

PART C – Decision under Appeal

The decision under appeal is the ministry's reconsideration decision dated February 6, 2012 which held that the appellant did not meet all of the applicable statutory requirements of Section 2 of the Employment and Assistance Regulation (EAR) to qualify as a person with persistent multiple barriers to employment (PPMB). The ministry was satisfied that the evidence establishes that the appellant has a medical condition, other than an addiction, that is confirmed by a medical practitioner and that, in the opinion of the medical practitioner, has continued for at least 1 year and is likely to continue for at least 2 more years. However, the ministry was not satisfied that the medical condition is a barrier that precludes the appellant from searching for, accepting, or continuing in employment, pursuant to Section 2(4)(b) of the EAR.

PART D – Relevant Legislation

Employment and Assistance Regulation (EAR), Section 2

PART E – Summary of Facts

The evidence before the ministry at the time of the reconsideration decision consisted of:

- 1) Medical Report- Persons with Persistent Multiple Barriers (PPMB) dated July 14, 2011, which states, in part, that: the appellant's primary medical condition is depression with a date of onset of 2005. The secondary medical condition listed is addiction with no date of onset provided; the prognosis sets out that the expected duration of the medical condition(s) is 2 years or more and that it is not episodic in nature. In the section of the Report regarding restrictions, there is nothing set out;
- 2) Employability Screen print out dated November 3, 2011, noting a total score of "7";
- 3) Letter from the ministry to the appellant dated November 3, 2011 denying his application for PPMB; and,
- 4) Request for Reconsideration- Reasons.

The appellant did not attend the hearing. After confirming that the appellant was notified, the hearing proceeded under Section 86(b) of the Employment and Assistance Regulation.

In his Request for Reconsideration, the appellant states that he went off assistance because he started working. The appellant states that he worked for 13 months and he reapplied 60 days later as requested by the ministry, which is 15 months. The appellant states that he was told to reapply for PPMB, that this was needed and he would be OK, and now he is being told he has to wait. The appellant explains that he has done everything he was told to and it feels like there has been a mix-up. The appellant states that he does not have enough food money as it is, and he is doing counseling and learning ways to help his depression and PPMB gives him a little extra. In the Notice of Appeal, the appellant states "see attached letter" but there was no additional attachment provided other than the letter attached to the Request for Reconsideration.

The ministry's evidence includes that the appellant has not been in receipt of income assistance for at least 12 of the immediately preceding 15 calendar months, but that he had the PPMB designation when his file closed due to employment and he reapplied for income assistance within 12 months of leaving income assistance. At the hearing, the ministry stated that the appellant's file closed because he was working two jobs for 13 months which put the total amount of his employment income above the income assistance rates. The appellant's score on the employability screen is 7. In the Medical Report-PPMB dated July 14, 2011, the physician reports that the appellant's primary medical condition is depression with a date of onset of 2005. The secondary medical condition listed is addiction with no date of onset provided. The physician confirmed that the appellant's depression will last 2 years or more and that the appellant has tried volunteer work as well as exercise but no outcomes were noted. In the Medical Report, the physician did not provide any information to describe the nature of restrictions related to the appellant's medical condition in the 'restrictions' section. The appellant has acknowledged that he worked for 13 months.

PART F – Reasons for Panel Decision

The issue on the appeal is whether the ministry reasonably concluded that the appellant did not meet all of the applicable statutory requirements of Section 2 of the Employment and Assistance Regulation (EAR) to qualify as a person with persistent multiple barriers to employment (PPMB); in particular, the ministry was not satisfied that the appellant's medical condition is a barrier that precludes the appellant from searching for, accepting, or continuing in employment, pursuant to Section 2(4)(b) of the EAR.

The criteria for being designated as a person with persistent multiple barriers to employment (PPMB) are set out in Section 2 of the EAR. Under Section 2(2), the person must have been the recipient of one or more of a number of types of assistance for at least 12 of the immediately preceding 15 calendar months and also meet the requirements set out in subsection 2(3) or subsection 2(4). If the person has scored at least 15 on the employability screen as set out in Schedule E to the EAR, then Section 2(3) applies. If the person has scored less than 15 on the employability screen as set out in Schedule E to the EAR, then Section 2(4) applies. Under Section 2(4) of the EAR, the person must have a medical condition, other than an addiction, that has been confirmed by a medical practitioner and that, in the opinion of the medical practitioner, has continued for at least one year and is likely to continue for at least 2 more years, or has occurred frequently in the past year, and is likely to continue for at least 2 more years and, in the opinion of the minister, is a barrier that precludes the person from searching for, accepting, or continuing in employment.

The ministry's position is that the requirements of Section 2(2) of the EAR do not apply to the appellant's circumstances as a result of a particular provision in ministry policy, as he has not been the recipient of income assistance for at least 12 of the immediately preceding 15 calendar months, but he had reapplied for income assistance within 12 months of his file having closed due to employment. However, the ministry argues that the evidence has not established that the appellant has met all the remaining applicable criteria of Section 2. As the appellant scored 7 on the employability screen, he must meet the requirements of Section 2(4) of the EAR. The ministry acknowledges that the appellant has a medical condition, other than an addiction, that has been confirmed by a medical practitioner and that, in the opinion of the medical practitioner, has continued for at least 1 year and is likely to continue for at least 2 more years. However, the ministry argues that the evidence does not establish that the medical condition is a barrier that precludes the appellant from searching for, accepting, or continuing in employment. The ministry points out that the physician did not provide any information to describe the nature of restrictions related to the appellant's medical condition in the 'restrictions' section of the Medical Report. The ministry also argues that the appellant has recently worked for 13 months which shows that his medical condition does not preclude him from searching for, accepting or continuing in employment.

The appellant argues that he went off assistance because he started working, that he worked for 13 months and he reapplied 60 days later as requested by the ministry, which is 15 months. The appellant points out that he was told to reapply for PPMB, that this was needed and he would be OK, and now he is being told he has to wait. The appellant argues that he has done everything he was told to, that he does not have enough food money and PPMB gives him a little extra. The appellant also points out that he is attending counseling and learning ways to help his depression.

The panel finds that it is not disputed that the appellant's physician has provided a medical opinion, in the Medical Report dated July 14, 2011, that the appellant suffers from a medical condition other than an addiction, namely depression, with a date of onset of 2005. Although the physician also notes a secondary medical condition of addiction, the panel finds that the ministry reasonably determined that only medical conditions other than an addiction can be considered under Section 2(4) of the EAR. It is also not disputed that the appellant's medical condition of depression has, in the opinion of the medical practitioner, continued for at least 1 year and is likely to continue for at least 2 more years. However, the physician does not provide any information regarding the restrictions associated with the appellant's medical condition in the Medical Report and, although the appellant states that he is attending counseling and learning ways to help his depression, the panel finds that no further information was provided by a medical practitioner regarding any

resulting restrictions. The panel finds that the evidence demonstrates that the appellant has recently been employed at two jobs for a period of 13 months and it is therefore difficult to determine that his medical condition precludes, or prevents, him from searching for, accepting or continuing in employment. Therefore, the panel finds that the ministry's conclusion that the evidence does not demonstrate that the appellant's medical condition is a barrier that precludes him from searching for, accepting or continuing in employment, pursuant to the requirement in Section 2(4)(b) of the EAR, was reasonable.

The panel finds that the ministry's reconsideration decision was reasonably supported by the evidence and confirms the decision pursuant to Section 24(1)(a) and 24(2)(a) of the Employment and Assistance Act.