

PART C – Decision under Appeal

The decision under appeal is the June 22, 2015 reconsideration decision of the Ministry of Social Development and Social Innovation (the Ministry) in which the Ministry denied the Appellant Persons with Persistent Multiple Barriers (PPMB) status based on his employability screen score of 12 and the determination his medical condition does not preclude him searching for, accepting, and maintaining employment as per the Employment and Assistance Regulations Section 2(2), 2(3) and 2(4).

PART D – Relevant Legislation

Employment and Assistance Regulation (EAR) , Section 2

PART E – Summary of Facts

Evidence introduced with the Notice of Appeal included :

- A handwritten note by the Appellant stating that he takes 10 mg of morphine three times a day for his abdominal pain caused by his chronic pancreatitis. He also has been prescribed clonazepam, trazadone and gabapentin for his panic disorder and is also taking medications for his chronic sinusitis and tinnitus.
- A letter dated 06 April 2015 from a medical practitioner that states the past medical history of the Appellant as per electronic medical records include bowel obstruction, acute maxillary sinusitis, pancreatitis, diabetes mellitus, chronic pancreatitis, hordeolum internum and ventral hernia.

The Ministry had no objections to this additional evidence. The Panel finds the information specifying the medications and the letter detailing the specific conditions support the evidence that the Appellant is being treated for several medical conditions as outlined in the medical reports that were before the Ministry at the time of the reconsideration decision and admits the documents as evidence under EAA, Section 22(4)(b).

The evidence before the Ministry at the time of reconsideration included the following:

- A PPMB Medical Report completed by a general practitioner (GP) and dated June 5, 2015. The GP notes she has been the Appellant's GP 6 months or less and she has examined previous medical records. The GP states the Appellant's primary medical condition is chronic pancreatitis, which was diagnosed in August of 2004 and panic disorder as a secondary medical condition diagnosed in 1972. The treatment for the pancreatitis is intravenous fluids, analgesia and abstinence with diabetes, chronic pain and occasional exacerbations with the last episode occurring in February 2015 as outcomes. The treatment for the panic disorder is sedatives and long term difficulty is the outcome. These conditions have existed 11 years and are expected to last two years or more. The medical conditions are episodic in nature with chronic pain with occasional exacerbations approximately five times in the last 2 years noted. The frequency of the episodes is noted as about every month and likely to occur again the same frequency. Under restrictions the GP notes the Appellant struggles with chronic pain daily and he has a mood disorder that makes it difficult to motivate himself.
- The Appellant's diagnostic imaging report dated March 14, 2014 for resolving pancreatitis.
- The Appellant's diagnostic imaging report dated June 5, 2013 for acute pancreatitis.
- A referral letter regarding the Appellant and his chronic abdominal pain dated April 10, 2013 with a hand written reply suggesting a repeat of the treatment in 4 to 6 weeks.
- A referral letter regarding the Appellant's acute and chronic pancreatitis dated June 10, 2013.
- A diagnostic Imaging Report of the Appellant's abdomen dated July 8, 2013.
- An emergency/ out patient record dated April 8, 2013.
- An emergency/ out patient record dated February 14, 2013.
- An emergency/ out patient record dated April 22, 2006.
- A discharge summary date stamped April 3, 2006 with a final diagnosis of acute pancreatitis.
- A diagnostic Imaging Report of the Appellant's abdomen dated February 14, 2013.
- An earlier PPMB Medical Report completed by a general practitioner (earlier GP) and dated March 30, 2015. The earlier GP notes he has been the Appellant's GP over 6 months. The

earlier GP states the Appellant's primary medical condition is abdominal wall hernia X 2, which is noted in the Appellant's records and panic disorder, depression and anxiety as secondary medical conditions which are noted as diagnosed at least more than 1 and one half years. The treatment for the hernia is awaiting abdominal imaging in April 2015. The treatment for the panic disorder is dose reduction with psychiatric follow up arranged. The medical conditions are not reported as episodic in nature and the expected duration is stated as less than 2 years with the note that the panic attacks and depression may improve but this is impossible to say. Under restrictions the earlier GP notes the Appellant struggles to lift weight with the hernia and that he is a mechanic.

