

In his Notice of Appeal form dated September 18, 2014, the appellant writes he disagrees with the ministry's decision because he missed one appointment. He adds he has attended all his appointments except one and he received no warning he would be denied benefits.

At the hearing the ministry told the panel the appellant has had a history of non-compliance with EP's and he is aware of the ministry's expectations regarding attendance and participation. The appellant was referred to this particular PSP based on his needs and the challenges he has had in the past. The ministry determined he required a more structured employment related program and the PSP he was referred to worked with him to develop an action plan that suited his learning style and was tailored to help him overcome his barriers to employment. The PSP is qualified to assist clients in overcoming challenges such as homelessness, language skills, lack of work experience, work search skills, etc. In the initial session the appellant had with the PSP they developed an action plan together and discussed any challenges he faced. At this meeting he had the opportunity to discuss any

reasons he may not be able to follow through with the action plan. The appellant had provided the PSP with his home address and did not tell them that he was living at various houses temporarily. The appellant did not inform the ministry he lacked permanent housing.

The ministry continued that when the appellant signed his EP he was informed that he was to contact the ministry if there was any reason he could not follow through with the listed conditions. The appellant did not tell the ministry there were any reasons, medical or otherwise, he could not meet his obligations. The appellant was contacted by the ministry office on June 3, 2014 where he was warned that if he did not comply with the conditions of his EP, including attending all appointments with the PSP, he would be found non-compliant and denied further benefits.

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. The ministry determined the appellant did not demonstrate reasonable efforts to participate in her assigned employment program and he did not cease to participate for medical reasons.

Section 9 of the Employment and Assistance Act (EAA) states:

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 argument of the appellant is that he made reasonable efforts to attend the scheduled sessions with the PSP however his search for permanent housing has been a barrier to arriving on time and attending all the sessions.

The argument of the ministry is, by not attending all scheduled appointments with the PSP, the appellant as not demonstrated reasonable efforts to participate in the program and therefore is in non-compliance with his EP. The consequence of non-compliance is ineligibility for further assistance.

In coming to its decision the panel considered the appellant's argument that he has used his time to search for a permanent home. The panel considered that the appellant had opportunities to discuss

his housing situation with the ministry and the PSP when the EP was signed and when his action plan was developed. The panel considered the evidence that when the appellant signed the EP he was made aware of his obligations to participate regularly and as directed by the PSP.

The panel considered the appellant's argument that he missed only one appointment and that he did not receive a warning. The panel relied on the evidence contained in the PSP's case notes and the testimony of the ministry. The PSP's notes recount the appellant was absent for three afternoon sessions on May 29, 30, and June 2, and he did not attend scheduled appointments on June 27, and July 7, 2014. The panel relied on the ministry's testimony that on June 3, 2014 the appellant was contacted by the ministry and was reminded that if he failed to attend his scheduled appointments with the PSP he would be found non-compliant and be ineligible for future benefits.

The panel notes there is no evidence that the appellant had a medical condition that would preclude him from participating in his assigned program.

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.