



PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (Ministry) Reconsideration Decision dated September 28, 2015, which found the Appellant ineligible for Persons with Persistent and Multiple Barriers (PPMB) qualification. The Ministry determined that the Appellant's medical practitioner did not confirm the Appellant's medical condition is likely to continue for at least 2 more years as required under the Employment and Assistance Regulation, Section 2(3) and indicated that there are no restrictions. The Ministry found that the Appellant's second PPMB application was not completed by a medical practitioner licensed to practice in British Columbia and therefore could not be included in their assessment for eligibility.

PART D – Relevant Legislation

Employment and Assistance Regulation (EAR) Section 2

PART E – Summary of Facts

Information before the Ministry at reconsideration included:

- A letter to the Appellant from the Ministry dated August 27, 2015 advising him of their decision that he no longer meets the requirements for PPMB qualification.
- The Appellant's Medical Report – Persons with Persistent Multiple Barriers dated May 27, 2015, completed by a clinical psychologist, indicating the Appellant's primary medical condition to be schizophrenia, with an expected duration of 2 years or more, with restrictions listed as ongoing hallucinations + delusions, paranoia and social fears. Difficulty communicating with others. Prognosis poor, severe reduction in functioning.
- The Appellant's Medical Report – Persons with Persistent Multiple Barriers dated June 26, 2015, completed by a physician, indicating the Appellant's primary medical condition to be psychotic disorder mod [sic], with an expected duration of less than 2 years and restrictions listed as none.
- The Appellant's Medical Report – Persons with Persistent Multiple Barriers dated September 2, 2015, completed by a clinical psychologist, indicating the Appellant's primary medical condition to be schizophrenia paranoid type, with an expected duration of 2 years or more, with restrictions listed as ongoing delusions, suspicious, difficulty connecting with others. Poor prognosis. Believes he has split personality.
- A copy of the Appellant's Employability Screen, undated, indicating a total score of 12.
- The Appellant's Request for Reconsideration, dated September 15, 2015, with attachment.

At the hearing the Appellant submitted a Medical Report – Persons with Persistent Multiple Barriers dated October 14, 2015, completed by a psychiatrist, indicating the expected duration of his medical condition to be 2 years or more. The Ministry did not object to the admission of this document. The Panel determined that the additional documentary evidence 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, specifically the report from the Appellant's clinical psychologist detailing his mental disability. The psychiatrist's report states that the Appellant's medical condition is expected to last 2 years or more, confirms the psychologist's diagnosis of schizophrenia and lists the Appellant's restrictions as ongoing problems with thinking and decision making.

The Appellant stated with respect to his employability that he has ongoing problems with reliability, that he finds his mental condition to be overwhelming and he could not work on a daily basis. He stated that he feels tense and uncomfortable and cannot leave the house without being prepared. In response to questions from the Panel, the Appellant stated that the score on his employability screen is correct. In response to questions from the Ministry, the Appellant stated that he is not currently on any medications because they had adverse effects. He stated that he has difficulty sleeping because he fears that another identity will try to take control. He described his condition as similar to a split personality. He stated that he cannot leave his residence without being prepared, and finds his condition "overbearing".

The Ministry responded that a score of 12 on his employability screen means that the Appellant must be assessed under subsection 4 of section 2, EAR, which requires that he be precluded from searching for, accepting or continuing in employment. The Appellant's physician did not address the Appellant's employment restrictions, stating "none". The Ministry stated that the Appellant's physician indicated that the Appellant's medical condition will last less than 2 years and the psychologist who completed a medical report stating that the Appellant's condition will last 2 years or more is not a medical practitioner and the legislation requires confirmation of duration by a medical practitioner.

PART F – Reasons for Panel Decision

The issue in this appeal is the Ministry decision, which found the Appellant ineligible for Persons with Persistent and Multiple Barriers (PPMB) qualification. The Ministry determined that the Appellant's medical practitioner did not confirm the Appellant's medical condition is likely to continue for at least 2 more years as required under the Employment and Assistance Regulation, Section 2(3) and indicated that there are no restrictions. The Ministry found that the Appellant's second PPMB application was not completed by a medical practitioner licensed to practice in British Columbia and therefore could not be included in their assessment for eligibility.

Legislation

EAR

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*;
 - (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).

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- (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's position is that he continues to meet the requirements for qualification as a person with persistent multiple barriers to employment.

The Ministry's position is that the Appellant's physician indicated that the Appellant's medical condition will not last 2 years or more and the medical report completed by a clinical psychologist cannot be considered because he is not a medical practitioner. The Ministry also noted that the Appellant's physician reported his restrictions as none.

The Panel notes that the Appellant's psychologist, who has known the Appellant for longer than 6 months, described his restrictions as "ongoing delusions, suspicious, difficulty connecting with others, poor prognosis, believes he has split personality". The psychiatrist's report admitted by the Panel in support of the psychologist's report states that the Appellant's medical condition is likely to last 2 years or more and described the Appellant's restrictions as "ongoing problems with thinking and decision making".

The clinical psychologist's report lists the Appellant's restrictions but as it was not completed by a medical practitioner, the Ministry was unable to rely on it to confirm that the Appellant's condition is likely to last 2 years or more. The psychiatrist's report which was admitted in support of the psychologist's report does confirm this. The Panel finds that the psychiatrist's report, considered with the description of the Appellant's restrictions provided by the clinical psychologist and psychiatrist establishes that the Appellant's medical condition, in the opinion of a medical practitioner, has continued for at least one year and is likely to continue for at least two more years. The Panel notes that the legislation requires that in the opinion of a medical practitioner the applicant's medical condition must have continued for at least 1 year and is likely to continue for at least 2 more years, however it is the minister's opinion as to whether the condition is a barrier that precludes the person from searching for, accepting or continuing in employment. Based on the information provided by the clinical psychologist and psychiatrist the Panel finds that the Ministry did not reasonably determine that the Appellant's medical condition is not a barrier that precludes him from searching for, accepting or continuing in employment.

The Panel therefore rescinds the Ministry decision as not reasonably supported by the evidence. The Appellant is successful on appeal.

