



### PART C – Decision under Appeal

The decision under appeal is the reconsideration decision of the Ministry of Social Development and Social Innovation (the “ministry”) dated February 22, 2016 that determined that the appellant did not qualify for the Persons with Persistent Multiple Barriers to Employment (PPMB) designation under section 2 of the Employment and Assistance Regulation (EAR). Specifically, the ministry determined that the appellant has an employability screen score of less than 15 and the documentation provided by the appellant is not sufficient to establish that he has a medical condition that precludes him from searching for, accepting and maintaining employment

### PART D – Relevant Legislation

EAR section 2

## PART E – Summary of Facts

The documentary evidence before the ministry at reconsideration included the following:

1. A prescription for the appellant dated January 15, 2016 for Synthroid (Levothyroxine Sodium).
2. A *Medical Report – Persons with Persistent Multiple Barriers* for the appellant dated April 23, 2015 that states that the appellant's primary medical condition is anxiety/depression with an onset of 1972/3. The report also indicates that the appellant has been prescribed Remeron which has resulted in an improvement in the appellant's condition. In addition, the report indicates that the appellant's condition has existed for more than one year (onset 1972/73) and is expected to last 2 years or more, but the appellant has no physical restrictions and is not episodic in nature.
3. An undated *Employability Screen* for the appellant that records a total score of 12.
4. The appellant's *Request for Reconsideration* dated and signed by the appellant on February 17, 2016 that states the reasons for requesting reconsideration are outlined in a letter from the appellant dated February 2, 2016. In that letter, the appellant states that he had written to the ministry in November 2015 to inquire about the status of his PPMB application and why his medical report did not indicate that he was diagnosed with hypothyroidism in 2014. He notes that this is a serious medical condition that can lead to premature death. The appellant also suggests that his failing health could be due to PTSD flaring up again. He complains that at the building where he lives tenants are allowed to disrupt his sleep at least 50% of the days of the month which negatively impacts his health and mood. Finally, he notes that the employability screen is in error since his level of education is higher than shown on the screen.

The appellant's *Notice of Appeal* was signed and dated by the appellant on March 2, 2016 and states the reasons for requesting reconsideration are outlined in a letter from the appellant dated February 27, 2016. In that letter, the appellant notes that the ministry has confirmed that he has a thyroid condition. He plans to ask the ministry to fund additional lab tests related to his thyroid disorder. He indicates that he has recently experienced homelessness and bouts of PTSD. He reports that he has a long-term issue with his left knee that causes pain and may require a knee replacement. He also thinks that he may have arthritis in his back and left knee. Finally, he notes that the medications he has been taking for depression make him very drowsy and may contribute to his thyroid condition.

In the *Reconsideration Decision* the ministry states that the appellant is currently a sole recipient of income assistance and has been in receipt of assistance for at least 12 of the past 15 months.

## PART F – Reasons for Panel Decision

The issue in this appeal is whether the ministry's decision that determined that the appellant was not eligible to qualify for PPMB designation because he did not meet the criteria outlined in section 2 of the EAR was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the circumstances of the appellant. In particular, was the ministry reasonable in determining that the appellant has an employability screen score of less than 15 and in the ministry opinion, the appellant's medical condition does not preclude him from searching for, accepting, and maintaining employment.

The relevant legislation is as follows:

From 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.

### Appellant's Position

The appellant argues that he has a thyroid condition and PTSD and suffers from sleep deficit due to frequent noise from tenants at the building where he lives and pain in his left knee. Consequently, he argues that he is unable to search for, accept and maintain employment. He also notes that the *Employability Screen* does not record his actual educational level.

### Ministry Position

The ministry argues that the appellant has an employability screen score of less than 15 and

accordingly, to qualify for PPMB designation his medical condition must preclude him from searching for, accepting, and maintaining employment. The ministry notes that the appellant's physician reports that his primary conditions are anxiety and depression but that he has no physical restrictions and has improved with the use of the antidepressant Remeron. The ministry also notes that the appellant's physician did not report that the appellant suffers from PTSD and reported that the appellant's condition is not episodic and has improved with treatment. The ministry reports that the appellant's physician did not identify that the appellant has a thyroid condition but the ministry acknowledges that the appellant is being treated with a thyroid hormone. The ministry states that the appellant's physician provides no details about the appellant's mental restrictions or the severity of his condition. Consequently, the ministry cannot conclude that his condition is severe enough to preclude him from searching for, accepting, or maintaining employment. Finally, the ministry notes that the appellant's employability screen score would be less than 15 even if the appellant was assigned credit for a higher level of education.

### Panel Decision

The appellant reports that the employability screen does not record the correct score for his level of education. He does not specify what his level of education is but he suggests it is higher than that reported. The panel notes that the employability screen reported that the appellant's level of education is "High school/GED" which scores 0 points. Even if the appellant has earned a "Post-secondary program – degree or diploma" he would receive only one additional point on the employability score and would consequently still fall short of a total score of 15. Accordingly, the panel concluded that the ministry reasonably determined that the appellant has an employability score of less than 15 and to qualify for PPMB designation the appellant would need to satisfy the requirements of section 2(4) of the EAR. This section specifies that the appellant must have a medical condition, other than an addiction, that is confirmed by a medical practitioner which has continued for at least 1 year and is likely to continue for at least 2 more years, and which in the opinion of the minister, is a barrier that precludes the person from searching for, accepting or continuing in employment.

The appellant reports several medical conditions including hypothyroidism, PTSD, arthritis in his back and left knee and depression, as well as sleep deficits. The panel notes that the only medical evidence submitted by the appellant is the *Medical Report – Persons with Persistent Multiple Barriers* dated April 23, 2015. In that report the doctor has listed anxiety/depression as the appellant's primary medical condition and has mentioned no other medical conditions. More significantly, in the section of the report that invites comment regarding the nature of any restrictions specific to the appellant's medical condition(s), the doctor has written "*No physical restrictions.*" The panel also notes that the appellant failed to specify what restrictions he believes result from his medical conditions and how they constitute a barrier to his searching for, accepting or continuing in employment. Consequently, the panel concluded that the ministry reasonably determined that the appellant does not satisfy the requirements of section 2(4) of the EAR and accordingly is not eligible for the PPMB designation.

### **Conclusion**

Having reviewed and considered all of the evidence and the relevant legislation, the panel finds that the ministry's determination that the appellant was not eligible for PPMB designation was a reasonable application of the applicable enactment in the circumstances of the appellant.

The panel therefore confirms the ministry's reconsideration decision.