

**PART C – Decision under Appeal**

The decision under appeal is the Ministry of Social Development and Social Innovation's (ministry) reconsideration decision dated October 25, 2013 denying the appellant a Person with Persistent Multiple Barriers (PPMB) designation. The ministry determined that the appellant did not meet all of the requirements to qualify as a person who has persistent multiple barriers to employment as set out in section 2(2) and section 2(3) or 2(4) of the Employment and Assistance (EA) Regulation.

**PART D – Relevant Legislation**

Employment and Assistance Regulation, section 2.

## PART E – Summary of Facts

The evidence before the ministry at reconsideration consisted of the following:

- (1) The appellant's request for reconsideration dated October 28, 2013; and
- (2) Ministry Employability Screen dated September 20, 2013 documenting the appellant's employability score of 10.
- (3) Ministry medical report (PPMB) for the appellant signed by the medical practitioner dated August 28, 2013.

The appellant did not attend the hearing. The panel received confirmation from the Tribunal that the appellant had been notified of the date, time and location of the hearing on November 15, 2013. Accordingly, under s. 86(b) of the Employment and Assistance Regulation, the panel heard the appeal in the appellant's absence.

In his request for reconsideration the appellant states that he has multiple barriers to employment as he has been diagnosed with depressive disorder, anxiety disorder and dysthymia by his medical practitioner. He states that these conditions have existed for the last five years and have shown no signs of improvement. The appellant states that he is unable to work 4-6 days a week due to overwhelming feelings of anger and sadness, and is unable to cooperate with authority and co-workers. He states that he has severe depression, an inability to sleep most nights, suffers from lack of concentration and has sudden mood and emotional changes. He further states that he suffers from fatigue, body aches, headaches, nausea and poor memory and is irritable and agitated. He states that all this information has been diagnosed by his family doctor.

In his Notice of Appeal dated November 1, 2013 the appellant states that all the restrictions he stated in his request for reconsideration are true and can be confirmed by his family Doctor. The appellant states that he meets all requirements, including those in Section 2(3)(a)(ii).

The ministry relied on its Reconsideration Decision which states that the appellant's medical practitioner has confirmed the appellant's primary medical condition as chronic anxiety and depression/dysthymia and secondary medical condition as regular marijuana use. The medical information submitted to the ministry by the medical practitioner indicates that the appellant has had his medical condition for 5 years and the expected duration of the appellant's medical condition is 2 years or more. The ministry in its Reconsideration Decision noted that no copies of any documents that support the severity and restriction of the appellant's medical condition were submitted with the Request for Reconsideration. The ministry also noted that the appellant's medical practitioner did not indicate the frequency and duration of the appellant's ability or inability to work nor did the medical practitioner confirm that the appellant's medical conditions seriously preclude the appellant's ability to search for, accept or continue in employment. The ministry argued that it is not satisfied that the appellant's barriers seriously preclude the appellant's ability to search for, accept or continue in employment and he has not met the criterion set out in Section 2(3)(a)(ii) of the Regulation and therefore has not met all the criteria necessary to qualify as a Person with Persistent Multiple Barriers (PPMB).

The panel finds as follows:

1. The appellant has been a recipient of Income Assistance for at least 12 of the last 13 months.
2. The appellant scored 10 on the ministry employability screen.

3. The appellant's medical practitioner has confirmed that the appellant has a primary and a secondary medical condition that is likely to continue for two years or more.

4. The appellant's medical practitioner states that the appellant may or may not be able to work in any day, but did not state the frequency and duration of the appellant's ability or inability to work.

## PART F – Reasons for Panel Decision

The issue in this appeal is whether the ministry reasonably determined that the appellant is ineligible to qualify as a person who has persistent multiple barriers to employment.

The ministry was satisfied that the appellant's medical practitioner confirmed that the appellant's medical condition has continued for one year and is likely to continue for at least two more years. However the ministry was not satisfied that the appellant's barriers seriously preclude the appellant's ability to search for, accept or continue in employment.

Employment and Assistance Regulation, Section 2 states as follows:

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, or
- (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 a 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 ministry's position is that the appellant's medical conditions do not seriously preclude his ability to search for, accept or continue in employment and the appellant has not met the criterion set out in Section 2(3)(a)(ii) of the Employment and Assistance Regulation nor has the appellant met all of the criteria necessary to qualify as a Person with Persistent Multiple barriers (PPMB).

The appellant's position is that he has multiple barriers to employment as he has been diagnosed with depressive disorder, anxiety disorder and dysthymia and is unable to work 4-6 days a week. The appellant states that this information has been diagnosed by his medical practitioner.

The panel finds that the evidence establishes that the appellant did not meet the score of 15 on the ministry employability screen. There were no copies available of documents that describe the severity and restriction of the appellant's medical condition. As well the evidence from the appellant's medical practitioner was insufficient to confirm that the appellant's medical condition precludes his ability to search for, accept or continue in employment. Therefore the appellant did not meet the criteria necessary to qualify as a PPMB as set out in Section 2 (3)(a)(ii) of the Employment and Assistance Regulation.

The panel finds although the appellant's medical condition has continued for at least one year and is likely to continue for at least two more years, the ministry was reasonable to conclude that the appellant's medical condition is not a barrier that precludes the appellant's ability to search for, accept or continue in employment.

The panel finds that the ministry's reconsideration decision is reasonably supported by the evidence and is a reasonable application of the applicable enactment in the circumstances of the appellant.

The panel confirms the ministry's reconsideration decision.