

PART C – Decision under Appeal

The appellant appeals the May 28, 2014 reconsideration decision of the Ministry of Social Development and Social Innovation (Ministry) in which the Ministry denied the appellant's application for qualification as a person with persistent multiple barriers to employment (PPMB) under section 2 of the *Employment and Assistance Regulation* ("EAR"). The Ministry found that the appellant had not met the requirement of subs. 2(4)(a) of the EAR on the basis that a medical practitioner has not confirmed that her medical condition has lasted for at least 1 year (or occurred frequently in the past year) and is expected to last at least another 2 years, and the information provided does not establish that the appellant's medical condition precludes her from searching for, accepting or continuing in employment, as required by subs. 2(4)(b) of the EAR.

PART D – Relevant Legislation

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

PART E – Summary of Facts

The appellant did not attend the hearing. The panel confirmed that the appellant had been notified of the date and time of the hearing. Accordingly, under subs. 86(b) of the EAR, the panel conducted the hearing in the absence of the appellant.

The evidence before the Ministry at the reconsideration included the following documents:

- Copy of 2 page form, Medical Report – Persons with Persistent Multiple Barriers, signed by the appellant on November 29, 2013 and the portion by her physician (a psychiatrist) on December 6, 2013 (“PPMB Form”);
- Copy of 1 page Ministry Employability Screen for the appellant, not dated, showing a total score of 11 (“E Screen”); and
- Copy of the appellant’s request for reconsideration dated April 15, 2014.

In the PPMB Form completed December 6, 2013, the appellant’s physician diagnosed her primary medical condition as “anxiety/depressive disorder not otherwise specified” the onset of which was unknown. The treatment for the condition is medication and the physician wrote, “side effects [illegible] up, some side effects noted.” The physician indicated “unknown” for the length of time the appellant’s condition has existed, and that it was expected to continue for less than 2 years, writing, “patient seen 3 X since 2013-OCT-18 (first consult), no past psychiatric history. Stresses of difficult divorce and raising 3 children (2 diagnosed with ADHD).” He indicated that the condition is episodic in nature, but wrote “unknown” regarding the frequency. In his answer to the question asking the physician to indicate the nature of the appellant’s restrictions, the physician wrote, “no physical restrictions. Patient’s time and energy all directed towards taking care of her 3 children.” The physician indicated he had been the appellant’s medical practitioner for less than 6 months.

In her Notice of Appeal, the appellant wrote that the doctor’s reports “are grossly inaccurate overall” and that her employability score “does not accurately reflect [her] obvious inability to sustain employment at this time.”

The Ministry’s reconsideration decision notes that the appellant has been a recipient of income assistance for at least 12 of the past 15 months and that on the appellant’s E Screen, she scored 11.

PART F – Reasons for Panel Decision

The issue on this appeal is the reasonableness of the Ministry's reconsideration decision of May 28, 2014, denying the appellant's application for qualification as a person with persistent multiple barriers ("PPMB") to employment under section 2 of the *Employment and Assistance Regulation* ("EAR") on the basis that her physician has not confirmed that her medical condition has lasted for at least 1 year (or occurred frequently in the past year) and is expected to last at least another 2 years, and that the information provided does not establish that the appellant's medical conditions preclude her from searching for, accepting or continuing in employment.

Section 2 of the EAR governs the requirements to qualify as a person with persistent multiple barriers (PPMB) to employment. Under subsection 2(1), in order to qualify as a PPMB to employment, a person must meet the requirements set out in subsection 2(2) and subsection 2(3) or 2(4). Subsection 2(2) requires that the applicant must be a recipient for at least 12 of the immediately preceding 15 calendar months of income assistance or hardship assistance under the *Employment and Assistance Act* (subs. 2(2)(a)). Subsections 2(3) and 2(4) provide the following:

- (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 found that the appellant met the requirement of subs. 2(2) as she had been receiving income assistance for at least 12 of the immediately preceding 15 months. Given that the appellant did not qualify for consideration under subs. 2(3) of the EAR (which requires a score of 15 or higher on the E Screen), the Ministry considered her application for PPMB designation under subs. 2(4) of

the EAR.

