

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the ministry)'s Reconsideration decision dated July 29, 2014 wherein the ministry determined that the appellant is not eligible for Person with Persistent Multiple Barriers (PPMB) qualification because he does not meet the eligibility criteria as set out in the *Employment and Assistance Regulation*, subsection 2(4)(b).

PART D – Relevant Legislation

Employment and Assistance Regulation, Section 2 and Schedule E.

PART E – Summary of Facts

The appellant has been in receipt of assistance since February 2005 and has an employability screen score of 11; therefore his PPMB application was assessed under Section 2(2) and 2(4) of the EAR. The appellant completed an application for PPMB qualification on March 26, 2014. On June 24, 2014 the ministry denied the appellant's application for continued PPMB qualification and on July 22, 2014 he requested reconsideration of that decision.

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

- 1) A copy of a Medical Report – Persons with Persistent Multiple Barriers, dated January 31, 2012, completed by Dr. A which states that the appellant's primary medical conditions are anxiety, depression and dysrhythmic disorder, accompanied by secondary medical conditions of sleep apnea and osteoarthritis in his feet. These conditions have existed for 10 years and were expected to persist for 2 years or more. Restrictions are noted to be poor coping skills and poor concentration.
- 2) A copy of a Persons with Persistent Multiple Barriers to Employment Checklist, dated May 8, 2014, indicating that the ICM system was down, the appellant's employability screen score was 11, he had been on assistance 12 of the past 15 months and that a medical practitioner had confirmed that the appellant's medical condition has continued for at least 1 year and is likely to continue for at least 2 years or has occurred frequently over the past year and is likely to continue for at least the next 2 years. Attached was a copy of the appellant's Client Employability Profile and Employability Screen.
- 3) A copy of a Medical Report – Persons with Persistent Multiple Barriers, dated March 26, 2014, completed by Dr. B, which states that the appellant's primary medical condition is depression which is stable, unchanged for years and is expected to persist for 2 years or more. No Restrictions are noted.
- 4) To Section 3 of the Request for Reconsideration, the appellant attached a letter which states that his condition has not improved since the last review. His life is a continual wave of highs and lows, anxiety, panic and depression. He states that he deals with a combination of depression, anxiety, panic, hypertension, disrupted sleep, exhaustion, headaches, migraines, blurred vision, arthritis, and restless leg syndrome on a daily basis. The appellant writes that he does his best to get out and participate in life and staying on the bright side is the only medication that has ever remained effective for him.

As set out in the reconsideration decision, the ministry states that although the appellant provided a written statement regarding his current medical state, there was no additional information submitted by a medical practitioner to support any restrictions to searching for or accepting employment, therefore determining that his request for qualification as a person with PPMB does not meet the eligibility criteria set out in the EAR.

In his signed Notice of Appeal the appellant states that he disagrees with the ministry's reconsideration decision because his condition has not improved with time and he feels that his anxiety and confusion has prevented him from being able to properly explain his situation. He adds

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that he has a great deal of trouble with written communication and would appreciate the opportunity to be interviewed to explain his situation.

The appellant's evidence at the hearing included the following information:

- The appellant stated that he was unsure of what was included in the previously submitted medical report, but nothing regarding his medical conditions has changed or improved since then.
- The appellant stated that when he took the PPMB Medical Report to be completed, his regular physician was not in the office, and he was seen by another physician whom he was not familiar with, but who had access to his records. He assumed that this physician would complete the form as it had been done previously, noting the same conditions and restrictions, because his condition has not changed or improved.
- The appellant stated that he has tried several medications over the years for his depression, but reacted badly to all of them, which may be partially due to hormonal and calcium imbalances, caused by a parathyroid tumor, which he had removed approximately 18 months ago.

The ministry relied on the information within the reconsideration decision and otherwise submitted no new information.

[REDACTED]

PART F – Reasons for Panel Decision

The issue on this appeal is whether the ministry reasonably concluded that the appellant is no longer eligible for Person with Persistent Multiple Barriers qualification because he does not meet the eligibility criteria as set out in the *Employment and Assistance Regulation*, subsection 2(4)(b).

In arriving at its reconsideration decision, the ministry relied upon the following legislation:

Employment and Assistance Regulation applied to this decision:

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 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. (B.C. Reg. 263/2002)

The ministry's position is that although the appellant provided a written statement regarding his current medical state, there was no additional information submitted by a medical practitioner to support any restrictions to searching for or accepting employment, therefore determining that his request for qualification as a person with PPMB does not meet the eligibility criteria set out in the EAR, section 2(4).

The appellant argues that his medical condition has not changed or improved and he still struggles with the same challenges and restrictions that he has had for years. He was not aware that the physician that completed the report would not include all of the relevant details that had been previously included.

The panel finds that although they can appreciate that the appellant's medical circumstance have not changed, the medical condition and associated restrictions must be provided to the ministry and confirmed by a medical practitioner, as required by the EAR, section 2(4). Given that no restrictions were identified by the physician, the panel finds that the ministry reasonably concluded that the appellant was not precluded from searching for, accepting or continuing in employment.

Conclusion

In conclusion, the panel finds that the ministry's decision to deny the appellant's application for continued Person with Persistent Multiple Barriers (PPMB) qualification because he does not meet the eligibility criteria as set out in the *Employment and Assistance Regulation*, subsection 2(4)(b) was reasonably supported by the evidence and a reasonable application of the legislation in the circumstances of the appellant. The panel thus confirms the ministry's decision.