

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the “ministry”) Reconsideration Decision of August 6, 2014 in which the ministry denied further income assistance to the appellant for failure to comply with the terms of his employment plan pursuant to Section 9 of the Employment and Assistance Act (EAA) because he failed to demonstrate reasonable efforts to participate in his employment program.

PART D – Relevant Legislation

Employment and Assistance Act (EAA), Section 9

PART E – Summary of Facts

The appellant is a single employable male who was in receipt of income assistance until July 10, 2014. At the commencement of the hearing he consented to the ministry representative's request that a ministry observer attend the hearing via telephone.

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

- Employment Plan (EP) signed by the appellant on November 18, 2013 in which the appellant acknowledged that failure to comply with the conditions of his EP would render him ineligible for assistance, and agreed to;
 - report to his EP contractor by November 22, 2013;
 - attend programming regularly and as directed, and complete assigned tasks;
 - notify his EP contractor if he was unable to attend;
 - notify his EP contractor if he began or ceased employment;
 - declare all income and report all changes in income to the ministry; and
 - attend all ministry review appointments as required.
- Letter from the ministry to the appellant dated March 19, 2014 informing the appellant that he had not followed through on the conditions of his EP, asking him to contact the ministry office by March 26, 2014, and advising that failure to do so may result in delay of assistance;
- Letter from the ministry to the appellant dated July 10, 2014 informing the appellant that because he failed to participate regularly in his EP as directed by his EP contractor he was no longer eligible for income assistance;
- Request for Reconsideration dated July 25, 2014 in which the appellant stated that he lived in a remote area and was unable to attend his last appointment with his EP contractor because he had no funds available for gas and to pay his cell phone bill.

The Reconsideration Decision is summarized as follows:

- the appellant did not attend his appointment on December 13, 2013. The EP contractor called him and left a message asking him to reschedule;
- the appellant did not attend his appointments on January 3 and February 21, 2014, and arrived too late to work with his EP contractor on January 6 and March 17, 2014;
- on March 19, 2014 the EP contractor reported the appellant's non-attendance and late arrivals to the ministry;
- on March 19, 2014 the ministry wrote to the appellant advising him that he had not met the conditions of his EP and requesting that he contact the ministry by March 26, 2014 to discuss this issue;
- on July 4, 2014 the appellant did not attend his scheduled appointment and did not call the EP contractor to reschedule;
- on July 10, 2014 the ministry wrote to the appellant advising him that he was no longer eligible for income assistance because he had failed to meet the requirements of his EP.
- the ministry found that the appellant failed to make reasonable efforts to participate in his EP. He was therefore declared ineligible for income assistance due to non-compliance with the conditions of his EP as required by Section 9 of the EAA.

In his Notice of Appeal dated August 26, 2014 the appellant stated that he disagreed with the reconsideration decision because he had participated in his EP to the best of his abilities given his financial and logistical situations.

No additional documentary evidence was submitted at the hearing. At the hearing the appellant explained that he lived in a remote area approximately 20 km away from the EP contractor's office. He was not able to make outgoing calls from his cell phone but could receive incoming calls as long as his cell phone bill did not exceed \$200, but once his bill exceeded \$200 he was no longer able to receive calls. He added that he was a single parent who cared for his three children several days each week, which made it difficult for him to get away from home in order to attend his EP appointments as directed. He also stated that on numerous occasions he was unable to complete his scheduled learning sessions at the EP contractor's office because of computer malfunctions and internet problems in the EP contractor's office.

The appellant acknowledged that he missed his December 13, 2013 appointment but stated that he called back to reschedule. He had no recollection of the January 3, 2014 missed appointment and was unable to offer a reason for failing to attend. He also did not recall receiving the March 19, 2014 letter from the ministry indicating that he had not met the conditions of his EP, and did not remember if he had contacted the ministry as requested in that letter. He believes that he attended at the office of his EP contractor seven or eight times between December, 2013 and June, 2014. He added that as soon as he refilled his cell phone minutes in July 2014 he contacted his EP worker.

The ministry relied on its Reconsideration Decision. In response to questions from panel members the ministry representative explained that the ministry realizes that clients are often faced with challenges to completing the conditions of their EP, and that the purpose of the March 19, 2014 letter to the appellant was to provide the opportunity to review and perhaps adapt the EP to the appellant's circumstances.

PART F – Reasons for Panel Decision

The issue under appeal is the reasonableness of the ministry decision of August 6, 2014 in which the ministry denied further income assistance to the appellant for failure to comply with the terms of his employment plan pursuant to Section 9 of the EAA because he failed to demonstrate reasonable efforts to participate in his employment program.

The relevant legislation is as follows:

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.
- (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 appellant argues that he participated in his EP to the best of his abilities given his financial and logistical situations. Due to a shortage of funds he was unable to use his cell phone and consequently he was unable to communicate with the EP contractor or with the ministry. He also could not afford to buy gas in order to drive to the EP contractor's office. On the days when he cared for his children he was unable to leave them unsupervised. He also argues that on numerous occasions he was unable to complete his scheduled learning sessions at the EP contractor's office because of computer malfunctions and internet problems in the office. He believes that he attended as requested on seven or eight occasions between December 2013 and June 2014. In closing, he argues that if he had known that he could modify the conditions of his EP he would have contacted the ministry in March to do so.

The ministry argues that the EP stipulated that as a condition of continued eligibility for assistance the appellant agreed to participate in EP programming as directed and to notify the EP contractor when he was unable to attend. The appellant failed to attend as directed on four occasions: December 13, 2013, January 3, February 21, and July 4, 2014, and arrived too late to participate in programming on

January 6 and March 17, 2014. The ministry also argues that the appellant failed to reply to the March 19, 2014 letter which requested that he contact the ministry to discuss why he did not follow through with his EP. For these reasons the ministry determined that the appellant failed to make reasonable efforts to participate in his EP, and was therefore ineligible for income assistance.

Decision of the Panel

EAA Section 9 (1) states that a recipient of income assistance must comply with the conditions of the employment plan in order to be eligible for assistance. Subsection (4) specifies that if an employment plan includes a condition requiring a person to participate in a specific employment-related program that condition is not met if the person fails to demonstrate reasonable efforts to participate in the program or ceases, except for medical reasons, to participate.

The evidence establishes that the appellant failed to attend as directed by his EP contractor on December 13, 2013, January 3, February 21, and July 4, 2014. He also arrived too late to participate in programming on January 6 and March 17, 2014. He failed to notify the EP contractor when he was unable to attend scheduled appointments, and he failed to contact the ministry as requested by March 26, 2014 to discuss why he had not attended as directed.

The panel finds that the ministry reasonably determined that the appellant failed to demonstrate reasonable efforts to participate in his EP as required. Because he failed to comply with the conditions of the employment plan he was no longer eligible for income assistance pursuant to EAA Sections 9 (1) and (4).

Accordingly this panel finds that the decision of the ministry to deny further income assistance to the appellant for failure to comply with the terms of his employment plan because he failed to demonstrate reasonable efforts to participate in his EP as required was a reasonable application of the applicable enactment in the circumstances of the appellant, and confirms the decision.