



PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development (Ministry)'s reconsideration decision dated November 5, 2015, finding the Appellant is not eligible to continue to receive income assistance for failing to comply with the conditions of his employment plan in accordance with section 9 of the *Employment and Assistance Act* (EAA).

PART D – Relevant Legislation

The relevant legislation is section 9 of the EAA.

PART E – Summary of Facts

The appellant has been in receipt of income assistance as a sole recipient since December 2010. On January 12, 2015 he signed an Employment Plan (EP) indicating that he understood and agreed to the conditions of that plan. He was referred to an employment program and required to attend all appointments or contact the employment provider with a reason as to why he could not attend an appointment.

On April 1 the employment program notified the ministry that the appellant had not been attending appointments.

On April 23, the appellant attended his local ministry office to collect his cheque where he was reminded of the conditions of his EP.

On October 8, the employment program notified the ministry that the appellant had missed or cancelled appointments on June 22, June 24, July 20, August 5, August 12, August 24, August 31, September 25.

On October 2, the appellant again attended his local ministry office where he re-affirmed his understanding of the terms of his EP. He stated that he had been preoccupied over the previous two weeks as his mother had passed away. He stated that he had done some unpaid electrical work, which did not lead to remunerated work. He also committed to supplying the ministry with information regarding the circumstances of his missed appointments from June to September.

On October 22 the appellant again attended the local ministry office. He did not have the requested information at that time but returned later in the day with a list of appointments and his reason for not attending each appointment which included stomach problems, bus, hip frozen, possible work and mother's passing.

On October 23, the ministry informed the appellant that he was no longer eligible for assistance due to a pattern of non-compliance with his EP.

In his reconsideration submission the appellant stated:

- “1. All appointments were justifiable.
2. Case worker at [employment program] was aware of missed apts.
3. Mother was dieing and passed away in September.
4. Case workers could not contact me due to unpaid phone bill (no check issued).”

PART F – Reasons for Panel Decision

The issue under appeal is the Ministry's finding that the Appellant is not eligible to continue to receive income assistance for failing to comply with the conditions of his employment plan.

The relevant legislation is section 9 of the 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.
- (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 appellant did not attend the hearing. After confirming that the appellant had been served with notice of the hearing in accordance with section 86(b) of the *Employment and Assistance Regulation* the hearing continued without the appellant.

In his appeal submission the appellant states: "All dates were justifiable. Working with ... the worker."

The ministry's position is that the appellant was repeatedly reminded of and acknowledged the terms of his EP, which included attending an employment program, but continually cancelled or missed appointments without valid reasons. In accordance with section 9(4)(a), the appellant has failed to demonstrate reasonable efforts to participate in his employment program, such that he has not complied with the conditions in his EP in accordance with section 9(1)(b) and so is no longer eligible to receive income assistance.

The appellant missed seven appointments over the period of four months from June 2015 to

September 2015 despite the ministry reminding him of his responsibilities under his EP on a number of occasions. He belatedly offered a number of reasons for missing appointments, such as his mother's passing away, "bus", "hip frozen" and "possible work", which, without the benefit of hearing the appellant directly, the panel finds inadequate. For instance, it is not clear why the appellant missed appointments in June, July and August if his mother was taken ill and passed in late September.

According to the legislation, it is the responsibility of the appellant to make every effort to attend appointments and to inform the employment program if and why he could not attend an appointment before the date of the appointment. The appellant did not do this.

In this case, the panel finds that the Appellant consistently missed appointments with his employment program without valid reasons so that he failed to demonstrate reasonable efforts to participate in his employment program in contravention of section 9(4)(b) thereby failing to comply with the conditions in his EP in contravention of section 9(1)(b) so that he no longer qualifies for income assistance.

Accordingly, the Panel finds that the ministry's decision that the appellant is no longer eligible for income assistance due to non-compliance with his EP for failure to make reasonable efforts to attend his employment program was a reasonable application of the relevant legislation and confirms the ministry's decision pursuant to sections 24(1)(b) and 24(2)(a) of the EAA.