

APPEAL #

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development's (the ministry's) reconsideration decision of December 31, 2012 in which the ministry denied the appellant's request for renewal of his qualification as a person with persistent multiple barriers to employment (PPMB) because the ministry determined that he did not meet the eligibility criteria for PPMB under the Employment and Assistance Regulation, section 2.

PART D – Relevant Legislation

Employment and Assistance Regulation, section 2.

PART E – Summary of Facts

The evidence includes:

- A Medical Report - Persons with Persistent Multiple Barriers application (hereafter referred to as the Medical Report) completed by the appellant's general practitioner (GP) August 7, 2012, which identifies the following:
 - the appellant's primary medical condition is back pain — OA, [not described] sciatica, with a date of onset of 2007, and hepatitis C, with no date of onset indicated.
 - Restrictions: unable to bend, lift, twist back, can sit only 10-15 minutes, walk 2 blocks, stand only for 30 minutes. The panel notes that under this heading copies of documentation that supports the severity and restrictions of the medical condition are requested but no documentation was provided with the Medical Report.
 - Expected duration of medical condition: less than 2 years.
 - The GP has been the appellant's medical practitioner for 6 months or less and has examined the appellant's previous medical records.
 - A drug treatment is indicated but the outcome is not legible.
- A Reason for Request for Reconsideration signed by the appellant on December 13, 2012, in which the appellant states that his GP of 10 years retired two years ago and his replacement left after 1 year. The appellant states that his current physician indicated in the Medical Report that his condition would only be 2 years or less, "not realizing that . . . I'm waiting for a CT scan on my back as I may need surgery. As you can see in my file I have had this problem for years and it is progressively getting worse"
- An Employability Screen for the appellant, headed with the date January 17, 2013, with a total score of 11. The panel notes that this date is not the date when the Employment Screen was completed, as the ministry's December 31, 2012 reconsideration decision refers to this Employment Screen, as does the ministry's decision of November 14, 2012. The actual date when the Employment Screen was completed is not given.
- The ministry's December 31, 2012 reconsideration decision, in which the ministry states that the appellant has been a recipient of income assistance for at least 12 of the past 15 months and that the ministry has denied the appellant's request for renewal of his qualification as a PPMB. The panel notes that this is the only reference in the appeal record that this was a request for renewal rather than a first-time request for PPMB qualification.
- After the date of the reconsideration decision, additional information was submitted in the appellant's Notice of Appeal, signed January 16, 2013. The appellant states in his Reasons for Appeal: "Not all the true facts are in place due to GP changes, lack of fact and barriers listed etc. I think this process should be started fresh, talked to my GP and she agrees."

The panel finds that this item contains information in support of the information and records that were before the minister when the decision being appealed was made; and therefore the panel finds that the item is admissible as evidence in accordance with the Employment and Assistance Act (EAA), Section 22 (4).

PART F – Reasons for Panel Decision

The issue under appeal is whether the ministry's decision to deny the appellant's request for renewal of his qualification as a PPMB was a reasonable application of the legislation in the circumstances of the appellant or was reasonably supported by the evidence, given that the ministry determined that the appellant did not meet the eligibility criteria for PPMB under the EAR, section 2.

EAR: Persons who have persistent multiple barriers to employment

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 one 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.

[en. B.C. Reg. 368/2002.]

The panel notes that under EAR, section 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).

With respect to EAR section 2(2), the position of the ministry is that the appellant has been a recipient of income assistance for at least 12 of the past 15 months.

With respect to EAR section 2(3)(a), the position of the ministry is that the appellant's most recent Employability Screen indicates a score of 11. Therefore the panel finds that the ministry's determination that the appellant must therefore comply with the requirements of EAR, section 2(4) is reasonable.

With respect to EAR, section 2(4)(a) the appellant's position is that he has had a medical condition for years and it is getting progressively worse. The appellant states that his current GP did not realize that he was waiting for a CT scan on his back and may need surgery. The panel notes that although the appellant indicates in his Reason for Request for Reconsideration of December 13, 2012, that further medical reports would be forthcoming in 2013, no further medical reports from the appellant's physician have been received. Further, although in his Notice of Appeal of January 16, 2013 the appellant stated that he talked to his GP and she agrees with the appellant "that the process should be started fresh," the physician has provided no further information.

With respect to EAR, section 2(4)(a), the ministry's position is that the Medical Report indicates that expected duration of the appellant's medical conditions is less than 2 years. The ministry notes that though the Medical Report indicates that the GP has been the appellant's physician for 6 months or less, the report also indicates that the appellant's physician examined the appellant's previous

medical records.

The panel finds that given the evidence of the Medical Report, the ministry's determination that the appellant has not met the conditions of EAR, section 2(4)(a)(i) or (ii) is reasonable.

With respect to EAR, section 2(4)(b), the panel notes that the appellant does not provide information that specifically addresses the effect of his medical condition on his ability to search for, accept or continue in employment. The ministry's position is that the Medical Report confirms that the appellant has a condition other than an addiction – the primary medical condition being back pain, OA, sciatica and the secondary condition Hepatitis C. The ministry states that "a medical condition is considered to preclude the recipient from searching for, accepting or continuing in employment when, as a result of the medical condition, the recipient is unable to participate in any type of employment for any length of time except in a supported or sheltered-type environment." The ministry notes that the Medical Report describes the nature of any restriction specific to the appellant's diagnosis as "unable to bend, lift, twist back, can sit for only 10-15 minutes, walk for 2 blocks, stand for only 30 minutes." The ministry's position is that although these restrictions prevent the appellant from maintaining physically demanding work, in the ministry's opinion "the appellant may be able to manage some form of sedentary employment."

The appellant's doctor reported hepatitis C as a secondary medical condition but no other information was provided, such as any restrictions arising from this medical condition. Therefore, the panel finds that the ministry reasonably determined that this medical condition is not a restriction preventing the appellant from searching for, accepting or continuing in employment.

The panel finds that given the evidence of the Medical Report and the absence of information from the appellant or his physician that specifically addresses the effect of his medical condition on his ability to search for, accept or continue in employment, the ministry's determination that the appellant has not met the conditions of EAR, section 2(4)(b) is reasonable.

As the panel finds that the ministry's decision that the appellant has not met the conditions of EAR, section 2(4)(a)(i) or (ii) and of EAR, section 2(4)(b) is reasonable, the panel finds that the decision of the ministry to deny the appellant's request for renewal of PPMB status was reasonably supported by the evidence and therefore the panel confirms the ministry's decision.