

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 March 3, 2016 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 14 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 November 9, 2015 and completed by the appellant's physician;
- A 2 (two) page submission from the appellant dated November 9, 2015;
- An Employability Screen;
- The appellant's Request For Reconsideration dated February 3, 2016 which included an extension request and a 3 (three) page submission.

In the Medical Report, the physician who indicated that he had been the appellant's medical practitioner for 6 months or less and has not examined her previous medical records, reported that the appellant's primary medical condition is Degenerative Disc Disease – onset 1994 and the secondary medical condition is Fibromyalgia - onset 1996. The appellant's treatments are indicated as having stabilized her conditions. The physician has reported restrictions to mobility and carrying and noted that medication lessens these restrictions.

In the appellant's initial submission, she reports that she has difficulty with her mobility; standing, sitting down, standing from sitting, bending, can't stand over 5-10 minutes or her legs give out and if she sits too long, her legs go numb. The appellant states that she has back pain and that her physician has prescribed 2 (two) strong pain medications with side effects that affect her living - unable to drive or use machinery. The appellant indicates that there is something that she could do that would help financially if she could only get set up and organized to do it. She further describes a home based business that she would like to pursue.

A copy of the Employability Screen indicated a total score of 14 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 submits that she has been accepted by a family physician who is truly interested in working with her and that she has provided him with all her medical papers as well as the ministry's denial documents. She reports that her physician will document all her health conditions and disabilities, indicate how living with these disabilities impair her living standards and record her medication. The appellant states that in previous years, the focus was only on her physical disabilities and that she never mentioned her mental or emotional disabilities because for the last 2 years the two diseases she shared were enough for her to be accepted. The appellant indicates that her physician has requested her paperwork by Feb 15 or 16, 2016. The appellant reiterates her hope for an extension.

With the Notice of Appeal dated March 11, 2016, the appellant submitted a 6 (six) page letter that provided a variety of reasons for her appeal as follows:

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- Recently attained a family doctor and there hasn't been enough time to request and receive her medical papers and have them looked at by her new doctor;
 - Her Employability Screen has incorrect information which is because she has difficulty interpreting information and expressing her thoughts. It should be 1-3 times that she has been on assistance anywhere in Canada not zero (0) times.
 - She experienced trauma in the year 2000 and as a result was on disability support in another province for 11 years prior to moving to B.C.;
 - Has been trying to obtain disability assistance in B.C. but didn't have a family doctor;
 - A friend helps the appellant with a variety of daily living activities that are described in detail; and that
 - She has test results and a list of medication which she will forward.

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

The panel determined the additional evidence as provided with the Notice of Appeal was not admissible under Section 22 (4) of the Employment and Assistance Act (EAA) as it does not corroborate the records before the minister at reconsideration and/or was not related to the issue in the record of the ministry decision.

Findings of Fact

The appellant has been in receipt of income assistance as a sole recipient since April 2011.

An extension of the submission time limits was approved by the ministry.

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 14 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)

Appellant's Position

The appellant argues that she has had two doctors provide sufficient documents stating her daily medication and disabilities and questions why it is necessary to have another doctor state the same information when she has already been determined to be permanently disabled by doctors in another province where she had been receiving disability assistance for years. The appellant's position is that

in previous years, the focus was only on her physical disabilities and that she never mentioned her mental or emotional disabilities because for the last 2 years the two diseases she shared were enough for her to be accepted.

Ministry's Position

The ministry argues that the appellant's physician has confirmed medical conditions of degenerative disc disease and fibromyalgia and that the restrictions noted by the physician indicate mobility and carrying which are lessened by medications. The ministry concluded that there is insufficient evidence to determine that the restrictions resulting from the medical conditions confirmed by the appellant's physician preclude her from maintaining all types of employment; therefore she does not meet section 2(4) (b).

Panel's Findings

The panel notes that in the appellant's Medical Report - PPMB dated November 9, 2015; the primary medical condition is degenerative disc disease and the secondary medical condition is fibromyalgia. The physician has reported that the appellant's treatments are stabilizing her condition and that her restrictions of mobility and carrying are lessened by medications. The panel further notes that the physician does not indicate that an examination of previous medical records was conducted.

After reviewing both the PPMB Medical Report and the appellant's reasons for reconsideration, the panel finds that while the appellant had indicated that more medical information would be forthcoming from her new family doctor, there is no other medical information at this time to 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 been in receipt of income assistance since April 2011; nevertheless, there is no information to support 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 that the appellant does not qualify as a person with persistent multiple barriers to employment and confirms the reconsideration decision.