

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation's (the Ministry) reconsideration decision dated January 21, 2015, which denied income assistance to the Appellant due to failure to comply with the conditions of his employment plan under section 9(1) of the Employment and Assistance Act because he did not demonstrate reasonable efforts to participate in his employment program pursuant 9(4) of the Employment and Assistance Act.

PART D – Relevant Legislation

Employment and Assistance Act (EAA) section 9(1) and 9(4).

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 (EAR).

The evidence before the Ministry at reconsideration included the following:

- A copy of the work search activities record showing work search activities by the Appellant between October 10 and October 20, 2014.
- A copy of the Appellant's employment plan, dated October 21, 2014, listing the conditions of the employment plan and the consequences of non-compliance. The employment plan states that the Appellant must contact the employment services contractor, complete all tasks assigned by the contractor, and notify the contractor if unable to attend a scheduled session. It states that if the Appellant fails to comply with the conditions of the employment plan, the he will be ineligible for income assistance. The plan is signed by the Appellant indicating that he was aware of the conditions and consequences laid out in the employment plan.
- A letter from the Ministry to the Appellant, dated December 3, 2014, stating that the Appellant had not followed through on the conditions in the employment plan and requests that the Appellant contact the employment services contractor by December 12, 2014.
- A letter from the Ministry to the Appellant, dated December 23, 2014, stating that as the Appellant did not follow through with the employment plan requirements, he was found ineligible for income assistance.
- The request for reconsideration section 3, dated January 7, 2015, in which the Appellant writes that he had been battling depression for the last few months because of moving to his current location for work that he could not get. The Appellant further states that his father is unwell and so needed to visit him out of town for two-and-a-half weeks.

In addition, in the notice of appeal, dated January 28, 2015, the Appellant writes that he has had a case of depression that runs in the family and now that he is on medication, it is under control. The Appellant thinks that the Ministry should give him another chance to get the job program so that he can find a job.

As the Appellant did not attend the hearing, there was no additional evidence presented at that time.

The Ministry stated that the Appellant signed the employment plan and that the conditions of the plan were reviewed with him. Although the Appellant did attend the first and second assessment appointments with the employment services contractor on October 24 and 28, 2014, he did not attend any of the subsequently scheduled appointments on November 3-7, November 10, November 17-21, on November 24, or on December 9, 2014. The Ministry and the employment services contractor made numerous attempts to contact the Appellant, but he did not contact the employment services contractor to explain why he could not attend the appointments in November and December. The Ministry pointed out that there was no indication of a mental or physical health problem and no evidence of a diagnosis from a medical practitioner.

The panel finds that the Appellant did not attend appointments with the employment services contractor on November 3-7, November 10, November 17-21, on November 24, or on December 9, 2014.

PART F – Reasons for Panel Decision

The issue to be decided is whether the Ministry's decision to deny the Appellant income assistance for failure to comply with the conditions of his employment plan under section 9(1) of the EAA because he did not demonstrate reasonable efforts to participate in his employment program pursuant 9(4) of the EAA is reasonably supported by the evidence or is a reasonable application of the legislation in the circumstances of the Appellant.

The legislation provides the following:

Employment and Assistance Act (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.
- (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...

The Ministry argues that the Appellant signed his employment plan indicating that he understood the conditions and consequences for non-compliance. Although he attended the first two appointments, he failed to attend any subsequent appointments, and he did not contact either the Ministry or the employment services contractor to explain the reasons that he could not attend. The Ministry further argued that there was no indication in the appeal record of medical issues at the time of the missed appointments.

The Appellant does not dispute that he missed the November and December appointments, but argues that he is suffering from depression and that he needed to go out of town to visit his father, who was ill.

The panel finds that the Ministry's determination to deny income assistance to the Appellant due to failure to comply with the conditions of his employment plan under section 9(1) of the EAA was reasonable application of the legislation in the circumstances of the Appellant. Section 9(4) of the EAA states that the participation requirement of an employment plan 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.

The panel finds that the Appellant did not attend five appointments / workshops scheduled by the employment services contractor during November and December 2014 without contacting the employment services contractor. The panel therefore finds that the Appellant did not make a

reasonable effort to participate in the program by contacting the Ministry or the employment services contractor to rescheduled the missed appointments. Finally, because the panel finds that there is no evidence from a medical practitioner to show that the Appellant was unable to attend the appointments in November and December 2014, and because the Appellant was able to travel, the panel finds that there is insufficient evidence to show that Appellant did not attend the scheduled appointments due to medical reasons.

The panel therefore confirms the Ministry's reconsideration decision.