

PART C – Decision under Appeal

The decision under appeal is the reconsideration decision dated August 6, 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 her 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:

- An employment plan signed by the appellant dated June 25, 2014. The agreement required the appellant to attend her first appointment with a specified program service provider (PSP) within five business days and to participate in any programming assigned to her by the PSP. The plan required her to contact the PSP if she is unable to attend the program for any reason.
- A request for reconsideration document dated July 24, 2014 where the appellant wrote, "I have every right to be on Social Assistance just like every taxpayer have [sic] to pay taxes."

The appellant submitted her Notice of Appeal dated Aug 21, 2014. On the form she wrote that she would provide details of why she disagrees with the ministry's decision once she is in person at the tribunal. She added that she is currently living with her grandfather and he is getting impatient for his rent. The appellant submitted a request for additional time dated Aug 21, 2014 writing she needs time to get doctor's appointments and to set up counsel for her appeal.

At the hearing the appellant requested an adjournment for one week to prepare herself for the hearing. The appellant stated she is very disorganized and she wants to gather documents to prove she has been searching for work. The panel noted that the appellant was granted an adjournment of the hearing scheduled previously for September 10th and determined she had sufficient time to prepare for this hearing. The hearing proceeded as scheduled.

At the hearing the appellant told the panel that she did not attend the PSP office as required by her EP because she is an independent person who does not need help finding a job. She added she successfully completed the PSP's employment program in 2005 and sees no reason to repeat it. She added she does not need the assistance of a program worker to help her find a job and that she has been actively searching for employment since she signed the EP in June 2014.

At the hearing the ministry told the panel that the appellant signed the EP on June 25, 2014 at which time the ministry explained to her the obligations and consequences of non-compliance of the EP. The ministry added that the appellant has been on EP's in the past and is familiar with what is expected of her.

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 her employment plan. The ministry determined the appellant did not demonstrate reasonable efforts to participate in her assigned employment program and she 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 she does not need the assistance of a program worker to help her find a job and has been actively searching for work on her own.

The argument of the ministry is that by not attending scheduled appointments with, nor contacting, the PSP, the appellant is in non-compliance with her EP. The consequence of non-compliance is ineligibility for further assistance.

In coming to its decision the panel considered the appellant's argument that she is independent and capable of conducting a successful work search without attending an employment related program. The panel finds that as per EAA section 9(7)(a), the ministry's decision to require a person to enter into and specify the conditions of an EP is final and conclusive and not open to review by this panel.

Regarding the appellant's argument that she has been actively searching for employment independently the panel notes that the EP obligates her to attend, participate in, and complete the assigned tasks of the PSP. Although searching for work independently is laudable, it does not excuse the appellant from meeting the obligations of her EP. The panel is satisfied that the appellant was aware of her obligations relating to the employment plan including the requirement to contact the ministry if there was any reason that she could not participate in her assigned employment related program. The appellant has been on EP's in the past and she testified that she chose not to attend the appointments with the PSP because she had already completed the program 9 years ago. She did not argue that she did not understand her obligations under the EP.

The panel finds that the ministry reasonably determined the appellant did not comply with the condition of her employment plan and ceased to be eligible for income assistance under section 9 (1) because she 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.