The Request for Reconsideration document dated June 22, 2015 states the Appellant is a sole recipient of assistance since 2009 and has been a PPMB recipient since July 2011. His employability screen score is 12.

The Appellant states his reason for a request for reconsideration is that his primary condition is chronic pancreatitis and his secondary condition is panic disorder and that the medical report filled out by the earlier GP was filled out incorrectly. He notes on the medical report of June 5, 2015 that he has had a hernia for 3 years and that the earlier GP stated he has had his condition 1 ½ years because that is how long he has been his doctor. He also notes on the report that his panic disorder is episodic and that the earlier GP "filled that out wrong too".

At the hearing the Appellant stated his chronic pancreatitis bothers him daily and that the first medical report was not correctly filled in. He said he had hernia surgery approximately a month and a half ago and that is why the earlier GP included it as his primary medical condition on the earlier medical report. He stated his medical conditions haven't improved since he first received the PPMB status.

Upon questioning, the Appellant said on an average day he has problems sleeping, takes morphine first thing in the morning then his insulin. He says his diabetes is not well controlled and that he is on a new medication for his panic attacks. He says the mornings are the worst for him but he tries to keep as busy as he can. He said there is not a lot of work in his area and he has thought of retraining but he needs to get his body in better shape first. He said he is unable to do the heavy work of a mechanic and is looking for light employment. He also clarified that the exacerbations noted as five times in the last 2 years within his medical report were the times he was hospitalized for his pancreatitis and that it was a chronic condition that flares up less severely at least monthly.

At the hearing the Ministry referred to the reconsideration decision and stated the Ministry did not have enough information about the frequency and intensity of the panic attacks and pancreatitis flare ups or about his hernia to make an informed decision in respect to his current employability.

Upon questioning, the Ministry stated that those individuals with PPMB status were reviewed every two years and this was one of those reviews.

The Panel finds as fact that the following:

- The Appellant is a sole recipient of assistance since 2009 and has been a PPMB recipient since July 2011.
- His employability screen score is 12.
- The Appellant has medical conditions that have been confirmed by a medical practitioner and

have existed eleven years and are expected to last at least another 2 years.

- The medical conditions are episodic, have occurred monthly in frequency and likely to recur monthly.

PART F – Reasons for Panel Decision

The issue on this appeal is whether the Ministry reasonably denied the Appellant Persons with Persistent Multiple Barriers (PPMB) status based on his employability screen score of 12 and the determination his medical condition does not preclude him searching for, accepting, and maintaining employment as the EAR Section 2(2), 2(3) and 2(4).

The following legislation applies to this appeal:

EAR Section 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.

The Appellant argues his primary condition of chronic pancreatitis and his secondary condition of panic disorder have not improved since 2011. He argues the first medical form was filled out incorrectly and the second medical form clarifies his medical conditions. He argues that he met the criteria with the same medical conditions in 2011 and therefore should meet the criteria again.

The Ministry argues there was not enough information about the frequency and intensity of the panic attacks and pancreatitis flare ups or about the Appellant's hernia in order to make an informed decision in respect to his current employability.

The Panel finds, based on the Appellant being in receipt of income assistance since 2009 and Appellant's employability screen score of 12, that the Ministry reasonably determined the Appellant met Section 2(2), that Section 2(3) was not applicable to the Appellant and therefore he must be assessed under Section 2(4) of the EAR.

The Ministry determined the Appellant met Section 2(4)(a), that in the medical practitioner's opinion the Appellant's medical conditions have continued for at least one year, is likely to continue for at least 2 more years.

The restrictions specified within one medical report specifies the Appellant struggles with daily chronic pain and difficulty in motivating himself due to his mood disorder, and struggles to lift weight with his hernia in the second medical report. Any restrictions due to the monthly episodes from Appellant's chronic pancreatitis or how the Appellant's panic attacks may restrict him are not specified. The Panel finds the Ministry reasonably determined that it did not have enough information to make an informed decision as to whether the Appellant's medical conditions are a barrier that precludes him from searching for, accepting or continuing in employment and that Section 2(4)(b) of the EAR was not met.

Accordingly, the Panel finds the Ministry's determination to deny the Appellant PPMB level assistance

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was a reasonable application of the legislation in the circumstances of the Appellant. The Panel therefore confirms the Ministry's decision.