

### PART C – Decision under Appeal

The Ministry of Social Development and Social Innovation's (the ministry) reconsideration decision dated 27 February 2014 determined the appellant did not qualify as a person with persistent multiple barriers (PPMB) because the information provided did not establish he has a medical condition which had continued for at least one year and was likely to continue for at least two more years and that it did not present a barrier that precluded him from searching or accepting or continuing employment and therefore he did not meet all the required conditions set at section 2 of the Employment and Assistance Regulation.

### PART D – Relevant Legislation

Employment and Assistance Regulation (EAR), section 2.

## PART E – Summary of Facts

The following evidence was before the ministry at the time of reconsideration:

- The appellant has been a recipient of income assistance since June 2010, hence for at least 12 of the last 15 months.
- A medical report dated 25 October 2013 by the appellant's physician stating:
  - The appellant's primary medical condition as head injury / assault;
  - Secondary medical condition: depression and illegible;
  - The appellant is treated through medication;
  - His condition has existed for less than a month;
  - The expected duration of this condition is less than 2 years;
  - His medical condition is not episodic in nature;
  - Its episodes are described as chronic;
  - Restrictions attached to the appellant's medical condition are described as: Patient was assaulted, feels depressed, scared, rib pain, left side numbness, decreased vision, memory deficit and illegible.
- A letter dated 25 November 2013 by the appellant's physician stating that he is "unable to take the bus or other transportation as he is having anxiety and pain".
- An undated Employability Screen form indicating the appellant scored a total of 12.
- In his request for reconsideration dated 13 February 2014, the appellant indicates he was the victim of home invasion at his residence in October 2013 by a number of intruders with guns and was assaulted to unconsciousness and lost lots of blood. He had stitches and staples to close his wounds on his skull because of being hit by the gun. As a result of this, the appellant no longer feels safe to go anywhere and suffers from memory loss, guilt, depression and constant pain. He lives in fear, he is paranoid, suffers from anxiety, he cannot sleep and is forgetful. He shakes and sweats while enduring crippling pain in his neck, back and head. He is on prescribed pain medications.

In his Notice of Appeal dated 7 March 2014, the appellant writes that he has not worked for over 3 years, that he is a single parent with mental health problems, anger, guilt, depression and pain. He has no vehicle and cannot take public transit. He takes lots of medications, is afraid of crowds and he was the victim of home invasion by a number of individuals who beat him on his head and body with handguns. He received numerous stitches and staples to his head and cannot sleep, eat or deal with pain without medication. He lives in constant paranoia, anxiety, memory loss, depression and fear.

The panel determined the additional evidence provided by the appellant in his Notice of Appeal was admissible under s. 22(4) of the Employment and Assistance Act as it was in support of the records before the minister at reconsideration and provided some more details about his medical condition and the reasons thereof.

## PART F – Reasons for Panel Decision

The issue under appeal in this case is whether the ministry's decision that determined the appellant did not qualify as a person with persistent multiple barriers (PPMB) because the information provided did not establish that he has a medical condition which had continued for at least one year and was likely to continue for at least two more years and that it did not present a barrier that precluded him from searching or accepting or continuing employment and consequently not meeting all the required conditions set at section 2 of the EAR was either a reasonable application of the legislation or reasonably supported by the evidence.

Section 2 of the EAR states the conditions necessary to qualify as a PPMB:

**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,...

(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 ministry argues that section 2 (2) and (4) of the EAR apply in this matter. The ministry agrees

that the appellant meets the requirements under subsection (2) as he has been a recipient of income assistance for at least 12 of the immediately preceding 15 months but not those of subsection (3)(a) as he has not scored 15 on the employability screen but only 12. Thus, the ministry argues that subsection (4) applies and that the evidence provided by the medical practitioner, the appellant's physician, shows that his medical condition has not continued for at least 1 year or frequently occurred in the past year, nor is it likely to continue for at least 2 more years, thus making the appellant ineligible for the PPMB qualification under s. 2(4)(a) of the EAR. Additionally, the ministry argues that based on the information provided by the appellant's physician, who does not indicate that the appellant is unable to participate in any type of employment, it is the minister's opinion that his restrictions are not a barrier that preclude him from searching for, accepting or continuing in all types of employment, including sedentary or part-time thus not meeting the conditions set at s. 2(4)(b) of the EAR.

The appellant argues that the ministry's decision is unfair because he has severe memory loss, constant head, back and neck pain, blurred vision, anxiety, depression, guilt. Additionally, that he does not have a vehicle and cannot use transit. He argues that because of the home invasion and the subsequent assault that left him wounded and having to have stitches and staples on his head and body, he has become paranoid, anxious, sleepless and is in constant fear.

The ministry determined that the appellant meets the criteria set at s. 2(2) of the EAR. The appellant does not dispute the ministry decision determining he did not meet s. 2(3)(a)(i) of the EAR because he scored under 15 of the Employability Screen and the panel finds the ministry decision is reasonable in the circumstances. The evidence from the appellant's physician as well as from the appellant himself shows that his medical condition has not continued for at least 1 year or that it has occurred frequently in the past year since the origin of his predicament stems from an incident that occurred in October 2013, a few days before he went to see his physician to have him complete the medical report in support of his application for PPMB status; the panel finds this medical condition had existed less than a month. The panel also finds that the medical practitioner, the appellant's physician who completed the report, is of the opinion that the appellant's expected duration of his medical condition is less than 2 years. For those reasons, the panel finds the ministry's determination that the appellant had not met the criteria under s. 2(4)(a) of the EAR was reasonable in those circumstances.

The panel finds that while there are a number of restrictions on the appellant as a result of his medical condition, for instance that he cannot use public transportation and has some physical limitations, there is no evidence that his medical condition precludes him from participating in any type of employment, for instance sedentary, at home or close to home. Thus, the panel finds the ministry reasonably determined that in its opinion the appellant's medical condition was not a barrier precluding him from searching for, accepting or continuing employment under s. 2(4)(b) of the EAR.

Therefore, the panel finds the ministry's decision was reasonably supported by the evidence and confirms the decision.