

PART C – Decision under Appeal

The Ministry of Social Development and Social Innovation (the ministry) reconsideration decision dated 18 June 2015 determined that the appellant was not eligible for continued income assistance because he failed to demonstrate reasonable efforts to comply with the conditions of his Employment Plan (EP) and did not have medical reasons to cease participate in the program as required under section 9 of the Employment and Assistance Act (EAA) by failing to submit his monthly work search report to the contractor.

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 s. 86(b) of the Employment and Assistance Regulation (EAR).

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

- The appellant is a single employable recipient of income assistance with no dependants.
- On 14 August 2013, the appellant signed an EP with the ministry.
- On 21 August and 8 October 2013, the contractor indicated to the ministry that the appellant missed an intake session and scheduled orientation. The appellant's income assistance cheque was held as a result.
- On 23 December 2013, the appellant attended an orientation session.
- The contractor reported to the ministry that the appellant had missed a meeting on 7 January 2014 and his income assistance cheque was held.
- On 23 May 2014, the contractor reported to the ministry that the appellant attended a meeting for a file transfer but he did not respond to subsequent attempts to contact him. As a result, his income assistance cheque for July was held. Subsequently, the appellant was directed by the ministry to reconnect with the contractor.
- On 31 July 2014 the contractor reported to the ministry that the appellant had missed three consecutive appointments on 21, 24 and 30 July 2014 and his income assistance cheque was held and a letter sent to him. As a result, a discussion took place with a ministry worker and the appellant was scheduled another appointment with his case manager.
- On 12 November 2014, the appellant signed a new EP with the following conditions that he accepted:
 - As a condition of continued eligibility for assistance, will participate in EPBC programming regularly and as directed by the EPBC contractor.
 - Will work with the EPBC contractor to address any issues that may impact his employability and will complete all tasks assigned including any activities that may be set out in an action plan.
 - Will notify the contractor [name and phone number] if unable to attend a session or when he starts or ends any employment.
 - He understands that if he fails to comply with the conditions of his EP, he will be ineligible for assistance.
 - He will declare all income and report any changes to the ministry and will attend all ministry review appointments as required.
- On 11 December 2014, the appellant signed an Action Plan (AP) agreeing to the following activities:
 - Attend a youth employment program on 26 August 2014;
 - Look into heavy equipment operator training;
 - Email job search record once per month.
- On 24 April 2015, the contractor reported to the ministry that it had no contact with the appellant since 11 December 2014 when he signed the AP and they advised that numerous attempts to contact the appellant by phone and email had received no response. As a result of non participation, the contractor closed the appellant's file.
- On 6 May 2015, the contractor also advised the ministry that the appellant had not indicated what search activities he had done, what happened with the youth employment program and whether

he had looked into heavy equipment operator training.

- On 13 or 14 May 2015, a ministry worker contacted the appellant with respect for his non participation and the appellant could not provide a satisfactory explanation. The appellant was then advised he was denied income assistance.
- In his Request for Reconsideration dated 1 June 2015 the appellant indicated that he had not complied with his EP/AP as a result of depression and anxiety and that he had talked to the worker who was helping him get into heavy equipment operator training. He stated he had not received any phone call or email from the worker and indicated he understood he had not followed through because a close family member was disabled and he was also helping that person. He added he had no driver's licence to go around, that he had a criminal record and he had applied for jobs and had a record of those applications in his email.

In his Notice of Appeal dated and signed by the appellant on 22 June 2015, he indicated he felt the worker had not answered back to him and that he had also tried by email. He also stated he was still looking for work, applying every day.

At the hearing the ministry relied on the facts stated in the reconsideration decision.

PART F – Reasons for Panel Decision

The issue under appeal is whether the ministry's decision that the appellant was not eligible for continued income assistance because he failed to demonstrate reasonable efforts to comply with the conditions of his EP and did not have medical reasons to cease participate in the program as required under section 9 of the EAA by failing to submit his monthly work search report to the contractor was a reasonable application of the legislation or reasonably supported by the evidence.

The applicable legislation in this matter is s. 9 of the EAA:

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...

(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 failed to comply with the conditions stated in his EP. The ministry argued that after signing the AP on 11 December 2014, the appellant did not contact the contractor as required, did not respond to the contractor's calls and emails and did not provide a monthly work search as required by his AP. Further, the ministry argued that the appellant was aware, from past experiences of non-compliance and had been explained the consequences of failing to comply with an EP numerous times and understood it. Finally the ministry argued that the appellant failed to demonstrate reasonable efforts to comply with his EP and even though he stated that he suffered from a medical condition he did not provide any medical evidence justifying his non-participation in the program.

In his Request for Reconsideration the appellant argued: "I have not complied with it following reasons I've been going through depression, anxiety, I have talked to the worker he was helping me

get into equipment operator I have not received any calls from my worker or emails. I understand I did not follow my mom is disable I was helping her. Also no license to get around. Criminal record. I did apply for jobs I still have them in my email.”

Panel decision:

The panel notes that the appellant had been advised prior to signing this November 2014 EP of the consequences of not complying with it on a number of occasions as part of a previous 2013 EP. The panel also notes that the AP overlaps two EP, the 2013 one and the one signed on 12 November 2014 since it stated that the start date was 19 June 2014, an end date 19 June 2015 and was signed on 11 December 2014. Some of the activities in the AP had been completed at the time it was signed (including attend the youth employment program), confirming the ongoing nature of that AP. Yet, the history of the appellant’s compliance with his EPs also shows that on numerous occasions (in October 2013, January, May and July 2014) the appellant’s monthly income assistance cheque was held as a result of non compliance and on those occasions the appellant was informed of the consequences of not complying with his EP. Thus, the panel finds the ministry reasonably determined the appellant’s history of interaction with the ministry showed that he understood the consequences of not complying with his EP.

The evidence shows that after signing his new EP in November 2014 and his AP in December 2014, the appellant did not contact the contractor and did not respond to phone calls and emails from the contractor. The appellant argued that he did call and send emails but that the worker did not respond to those messages and in fact didn’t call or send any email to him but did not provide any evidence of that.

Further, the appellant argued that he suffered from depression and anxiety but did not provide any medical evidence to the contractor, the ministry or the panel confirming his medical condition. He also argued he had complied with his work search activities having looked for employment consistently and having kept a record of his work search activities in his email; yet, the appellant did not provide any evidence of that, he did not provide a copy of those emails and did not argue that he had emailed them to the contractor. Thus, the panel finds the ministry reasonably determined he had failed to comply with that condition of his AP by not reporting his work search activities to the contractor once a month by email.

In his other reasons for not complying with his EP, the appellant argued that he had no driver’s licence and had a criminal record. Yet, the panel notes that these considerations appeared in the AP that he signed on 11 December 2014 and were taken into account when he and the contractor agreed to those conditions.

Considering all the evidence, the panel finds the ministry was reasonable in determining the appellant failed to demonstrate reasonable efforts to participate in the program as required in s. 9(4) of the EAA and as a result, failed to comply with the conditions in his EP. The panel finds that the ministry’s decision that the appellant was not eligible for income assistance because he did not meet the criteria set out in s. 9(1)(b) of the EAA was reasonable. Therefore, the panel finds the ministry’s decision was reasonably supported by the evidence and confirms the decision.