

**Part C – Decision Under Appeal**

The decision under appeal is the reconsideration decision, dated October 12, 2023 (the “Reconsideration Decision”) of the Ministry of Social Development and Poverty Reduction (the “Ministry”). The Ministry determined that the Appellant was not eligible for income assistance because the Appellant had failed to make reasonable efforts to comply with an employment plan entered into on March 28, 2022.

**Part D – Relevant Legislation**

*Employment and Assistance Act*- section 9

A full text of the relevant legislation appears at the end of Part F of this decision.

**Part E – Summary of Facts**

The Appellant is a sole recipient of income assistance with no dependents. The Appellant has been in receipt of income assistance since November 22, 2021 and entered into an employment plan on March 28, 2022.

The conditions of the Appellant's employment plan included:

- a term running from March 23, 2022 to March 22, 2024; and
- the requirement to participate in an employment-related program run by the Ministry's contractor and to contact the contractor if the Appellant was unable to participate in the program or had found employment.

At the time of the Reconsideration Decision, the information before the Ministry included:

- the Appellant's employment plan, dated March 28, 2022; and
- the Appellant's Request for Reconsideration, dated September 13, 2023, which set out the details of the Appellant's non-compliance with the employment plan.

The Appellant's Notice of Appeal was filed on October 12, 2023. Included with the Notice of Appeal were:

- a letter from a counselor whom the Appellant has been seeing which indicates that the Appellant is suffering from Post Traumatic Stress Disorder ("PTSD") as a result of historic abuse; and
- an e-mail from an insurance adjuster regarding a more recent motor vehicle accident in which the Appellant suffered injuries.

In the Notice of Appeal itself, the Appellant set out that standing for too long was not possible because of the accident.

*The Hearing*Appellant

At the hearing of the appeal, the Appellant advised that keeping in communication with the Ministry was difficult because of a large volume of calls from collection agencies as a result of the Appellant's phone number being confused with another person's. That made it uncomfortable for the Appellant to answer the phone. The Appellant's phone plan also

ran out of minutes on several occasions making it difficult to maintain regular contact with the contractor.

The Appellant stated that the Ministry had not advised that it was possible to have a doctor write a note concerning the Appellant's ability to look for work or keep a job.

The Appellant described having started an application for disability assistance and a person with disabilities designation. That application is in process. However, the Appellant also did not want to tell anyone about that application, as the Appellant wanted to continue to try to function as normally as possible.

The Appellant mentioned volunteering to help in the kitchen at a friend's funeral. However, the work caused significant bruising to the Appellant's feet and toes.

Although only diagnosed within approximately the last six years or so, the Appellant had experienced symptoms of PTSD prior to that.

The Appellant was asked why the PTSD had not been mentioned to the Ministry. The Appellant stated that the reasons were the effects of suffering from depression, not wanting to admit to suffering from PTSD, and not wanting to discuss the issues that caused the PTSD because of how difficult they were to talk about. Although citing the above reasons, in addition to the issues with the Appellant's phone, for not being in compliance with the conditions of the employment plan, the Appellant did not contradict the Ministry's reports of non-compliance with the employment plan and, in particular, that there had been extended periods of no contact with the Ministry contractor.

The Appellant advised that the application for disability assistance is primarily related to the PTSD and not necessarily any physical injuries, such as those arising from the motor vehicle accident.

### Ministry

The Ministry took the panel through the history of the Appellant's non-compliance with the employment plan, which were contained in the Request for Reconsideration. These included the Appellant not having been in contact with the Ministry's contractor from February 2023 to July 19, 2023 and not responding to attempts by the Ministry to contact the Appellant on March 13, 2023, May 25, 2023, June 22, 2023, and July 6, 2023. The Ministry noted that assistance cheques had previously been held back from the Appellant due to compliance issues in the past.

The Ministry stated that, ultimately, if there are issues making it difficult for a client to comply with their employment plan, it is the client's responsibility to raise that with the Ministry. In those instances, the Ministry does have some discretion to pause or waive the requirement to comply with the employment plan.

The Ministry described the process for seeking a waiver, which generally requires an employability medical report to be completed. The Ministry also noted that had the Appellant made a request for a waiver, the Appellant may well have received one, given the medical issues described by the Appellant.

The Ministry did not object to the admissibility of the documents submitted with the Notice of Appeal and the panel admits those documents (the notes from the Appellant's counselor and the insurance adjuster) as well as the oral evidence provided at the hearing of the appeal. The two notes address the reasons given by the Appellant for the non-compliance with the employment plan and, as such, constitute evidence that is not part of the record but reasonably required for a full and fair disclosure of all the matters related to the appeal.

**Part F – Reasons for Panel Decision***Issue on Appeal*

The issue in this appeal is whether the Ministry was reasonable in determining that the Appellant was not eligible for income assistance because the Appellant had failed to make reasonable efforts to comply with the conditions of an employment plan entered into on March 28, 2022.

*Panel Decision*

Section 9(1) of the *Employment and Assistance Act* authorizes the Ministry to require, as a condition of ongoing eligibility for income assistance, that a recipient enter into an employment plan and comply with the conditions of the plan.

Pursuant to section 9(3) of the *Employment and Assistance Act*, an employment plan may include a condition that a recipient participate in an employment-related program.

Section 9(4) sets out that:

- failure to make reasonable efforts to participate in the employment-related program; or
- ceasing to participate in the employment-related program, except for medical reasons

both amount to not satisfying the condition of participation in an employment-related program.

In this case, the Appellant's employment plan included a condition that the Appellant participate in a program with the Ministry's contractor. Although the Appellant provided a number of reasons for being out of contact with the contractor between February 2023 and July 19, 2023, the Appellant did not deny that having been out of contact with the contractor during that time. Instead, the Appellant provided a number of reasons for not being in contact with the contractor.

While section 9(6) authorizes the Ministry to "amend, suspend, or cancel an employment plan", the Appellant did not make a request to the Ministry to amend, suspend or cancel the employment plan. Indeed, it appears that the Appellant still has not made such a request in respect of the employment plan. While the Ministry indicated that the Appellant

may have been eligible for an amendment, suspension, or cancellation of the employment plan had it been requested, the panel makes no findings on that.

The panel does find, however, that the Appellant had not made reasonable efforts to participate in the employment-related programs set out in the employment plan and that the Ministry was reasonable in its determination that the Appellant was not eligible for income assistance as a result of failing to comply with the terms and conditions of the employment plan, as required by sections 9(4) and 9(3) of the Employment and Assistance Act.

The Appellant is not successful in this appeal.

*Relevant Legislation***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*].

2023-0331

**Part G – Order**

The panel decision is: (Check one)     Unanimous     By Majority

The Panel     Confirms the Ministry Decision     Rescinds the Ministry Decision

If the ministry decision is rescinded, is the panel decision referred  
back to the Minister for a decision as to amount?    Yes     No

**Legislative Authority for the Decision:**

*Employment and Assistance Act*

Section 24(1)(a)     or Section 24(1)(b)

Section 24(2)(a)     or Section 24(2)(b)

**Part H – Signatures**

Print Name

Adam Shee

Signature of Chair

Date (Year/Month/Day)

2023/12/14

Print Name

Susanne Dahlin

Date (Year/Month/Day)

2023/12/15

Print Name

Mimi Chang

Signature of Member

Date (Year/Month/Day)

2023/12/15