

PART C – Decision under Appeal

Under appeal is the Ministry of Social Development and Social Innovation's ("the ministry") December 1, 2014 reconsideration decision that the appellant is not eligible for income assistance under the terms of section 9(1)(b) of the Employment and Assistance Act requiring the recipient to comply with the conditions of the employment plan, and under section 9(4) that states if an employment plan includes a condition requiring a recipient to participate in a specific employment-related program, that condition is not met if the recipient ceases to participate in the program, except for medical reasons.

PART D – Relevant Legislation

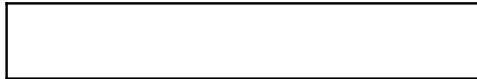
EAA Employment and Assistance Act, section 9

PART E – Summary of Facts

The evidence before the ministry at reconsideration was

- The appellant is a sole employable recipient of assistance with one dependent child age 5.
- March 19, 2014 employment plan signed by the appellant, including an acknowledgment assistance will be discontinued if the appellant does not comply with its conditions.
- April 9, 2014 employment action plan signed by the appellant, listing workshops, and tasks to be completed including to research schools for entrance requirements, start dates and costs. Considerations noted include back injury and lack of marketable certification.
- May 20, 2014 medical certificate in which the physician states the appellant suffers from chronic back pain and has difficulty performing jobs that involve prolonged standing or heavy lifting, is medically capable of training and working as an administration assistant.
- June 23, 2014 employment action plan signed by the appellant, with activity descriptions of participating in pre-employment workshops, application to Opportunities Fund and Student Loan, and to continue contact with a university.
- June 30, 2014 the employment program contractor asked the ministry for approval for the appellant to attend a full-time 10 month university program, and was told it is considered a funded program, that the appellant would need to apply for a student loan and would not be eligible for income assistance.
- July 30, 2014 email from the employment program contractor requesting information about child care costs and progress with the student loan process, and dealing with a dental claim.
- August 13, 2014 letter from the National Student Loans Service Centre telling the appellant she did not qualify for any additional student loan funding until she repaid a previous loan.
- October 14, 2014 the appellant told the ministry she had withdrawn from the employment program and returned to school, attending two classes per day, and her parents were covering the costs of the schooling.
- October 23, 2014 the ministry told the appellant she was no longer eligible for assistance because she was no longer compliant with her employment plan.
- November 15, 2014 letter from appellant requesting reconsideration of the decision to stop her benefits, in which she described working with the employment program contractor including unsuccessful attempts to obtain student funding. She stated she was advised from April to August to continue the application process for the university. A few days before her tuition was due the contractor told her there was no funding for school and an appointment would have to be made to continue the work search. Her parents offered to help out with tuition. She continued with the employment program provider until September 2014 when she withdrew as their services were no longer needed and there was a schedule conflict. The employment contractor had scheduled program activities for her at a time she was not able to attend due to conflicts with school and child care. The appellant said she was compliant with the program from April to September 2014, completed many workshops, interviews with employees already working in her field of education, employment strategies etc.

Upon appeal the appellant said she and her daughter may be homeless in January 2015 as she does not have the means to pay her rent or buy food. She said her parents took out a loan to pay for her tuition but they do not have the resources to pay her rent and food expense, nor the room for her and



her child to move in with them.

The appellant said the employment program contractor encouraged her and helped with the process of applying for university, that she did not know that withdrawing from the program would mean her benefits would stop, or to withdraw that she needed a doctor's note stating she had a medical condition. She feels she was given inaccurate information by her case worker at the employment program contractor, and that she was in compliance with the program until September 2014 when she started university. The appellant does not recall the contractor telling her the program was a funded program, but the contractor told her once she had the denial letter from Student Loans that social services would accept that and allow her to go to school. She had no direct contact with the ministry from April to September 2014 and states that the program contractor may not have communicated everything they were supposed to. The appellant submitted a copy of her university registration statement and time table illustrating she is attending part time.

PART F – Reasons for Panel Decision

The issue is the reasonableness of the ministry's reconsideration decision that the appellant is not eligible for income assistance under the terms of section 9(1)(b) of the Employment and Assistance Act requiring the recipient to comply with the conditions of the employment plan, and under section 9(4) that states if an employment plan includes a condition requiring a recipient to participate in a specific employment-related program, that condition is not met if the recipient ceases to participate in the program, except for medical reasons.

Relevant Legislation

EMPLOYMENT AND ASSISTANCE ACT

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].

Appellant's Position

The appellant argues she was advised by the employment program provider to pursue the application process to attend university and to apply for student loans. She says they told her that upon receiving a denial letter for a student loan that the ministry would accept that and allow her to attend school. She says she did not know by withdrawing from the program her benefits would stop, or that she needed a medical report to be able to withdraw. She was not in direct contact with the ministry while she participated in the program and feels she was given inaccurate information by the contractor.

Ministry's Position

The ministry argues the appellant confirmed by signing the employment plan that she understood and agreed to the conditions specified and the consequences of failing to comply with the conditions. The ministry says that the appellant ceased to participate in employment programming, did not provide medical documentation of medical issues that would impact her ability to attend employment programming, and therefore under the terms of section 9 of the EAA she is not eligible for assistance.

Panel's Decision

The ministry referred the appellant to an employment plan contractor, with whom she signed an action plan in April and another in June 2014. Both plans noted her physical limitations caused by a back injury, and lack of marketable certification. Under *Employment Needs* was entered *Update job search strategies; continue with active job search; explore schooling options* in the first action plan, and *Continue to follow through with schooling & student loan application. Update search strategies; continue with active job search; explore schooling options* in the second. The appellant was advised by the employment program provider to pursue advancing her education, and she was told once she had the denial letter from Student Loans that the ministry would accept that and allow her to go to school. The appellant was not in direct contact with the ministry while she dealt with the program provider. When she did register to attend university, after her parents took out a loan to pay the tuition, the appellant found activities scheduled for her by the program provider did not take into consideration her classes and child care arrangements. She withdrew from the program, and was subsequently told by the ministry she was no longer eligible for financial assistance. The panel notes that the ministry reconsideration officer advised the appellant she could reapply and a new decision would be made.

Although the appellant appears to have been misled by the employment program provider, section 9 (1)(b) of the Employment and Assistance Act states that to be eligible for income assistance the recipient must comply with the conditions in the employment plan. Section 9(4)(b) states if an employment plan includes a condition requiring participation in a specific employment-related program, that condition is not met if the person ceases, except for medical reasons, to participate in the program. The appellant withdrew from the program when she started school. There was no medical evidence indicating the appellant was unable to participate. Further, the appellant signed an employment plan acknowledging if she did not comply with its conditions, the assistance issued to her or her family would be discontinued. The panel therefore finds the ministry's decision is consistent with the legislation and was reasonably supported by the evidence, and confirms the decision.