

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development's (Ministry) reconsideration decision dated November 26, 2012 which found that the appellant was not eligible for Persons with Persistent Multiple Barriers (PPMB) designation as he had not been in receipt of income assistance for 12 of the past 15 months as required by Section 2(2) of the Employment and Assistance Regulation.

PART D – Relevant Legislation

Employment and Assistance Regulation (EAR), section 2(2)

PART E – Summary of Facts

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

- 1) The appellant's Request for Reconsideration dated November 14, 2012 in which he states that he has not collected income assistance in the past as he lived with his parents, taking care of his ailing father. The appellant states that after his father's death, his mother downsized to a smaller location, left the family home to him to care for where he lives rent free but has to pay for utilities and food. The appellant states that he cannot work due to health issues that have been filed. He states that he has to rest lots and has shortness of breath. He also states that his mother cannot support him as she is 80 years old, and he cannot afford it.
- 2) Letter from the Ministry to the appellant dated October 18, 2012 advising him that he is not eligible for PPMB designation as he has not been a recipient of income assistance for 12 of the past 15 months as required by section 2(2) of the EAR.
- 3) Medical Report – Persons with Persistent Multiple Barriers dated August 2, 2012 in which the appellant's doctor indicates that the appellant's primary medical condition is severe COPD and his secondary medical condition is extreme weight loss and weakness, date of onset for both conditions was 2010. For treatment, the doctors states Atrovent, Flovent and that the appellant needs to quit smoking. The doctor also states that no therapy has been helpful to date with respect to his weight loss. The prognosis is that the medical conditions will last 2 years or more and the condition is chronic and will progress.

In his Notice of Appeal, the appellant states that he cannot work, and that regular income assistance is not enough and his mother, who is now 82 years old, has to continuously assist him. The appellant states that he lives in his brother's house rent free and still cannot make ends meet on the assistance he received.

The appellant did not attend the hearing. Having confirmed that the appellant was notified of the hearing, the panel proceeded with the hearing pursuant to EAPWDR section 86(b).

The Ministry relied on its reconsideration decision. The Ministry representative stated that the appellant has only been on income assistance since August 2012 so he has not been a recipient of income assistance for 12 of the past 15 months so he is not eligible for PPMB designation as he has not met the legislated criteria. The Ministry representative stated that if the appellant remains on income assistance he would be eligible to apply for PPMB designation as of August 2013.

The panel makes the following findings of fact:

- 1) The appellant has been diagnosed with COPD (chronic obstructive pulmonary disease) with consequent shortness of breath and difficulty breathing;
- 2) The appellant's COPD is a chronic condition which will progress;
- 3) The appellant has weight loss and weakness;
- 4) The appellant's COPD and weight loss are expected to last more than two years; and

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- 5) The appellant has not been in receipt of income assistance for 12 of the past 15 months prior to the Reconsideration Decision.

PART F – Reasons for Panel Decision

The issue on the appeal is whether the Ministry reasonably concluded that the appellant is not eligible for PPMB designation as he has not been in receipt of income assistance for 12 of the past 15 months as required by section 2(2) of the EAR.

Section 2(2) of the EAR states as follows:

2(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*, or
- (d) disability assistance or hardship assistance under the *Employment and Assistance for Persons with Disabilities Act*.

The Ministry's position is that as the appellant has not been in receipt of income assistance for 12 of the past 15 months, the appellant does not meet the legislated criteria of section 2(2) of the EAR and is not eligible for designation as PPMB at this time.

The appellant's position is that he has health conditions that disable him from working and that although he lives rent free, his income assistance is not sufficient to meet his monthly needs.

As the appellant has not been in receipt of income assistance for 12 of the past 15 months, the panel finds that the Ministry's decision that the appellant did not meet the criteria of section 2(2) of the EAR was reasonable.

In conclusion, the panel confirms the Ministry's decision.