Submissions

In the reconsideration decision, the Ministry noted that in order to satisfy subs. 2(4) of the EAR, the minister must be satisfied of three things: 1) the appellant has a medical condition other than an addiction that, 2) in the opinion of a medical practitioner has lasted or occurred frequently for at least 1 year and is likely to continue for at least 2 more years, and, 3) in the Ministry's opinion, the medical condition presents a barrier that precludes the appellant from searching for, accepting or continuing in employment.

In the reconsideration decision, the Ministry noted that the appellant's medical practitioner had indicated that the appellant has a condition other than an addiction – noting the information in the PPMB Form that the appellant suffers from the medical condition of “anxiety/depressive disorder not otherwise reported.” Accordingly, the appellant has met the first criteria set out under subs. 2(4) that a medical practitioner has confirmed she suffers from a medical condition, other than an addiction.

In the reconsideration decision, the Ministry noted that the appellant's medical practitioner had written on the PPMB Form that the prognosis for the appellant's condition (its expected duration) was less than 2 years. As noted in the reconsideration decision, the Ministry determined that the appellant has not met the second criteria set out in subs. 2(4)(a) that in the opinion of a medical practitioner, her conditions have lasted for at least one year and are likely to continue for at least 2 more years.

In the reconsideration decision, the Ministry noted that a medical condition is considered to preclude the appellant from searching for, accepting or continuing in employment (the criteria set out in subs. 2(4)(b) of the EAR) 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 work environment. The Ministry found in the reconsideration decision that the information provided did not establish that her medical conditions presented a barrier that prevented her from searching, or accepting or continuing in employment. The Ministry relied on the evidence of the appellant's physician in the PPMB Form in which he indicated that the appellant had “no physical restrictions [her] time and energy all directed towards taking care of her 3 children.”

In her notice of appeal the appellant wrote, “doctors reports are grossly inaccurate overall” and that her “employability score does not accurately reflect [her] obvious inability to sustain employment at this time.” The panel notes that although the appellant had adjourned the original date of this hearing because she wrote she needed more time to gather documents, the appellant did not attend the hearing or provide any additional information to the panel prior to the hearing. The only information before the panel is the PPMB Form and the appellant's EScreen.

Decision

Subsection 2(4)(a) requires that a medical practitioner confirm that, in his or her opinion, the person applying for PPMB designation has a medical condition (other than addiction) that has continued for at least 2 years and is likely to continue for at least 2 more years or has occurred frequently in the past year and is likely to continue for at least 2 more years. The appellant's physician indicated in the PPMB report that the expected duration of the appellant's medical condition is less than 2 years and

that her condition is episodic in nature, but the frequency with which the episodes occurred and are likely to recur is unknown. The panel finds that the appellant has not provided evidence from a medical practitioner confirming that her medical condition has continued for at least 2 years or has occurred frequently in the past year and is likely to continue for 2 more years. Accordingly, the panel finds reasonable based on the evidence the Ministry's determination that the appellant has not met the criteria of subs. 2(4)(a) (that her medical condition has continued for at least 2 years and is likely to continue for at least 2 more years).

Further, subsection 2(4)(b) requires that the minister be satisfied that the medical condition of the person seeking PPMB designation has a medical condition which precludes the person from searching for, accepting or continuing in employment. In the PPMB Form, the appellant's physician wrote that the appellant has no physical restrictions and her time and energy "are all directed towards taking care of her 3 children." The panel notes that there is no information in the PPMB Form describing how the appellant's medical condition of anxiety/depression precludes her from searching for, accepting or continuing in employment.

The panel finds that the Ministry's determination that the information provided did not establish that the appellant's medical condition precludes her from searching for, accepting or continuing in employment as required by subsection 2(4)(b) of the EAR is reasonably supported by the evidence. Accordingly, the panel confirms the reconsideration decision of May 28, 2014.