



**PART C – Decision under Appeal**

The Decision under Appeal is the Ministry Reconsideration Decision of January 15, 2014 in which the ministry determined the appellant was ineligible for the qualification of Persons With Persistent Multiple Barriers (PPMB) because she did not meet the requirements set out in Section 2 of the Employment and Assistance Regulation. The ministry found that because the appellant has been in receipt of income assistance for at least twelve (12) of the past fifteen (15) months prior to her application she met the requirements under Section 2 (2). The ministry found that as the appellant scored eleven (11) on the employability screen, her application did not meet the requirements to be assessed under Section 2 (3). The appellant's application was therefore considered under Section 2 (2) and (4) of the EAR. The appellant's physician confirmed that she has a medical condition that has lasted at least one (1) year and that the condition is expected to continue for two (2) years or more. However, in the opinion of the ministry, the appellant's medical condition and the resulting restrictions are not a barrier that precludes her from searching for, accepting or continuing in all types of employment and as she did not meet the criteria under subsection (4) (b), she does not qualify for PPMB.

**PART D – Relevant Legislation**

Employment and Assistance Regulation (EAR) – Section 2



## PART E – Summary of Facts

The information before the ministry at the time of reconsideration included the following:

- An Employability screen in the name of the appellant undated showing a score of 11.
- Medical Report – Persons With Persistent Multiple Barriers dated July 11<sup>th</sup>, 2013. The report states the appellant's primary condition is General Anxiety Disorder and her secondary condition is Panic Disorder with Agoraphobia and Social Anxiety Disorder. The conditions are expected to continue for more than two years. The appellant's psychiatrist writes that the appellant is on medications and has a "reasonable response and some stability but awaiting psychotherapy." The report adds that her medical condition is episodic in nature occurring 3-4 times per year and is likely to reoccur in a "similar or reduced frequency." The report does not note if the appellant has any restrictions as a result of her condition.
- A letter written by the appellant's advocate dated January 17, 2014 to the appellant's psychiatrist. The letter asks the psychiatrist to agree or disagree with several statements about the appellant's condition. The psychiatrist did not complete the letter. There is a note written on the letter reading, "This doctor has only seen me twice and is not comfortable to sign this form."

At the hearing the appellant told the panel that she stopped seeing her psychiatrist shortly after he completed the ministry medical report on July 11<sup>th</sup> 2013. She was referred to a new doctor in November 2013. This new doctor had only treated her two times when she asked him complete the advocate's letter so he told her that he wasn't willing to comment on her condition at that time. The appellant added that on the medical report her psychiatrist wrote that she had 3-4 episodes per year but she explained that those episodes required hospitalization. She said she has panic attacks regularly when she has to leave the house or walk by herself. She told the panel that she has been prescribed 4 to 5 different medications over the past 2 years trying to find one that improves her condition and every time she changes medication there is a period of adjustment to determine its effect. She continued that her anxiety prevents her from going to the store, walking alone, interacting with other parents at her son's school, or answering the door to a stranger. She added that she had a hysterectomy 3 years ago and she stills suffers pain from the procedure. The appellant explained to the panel that she suffers discomfort and pain from a hysterectomy that she had 3 years ago however the panel finds that the details of this medical condition were not before the ministry at the time of the reconsideration and is therefore inadmissible as per the Employment and Assistance Act section 22 (4).

At the hearing the ministry told the panel that the ministry's determination that the appellant was ineligible for PPMB was made due to the lack of information provided rather than because of the information that was provided. The ministry went on to explain that the medical report did not include the level of detail that the ministry requires to make a determination of the severity of her condition. The ministry added that the appellant's medical report did not include any restrictions. The ministry told the panel that the information provided in the application was not enough to be satisfied that the appellant had a barrier that precluded her from seeking employment. The ministry added that since the appellant has a new psychiatrist she would be able to reapply at any time.

The Panel finds as fact the following:

1. The appellant has been on income assistance for at least eleven (12) of the past fifteen (15)



months.

2. The appellant scored eleven (11) on the employability screen.
3. The appellant's primary medical condition according to her physician is general anxiety disorder.
4. The appellant's secondary medical condition according to her physician is panic disorder and agoraphobia.
5. The appellant's physician has indicated the condition has existed for two (2) years.
6. The appellant's physician has indicated in his prognosis that the expected duration of the medical condition is more than two (2) years.
7. The appellant's physician indicates the condition is episodic occurring 3-4 times per year.
8. The appellant changed psychiatrists in November 2013.



## PART F – Reasons for Panel Decision

The issue in this case is the reasonableness of the ministry's decision that the appellant does not qualify as a person with persistent multiple barriers on the basis that she does not meet all of the legislative requirements. The ministry found that the appellant has met the requirements of Section 2 (2) that she has been a recipient of income assistance for at least 12 of the immediately preceding 15 calendar months. The appellant's score on the employability screen is 11, therefore the ministry considered the application under section 2 (4) of the Employment and Assistance Regulation (EAR). The legislation states;

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.

It is the ministry's position that the appellant's psychiatrist has confirmed that she has a medical condition other than an addiction that has continued for 1 year and will endure for more than two years but that her medical condition is not considered a barrier that would preclude her from searching for, accepting, or continuing in employment.

It is the position of the appellant that her medical condition creates a barrier to her searching for, accepting, or continuing in employment.

The panel considered the evidence provided by the appellant and ministry both in the appeal record and at the hearing. In the medical report the psychiatrist writes that the appellant's medical condition is episodic in nature occurring once every 3-4 months. The psychiatrist writes that the episodes will likely reoccur in the same or reduced frequency in the future. In the restrictions portion of the medical report the psychiatrist does not indicate any restrictions that are caused by the appellant's condition. The letter written by the advocate to the psychiatrist was not completed. The panel considered the appellant's oral testimony that her anxiety restricts her ability to interact with others and limits her ability to do any tasks outside her home. The panel considered the appellant's testimony that she has required hospitalization 3-4 times per year. The panel finds that the legislation requires that the appellant's medical condition would, in the opinion of the minister, preclude the person from searching for, accepting, or continuing employment. The panel acknowledges that the appellant's anxiety has an effect on her however the panel finds that the ministry was reasonable to rely on the evidence of the medical report over the written statements of the appellant. The ministry was reasonable to determine that the information provided by the appellant's psychiatrist does not establish that her medical condition creates a barrier that precludes her from searching for, accepting, or continuing in employment.

The panel finds that the reconsideration decision was a reasonable application of the applicable legislation in the circumstances of the appellant and therefore the panel confirms the decision.