



PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development (Ministry)'s reconsideration decision dated November 6, 2015, finding the Appellant is not eligible for persons with persistent multiple barriers to employment (PPMB) status because he does not meet all the criteria set out in section 2 of the *Employment and Assistance Regulation* (EAR).

PART D – Relevant Legislation

The relevant legislation is section 2 of the EAR.

PART E – Summary of Facts

The evidence before the ministry at the time of the reconsideration decision consisted of the following:

1. A PPMB Medical Report completed on July 21, 2015, by the appellant's physician which:
 - a. Identifies the appellant's primary medical condition as "anxiety disorder" with an onset date of "1990s";
 - b. Does not list any secondary medical conditions;
 - c. Indicates that the appellant's medical condition is expected to last for more than 2 years;
 - d. Lists a number of antidepressants which the appellant has been prescribed; and
 - e. Describes restrictions due to the medical condition as: "unable to handle stress, gets anxious in crowds, unable to multi-task, hard to focus."
2. A PPMB Checklist dated August 13, 2015, which includes an Employability Screen for the appellant with a score of 14.
3. A Request for Reconsideration in which the appellant writes: "These are my reasons, I have mood disorder, Depressed, Fatigue Disorder, Hard to Focus and I cannot Stand For 10 minutes and lack of Prescription."

The ministry also took into consideration the following:

4. A PPMB Medical Report completed on September 12, 2014, which:
 - a. Identifies the appellant's primary medical condition as "anxiety disorder" with an onset date of "1990s";
 - b. Does not list any secondary medical conditions;
 - c. Indicates that the appellant's medical condition is expected to last for more than 2 years;
 - d. Lists a number of antidepressants which the appellant has been prescribed; and
 - e. Describes restrictions due to the medical condition as: "unable to handle stress, gets anxious in crowds, unable to multi-task, hard to focus."
5. A prescription dated May 9, 2011, which lists the appellant's medical conditions as: "Psychosis DOS, Depressed, Mood disorder, Bipolar affective disorder," and states: "This patient is unable to work for gainful employment."

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PART F – Reasons for Panel Decision

The issue under appeal is the Ministry's finding that the Appellant is not eligible to be designated as a PPMB.

The relevant legislation is section 2 of the 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).

(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 did not attend the hearing. After confirming that the appellant had been served with notice of the hearing in accordance with section 86(b) of the *Employment and Assistance Regulation* the hearing continued without the appellant.

In his appeal submission the appellant simply states: "Medical Condition."

The ministry's position is that, in accordance with section 2 of the EAR to qualify as a PPMB the appellant must meet the requirements set out in subsection 2(2) and either subsection (3) or (4). The appellant meets the requirements in subsection 2(2) because he has been receiving income assistance for 12 of the last 15 months. He does not meet the requirements in subsection (3) because his score on the Employability Screen was less than 15. The appellant does not meet the requirements under subsection 2(4) because under paragraph 2(4)(b), in the opinion of the ministry, his medical condition is not "a barrier that precludes the [appellant] from searching for, accepting or continuing in employment." The ministry's opinion is that the medical condition ("anxiety disorder") and restrictions ("unable to handle stress, gets anxious in crowds, unable to multi-task, hard to focus") described in the PPMB Medical Report dated July 21, 2015, do not preclude the appellant from "searching for, accepting or continuing in all types of employment, such as work that does not involve crowds/multi-tasking or in a program that will work with the appellant to overcome his barriers."

The ministry considered the appellant's statement in his Request for Reconsideration that he has "mood disorder, depressed, fatigue disorder, hard to focus and I cannot stand for 10 minutes and lack of prescription," and found that it could not conclude that the appellant suffered from fatigue disorder or limitations on his ability to stand as these conditions were not corroborated by the PPMB Medical Report. The panel finds that, in the absence of corroboration by the PPMB Medical Report, it was reasonable for the ministry to find that it could not determine that the appellant suffers from these conditions.

The ministry also considered an earlier PPMB Medical Report from 2014 and a prescription for the appellant dated in 2011. This report is very similar to the appellant's most recent report. However, the prescription cites "psychosis DOS" and "bipolar affective disorder" both of which, the ministry notes, are absent from the PPMB Medical Reports. Whether these medical conditions have changed or are being effectively treated, the panel finds that it was reasonable for the ministry to find that there is no current indication that these conditions present a barrier to employment for the appellant.

Unfortunately, as the appellant did not attend the hearing, the panel did not have the opportunity to inquire further into the current nature of the appellant's medical conditions. This may have been helpful in understanding his statement that he also suffers from fatigue disorder and limitations on his ability to stand for more than 10 minutes at a time, his current condition vis-à-vis his previous diagnoses of psychosis and bipolar affective disorder and, finally, why he feels that he is unable to search for, accept or continue in employment.

The ministry representative, on the other hand, was clear that the ministry considers that there are opportunities available to the appellant both in employment programs and employment his participation in which is not precluded by his anxiety disorder.

Accordingly, the Panel finds that the ministry's decision that the appellant is not eligible for PPMB status was a reasonable application of the relevant legislation and confirms the ministry's decision pursuant to sections 24(1)(b) and 24(2)(a) of the EAA.