

**PART C – Decision under Appeal**

The decision under appeal is the Ministry of Social Development and Social Innovation's (the Ministry's) reconsideration decision dated November 14, 2014, which held that the Appellant was not eligible for income assistance because he failed to comply with the conditions of his employment plan required under section 9 of the Employment and Assistance Act.

**PART D – Relevant Legislation**

Employment and Assistance Act (EAA) section 9

## PART E – Summary of Facts

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 evidence before the Ministry at reconsideration was the following:

- A copy of the Appellant's employment plan, dated July 4, 2014. The employment plan outlines the conditions of the plan including the requirement to complete all tasks assigned by the employment services provider, to notify if unable to attend, and the consequences for noncompliance. The plan is signed by the Appellant.
- A letter from the Ministry to the Appellant, dated September 23, 2014, stating that the Appellant is not in compliance with the employment plan, and that noncompliance will result in ineligibility for further assistance.
- A copy of three appointment cards, scanned on October 27, 2014, showing appointments with an employment services provider on November 4, November 5, and November 6, 2014.
- A two-page submission from the Appellant, undated, stating that the Appellant recently moved and has therefore not had access to phone or computer services and no means of transportation. The Appellant states that he was informed by the Ministry on October 24<sup>th</sup> that he was not in compliance with his job search and that his cheque was on hold. The Appellant states that he visited the employment services office to explain that he missed his October 6<sup>th</sup> and 7<sup>th</sup> appointments because of court dates, and missed an October 20<sup>th</sup> appointment for medical reasons. The Appellant states that he made three appointments for November 4<sup>th</sup>, 5<sup>th</sup>, and 6<sup>th</sup>. The Appellant also states that during an appointment that he attended on October 31<sup>st</sup>, he was informed that the employment services centre could not do any more for him and put him on an independent job search. The Appellant states that he tried to inform the Ministry about the court dates and the doctor's appointments and says that the employment services centre has not adequately informed the Ministry about his job search efforts. The Appellant says that his resume is up to date and that he has potential employers for winter work, and October was a busy month for appointments.
- A one-page submission from the Appellant with the Notice of Appeal, dated November 26, 2014, stating that the Appellant under no circumstances did not ever say that he would not accept a workshop or refuse to participate in any employment service contractor appointments. Medical issues are important to the Appellant and are hindering him from attending appointments. The employment service centre advised the Appellant that he should ask the Ministry for an independent job search and that he should notify the Ministry of any changes to his resume. The Appellant further states that he is not a slacker and still looking for employment and that he is hoping to find work soon.

At the hearing, the Ministry stated that the Appellant had an employment plan in place in July 2014 outlining his rights and responsibilities as well as the consequences for noncompliance with the plan. The Appellant signed the employment plan on July 4, 2014 at the Ministry offices. The Ministry stated that the employment services contractor advised the Ministry that the Appellant did not attend any workshops or appointments scheduled between May 2014 and September 4, 2014. The employment services contractor mailed a reminder for an appointment scheduled for September 16<sup>th</sup>, and when they did not hear from the Appellant, they closed his file on September 18<sup>th</sup>. The Ministry stated that when the Appellant's November assistance cheque was held, the Appellant contacted the Ministry and made appointments on November 4<sup>th</sup>, 5<sup>th</sup>, and 6<sup>th</sup> with the employment services contractor. The Ministry also stated that the Appellant advised the Ministry that he attended the employment services

contractor appointments sometimes, but that he didn't need them to get a job.

The panel finds that that the Appellant was aware that there was an employment plan as he signed the employment plan on July 4<sup>th</sup>, 2014. The panel also finds that the Appellant did not attend all of his appointments required under the plan as evidenced by the Ministry record and the Appellant's submissions.

## PART F – Reasons for Panel Decision

The issue is whether the Ministry's decision to find that the Appellant was not eligible for income assistance because he failed to comply with the conditions of his employment plan under section 9 of the EAA was a reasonable application of the legislation or reasonably supported by the evidence in the circumstances of the Appellant.

The legislation provides the following:

### 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 Ministry argued that the Appellant did not make a reasonable attempt to comply with his signed employment plan. Based on the information from the employment services contractor, the Ministry argued that the Appellant did not attend the majority of his scheduled appointments and therefore Ministry argued that the Appellant failed to comply with the conditions of the employment plan and was found ineligible for income assistance.

In the appeal record submissions, the Appellant argued that October was a very busy month for him. He is keeping his resume and job search active, but missed his October appointments due to court dates and medical reasons. He argued that he did not refuse to participate or attend employment service contractor appointments.

The panel finds that the Ministry's determination that the Appellant failed to comply with his employment plan required under section 9 of the EAA was reasonably supported by the evidence. The copy of the Appellant's employment plan outlines a condition to participate in a specific

employment-related program offered by the employment services contractor. Under section 9(4), that condition is not met if the Appellant (a) fails to demonstrate reasonable efforts to participate in the program, or (b) ceases, except for medical reasons, to participate in the program.

Given the Ministry's evidence that the employment services contractor reports that the Appellant missed all of the scheduled appointments after the employment plan was signed in July 2014 until October 30<sup>th</sup>, 2014, and the Appellant's lack of evidence that he attempted to attend appointments before October, the panel finds that the Ministry's determination that the Appellant failed to demonstrate reasonable efforts to participate in the program under section 9(4)(a) of the EAA was reasonably supported by the evidence.

Although the Appellant gives medical reasons for missing the employment service contractor appointment on October 20, 2014, there is no evidence (e.g. a doctor's note) to show that the Appellant's medical issues prevented him from attending his other appointments in October. The Appellant gives no evidence for reasons that would explain his missed appointments before October. Therefore the panel finds that the Ministry's determination that the Appellant did not cease to participate due to medical reasons under section 9(4)(b) of the EAA was also reasonably supported by the evidence.

The panel therefore finds that the Ministry's reconsideration decision that the Appellant was not eligible for income assistance because he failed to comply with the employment plan required under section 9 of the EAA was reasonably supported by the evidence and confirms the Ministry's reconsideration decision.