

PART C – Decision under Appeal

The decision under appeal is the reconsideration decision by the Ministry of Social Development and Social Innovation (“the ministry”) dated September 3, 2015 which held that the appellant does not qualify as a person with persistent multiple barriers (PPMB) to employment because she did not meet all the criteria under Section 2 of the Employment and Assistance Regulation (EAR). In particular Section 2(4)(b) was not met because in the opinion of the minister, her medical condition other than an addiction is not a barrier that precludes the appellant from searching for, accepting or continuing in employment.

The ministry determined that the appellant met Section 2 (2) as she has been a recipient of income assistance for at least 12 months of the preceding 15 calendar months. Also, the ministry determined that the appellant scored 11 on the employability screen as set out in Schedule E, not meeting the required 15 under Section 2(3) and was subsequently assessed under Section 2(4) of the EAR. The appellant has met Section 2(4)(a) as it has been established that in the opinion of a medical practitioner, she has a medical condition that has continued for at least one year and is likely to continue for at least 2 more years.

PART D – Relevant Legislation

Employment and Assistance Regulation (EAR), Section 2.

PART E – Summary of Facts

With the consent of the parties, the hearing was conducted in writing pursuant to Section 22(3)(b) of the Employment and Assistance Act.

The evidence before the ministry at the time of reconsideration included:

- A Medical Report - Persons With Persistent Multiple Barriers (PPMB) dated June 9, 2015 and completed by the appellant's physician;
- An Employability Screen;
- The appellant's Request For Reconsideration dated August 25, 2015 which included a 4 page submission.

In the Medical Report, the physician reported that the appellant's primary medical condition is general anxiety/depression, onset 2006 and the secondary medical condition is social anxiety. The appellant's treatment is indicated as medication with the outcome noted as "stabilized". The physician has not reported any restrictions, and noted that the appellant can get flare ups from agoraphobia.

A copy of the Employability Screen indicated a total score of 11 with results that correspond with Expected to Work (score 0-14) which are described on the Employability Screen form as immediately employable/employable with short-term interventions.

In the appellant's Request For Reconsideration, she lists the following barriers and provides personal descriptions as to how she is affected by them:

Depression/Anxiety, Sleep Apnea, Social Anxiety (Agoraphobia), Post-Traumatic Stress Disorder, HIV Blood Issue, Knee Issue, Obesity, Heat Hives and Premenstrual Dysphoric Disorder (PMDD). The appellant indicates that her medication doesn't always stabilize her medical conditions and it needs to be changed or adjusted; that she doesn't go out in public alone and has not worked with the public since 2006; that she has an appointment in September for her obesity which has led to sleep apnea; that she has run out of counseling time and that her mother has passed away. The appellant states that she has also become a mother which has caused PMDD.

With the Notice of Appeal dated September 9, 2015, the appellant submitted a 3 page letter that reaffirmed her reasons for reconsideration. The appellant further stated that she has been displeased with her doctor and it has taken her 2 years to get counselling and specialist appointments. She indicated that she feels that she will be abandoned by the ministry who is forcing her to go back to work while she has a hard time functioning in everyday life and it takes all of her energy, will and strength to take care of her child.

The ministry relied on its reconsideration decision and submitted no new information.

PART F – Reasons for Panel Decision

The issue under appeal is the reasonableness of the ministry's reconsideration decision which held that the appellant does not qualify as a person with persistent multiple barriers to employment because she did not meet all the criteria under Section 2 of the Employment and Assistance Regulation. In particular, the appellant has not met Section 2(4)(b), because in the opinion of the minister, her medical condition other than an addiction is not a barrier that precludes the appellant from searching for, accepting or continuing in employment.

The ministry determined that the appellant met Section 2 (2) as she has been a recipient of income assistance for at least 12 months of the preceding 15 calendar months. Also, the ministry determined that the appellant scored 11 on the employability screen as set out in Schedule E, not meeting the required 15 under Section 2(3) and was subsequently assessed under Section 2(4) of the EAR. The appellant has met Section 2(4)(a) as it has been established that in the opinion of a medical practitioner, she has a medical condition that has continued for at least one year and is likely to continue for at least 2 more years.

Relevant Legislation

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)

In accordance with the legislation to qualify as a PPMB, the appellant must meet all the criteria set out in Section 2, subsection (2) and subsection (3) or (4). The criteria in Section 2, subsection (2) and subsection (4)(a) have been met.

Appellant's Position

The appellant argues that she has multiple barriers in her life that have compounded one another and that she requires more help and support from her doctor, the ministry and the community. The appellant indicates that she is on wait lists to get the help she needs to function in the workforce and real life situations and asks for more time to sort out her medical situation.

Ministry's Position

The ministry argues that the appellant's medical condition does not preclude her from maintaining all types of employment; therefore she does not meet section 2(4) (b).

The ministry noted that the appellant's physician does not indicate whether her conditions are episodic or continuous in nature and does not list any restrictions specific to her medical conditions. The physician does narrate that the appellant can get flare ups from agoraphobia; however, no detail on the frequency or duration of these flare ups is given. The opportunity to describe restrictions or barriers to the appellant's employability was provided yet, the physician does not describe the same level or nature of restrictions or how it affects the appellant's employability as did the appellant. Therefore, the minister could not establish that the appellant is precluded from all types of employment.

Panel's Findings

The panel notes that in the appellant's Medical Report - PPMB dated June 9, 2015; the primary medical condition is general anxiety/depression and the secondary medical condition is social anxiety. The appellant's treatment is indicated as medication with the outcome noted as "stabilized". The physician has not reported any restrictions; however, has stated that she can get flare ups from agoraphobia but doesn't provide further details.

After reviewing both the PPMB Medical Report and the appellant's reasons for reconsideration, the panel finds that while the appellant's physician confirms that the appellant has anxiety and depression, the medical information does not substantiate the other conditions as described by the appellant or their potential impact on her employability. The legislation requires that in the opinion of the minister, the nature of the restrictions is a barrier that precludes the person from searching for, accepting or continuing in employment. The panel acknowledges that the appellant has pursued and continues to pursue treatment even though under "Outcome of treatment provided – medication", the physician has indicated "stabilized"; nevertheless, the information doesn't establish that the appellant's medical condition is severe enough to present a significant barrier to all employment.

The panel finds that the ministry reasonably determined that the evidence does not establish that the appellant's medical conditions are a barrier that precludes her from searching for, accepting or continuing in employment and therefore the criterion under section 2(4)(b) of the EAR was not established. The panel finds that the ministry reasonably determined the appellant does not qualify as a person with persistent multiple barriers to employment and confirms the reconsideration decision.