

### PART C – Decision under Appeal

The appellant appeals the December 8, 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 subsection 2(4)(b) of the EAR as the information provided does not satisfy the Ministry 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.

### PART D – Relevant Legislation

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

## PART E – Summary of Facts

With the consent of the parties, the appeal hearing was conducted in writing in accordance with s. 22(3)(b) of the *Employment and Assistance Act*.

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 September 2, 2014, and the medical assessment portion completed by a physician on September 2, 2014 (“PPMB Form”);
- Copy of the Ministry Client Employability Profile dated October 3, 2014 (2 pages);
- Copy of 1 page Ministry Employability Screen for the appellant, not dated, showing a total score of 13 (“E Screen”); and
- Copy of the appellant’s request for reconsideration dated November 25, 2014 with attached documents.

In the PPMB Form, the physician diagnosed the appellant’s primary medical condition as “multiple allergies – environmental, chemical, wasps.” The onset is not indicated. The treatment for the condition is indicated as over the counter medication and an epi-pen for insect sting reactions. The physician indicated the appellant’s condition has existed for 9 years, and that it was expected to continue for 2 or more years. Although the physician checked that the medical condition was not episodic in nature, the physician wrote that the condition occurred “whenever exposed to allergens.” In the answer to the question asking the physician to indicate the nature of the appellant’s restrictions, the physician wrote, “lips, throat, tongue swell, [occasional bronchial] restriction.” The physician did not attach copies of documents to support the severity and restrictions of the medical conditions. The physician wrote that “we have none” under the place on the form to indicate if the physician had reviewed previous medical records.

The appellant provided a 5-page submission dated January 11, 2015 with her notice of appeal, in which she outlined her medical history, providing the names and addresses of several physicians and specialist she said she had seen since September 2005 and describing her experiences with her allergies and reactions to wasp stings, as well as to any chemicals. In the submissions, the appellant describes her reaction as “swollen hands, feet, knees, back, throat and neck” and that she can’t move these parts of her body “without excruciating pain” and that these parts of her body “stay swollen for days at a time, making it difficult to walk, stay upright, sit in a chair.”

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 (since January 2008) and that on the appellant’s E Screen, she scored 13. In the reconsideration decision, the Ministry notes that it contacted the medical clinic of the physician who completed the PPMB Form on December 8, 2014 and the clinic advised the physician was a locum, and that the clinic was unable to obtain the appellant’s previous medical records, but confirmed that the appellant had been referred to an allergist in 2008 who confirmed rinosinusitis (chronic sinus congestion/inflammation).

## PART F – Reasons for Panel Decision

The issue on this appeal is the reasonableness of the Ministry's reconsideration decision of December 8, 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 the information provided does not satisfy the Ministry that the her 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.

### *Submissions*

The appellant argues that the medical information before the Ministry upon which it based its decision is not complete or accurate. In her submissions with her notice of appeal, the appellant indicated that her allergies and sensitivities to chemicals and fragrances are so severe that she cannot go to public places and she has to have someone else drive her places in case she has a reaction or if she is on over-the-counter allergy medicine that affects her ability to drive – circumstances which affects her ability to find work. In her submissions, the appellant listed all of the incidents of her reactions to various allergies and wasp stings, and the names and addresses of the doctors and specialists who have treated her for the various allergies and sensitivities to support her argument that her medical

condition significantly restricts her ability to work. The appellant did not provide information from these doctors and specialists confirming that they had treated her or confirming the severity of her medical conditions.

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 (she has been on income assistance since 2008). 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 appellant scored 13), the Ministry considered her application for PPMB designation under subs. 2(4) of the EAR.

The Ministry agreed the appellant's physician has confirmed that her medical condition has lasted or occurred frequently for at least 1 year (the physician indicated on the PPMB Form it has lasted for 9 years) and is likely to continue for at least 2 more years, the criteria set out in subs. 2(4)(a).

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 subsection 2(4)(b)) 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 noted that the appellant had indicated that her allergies severely impact her ability to be in public places and around many types of cleaning products and that the appellant's physician confirmed multiple allergies. However, the Ministry further noted that the appellant's physician did not confirm the level of severity of the appellant's allergies and the physician did not have any medical reports to review or attach to the PPMB Form. The Ministry relied on the evidence of the appellant's physician in the PPMB Form that the appellant has occasional bronchial restriction and determined that the Ministry was not satisfied that the appellant's condition would preclude all types of employment or that she would require a sheltered work environment.

## Decision

Subsection 2(4)(b) requires that the minister be satisfied that 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 physician wrote that the restrictions caused by the appellant's medical conditions are "lips, throat, tongue swell, [occasional bronchial] restriction." The panel notes that there is no information in the PPMB Form describing how the appellant's medical condition 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 December 8, 2014.