

PART C – Decision under Appeal

The decision under appeal is the ministry's reconsideration decision dated February 17, 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 criteria set out in EAR section 2(2) has been met, as the appellant has been a recipient of income assistance for at least 12 of the preceding 15 months. However, as the appellant's score on the Employability Screen was less than 15 it was determined that the appellant has not met the requirements set out in section 2(3) of EAR resulting in his PPMB application being considered under section 2(4) of EAR. The ministry further determined that the appellant's physician did not confirm the date of onset of his medical conditions or that these conditions were likely to continue for at least 2 years or more as set out in section 2(4)(a) of EAR. Finally, the ministry determined that the appellant's medical conditions do not present a barrier that precludes him from searching for, accepting, or continuing in employment as set out in section 2(4)(b) of EAR.

PART D – Relevant Legislation

Employment and Assistance Regulation (EAR) section 2

PART E – Summary of Facts

The appellant was 10 minutes late for the hearing and the ministry did not attend. After confirming that the ministry was duly notified, the hearing proceeded under section 86(b) of the Employment and Assistance Regulation.

Evidence before the ministry at the time of reconsideration included the following:

1. Ministry PPMB denial letter to the appellant dated January 23, 2012.
2. PPMB Medical Report dated December 2, 2011.
3. Request for Reconsideration dated February 12, 2012
4. Ministry Employability Screen dated January 23, 2012

In the PPMB Medical Report the physician states that the appellant's primary medical condition is depression with secondary conditions of fatigue and difficulty concentrating. There is no date of onset provided by the physician; however the Medical Report does state that the condition has existed for 3 years. Treatment includes counseling, the expected duration of the medical conditions is less than two years, and the condition is not episodic in nature. Under "restrictions" the physician notes, the appellant has difficulty concentrating and is easily fatigued.

On the Ministry Employability Screen the appellant's scores were as follows

	Appellant's score
• Age is between the age of 25 and 49	0
• Apart from this application the appellant has never collected Income Assistance (IA).	0
• Total amount of time on IA in the past 3 years	7
• Less than grade 10 education	3
• Employed from 3 to 12 months during the last 3 years	1
• English is a second language in need of training	3
Total score	14

In Section 3 of the appellant's Request for Reconsideration he states "I am writing your reconsideration about my healths conditions, my health condition is ok."

Ministry records show that the appellant is currently receiving IA as a two-parent family with two dependant children. He has received IA for each of the last 15 months.

The appellant provided no reasons for appealing the ministry's Reconsideration Decision in his Notice of Appeal.

At the hearing, in spite of the panel's best efforts, the appellant appeared to have considerable difficulty understanding the role of the panel. The appellant stated that his health was good and that he had done what ever the ministry asked and had worked hard when ever he had the opportunity. He said he has faced discrimination in employment and in just about every other aspect of his life since coming to Canada and just wants to be left in peace. English was clearly not the appellant's native language and he appeared to have great difficulty telling the panel what part of the ministry's decision he wished to dispute or why he thought their decision was not reasonable. When asked by a panel member if he had any new evidence to submit, he responded no.

The panel makes the following findings of fact from the evidence presented:

- The appellant has been in receipt of income assistance for at least 12 of the preceding 15 calendar months.
- The appellant's score on the Employability Screen is reported as 14.
- The appellant primary medical condition has been diagnosed as depression with secondary conditions of fatigue and difficulty concentrating.
- The dates of the onset of the appellant's medical conditions are unknown and they are expected to last less than two years.
- The appellant is receiving counseling to treat his medical conditions

PART F – Reasons for Panel Decision

The issue in the appeal is whether the ministry reasonably determined that the appellant did not meet all of the applicable statutory requirements to qualify for PPMB; in particular the ministry was not satisfied that the appellant has a medical condition, confirmed by a medical practitioner, which has existed for at least one year and is likely to continue for at least two more years. The ministry was also not satisfied that the appellant's medical condition is a barrier that precludes him from searching for, accepting, or continuing in employment. In arriving at its decision the ministry relied upon the following legislation:

- 2 (1) To qualify as a person who has persistent multiple barriers to employment, a person must meet the requirements set out in
 - (a) subsection (2), and
 - (b) subsection (3) or (4).
- (2) The person has been a recipient for at least 12 of the immediately preceding 15 calendar months of one or more of the following:
 - (a) income assistance or hardship assistance under the Act;
 - (b) income assistance, hardship assistance or a youth allowance under a former Act;
 - (c) a disability allowance under the *Disability Benefits Program Act*;
 - (d) disability assistance or hardship assistance under the *Employment and Assistance for Persons with Disabilities Act*.
- (3) The following requirements apply
 - (a) the minister
 - (i) has determined that the person scores at least 15 on the employability screen set out in Schedule E, and
 - (ii) based on the result of that employability screen, considers that the person has barriers that seriously impede the person's ability to search for, accept or continue in employment,
 - (b) the person has a medical condition, other than an addiction, that is confirmed by a medical practitioner and that,
 - (i) in the opinion of the medical practitioner,
 - (A) has continued for at least one year and is likely to continue for at least 2 more years, or
 - (B) has occurred frequently in the past year and is likely to continue for at least 2 more years, and
 - (ii) in the opinion of the minister, is a barrier that seriously impedes the person's ability to search for, accept or continue in employment, and
 - (c) the person has taken all steps that the minister considers reasonable for the person to overcome the barriers referred to in paragraph (a).
- (4) The person has a medical condition, other than an addiction, that is confirmed by

a medical practitioner and that,

- (a) in the opinion of the medical practitioner,
 - (i) has continued for at least 1 year and is likely to continue for at least 2 more years, or
 - (ii) has occurred frequently in the past year and is likely to continue for at least 2 more years, and
- (b) in the opinion of the minister, is a barrier that precludes the person from searching for, accepting or continuing in employment.

The panel finds there is no dispute that the evidence establishes that the criteria set out in EAR section 2(2) has been met as the appellant has been a recipient of income assistance for at least 12 of the preceding 15 months. There is also no dispute that the appellant's score on the Employability Screen was less than 15, resulting in him not meeting the statutory requirements set out in section 2(3) of EAR and therefore his PPMB application was considered under section 2(4) of EAR.

As to the requirements set out in section 2(4)(a) of EAR. The ministry's position is that the appellant's physician has not confirmed the date of onset of his medical conditions or that they are likely to continue for at least 2 more years. The appellant's position is that his health is just fine.

The panel finds that while the physician did not complete the section on the PPMB Medical Report which asks for the date of onset of the appellant's medical conditions, the physician does indicate that conditions have existed for 3 years. However the panel further finds that the physician reports that the expected duration of appellant's medical conditions is less than two years. For this reason the panel finds the ministry reasonably determined that the appellant did not meet the statutory requirements set out in 2(4)(a) of EAR.

As to the requirements set out in 2(4)(b) even if the appellant had disputed the ministry's decision, which he did not, that his medical conditions do not presented a barrier that precluded him from searching for, accepting, or continuing in employment the panel finds the ministry's decision was reasonable.

The panel recognizes the importance of issues regarding personal discrimination raised by the appellant at his hearing, however as these issues are not within the panel's jurisdiction no further comment is offered.

For these reasons the panel finds that the ministry's reconsideration decision was reasonably supported by the evidence and confirms the ministry's decision.