



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 August 11, 2016 which held that the appellant did not qualify as a person with persistent multiple barriers to employment (PPMB) under section 2 of the Employment and Assistance Regulation (EAR).

The ministry determined that the appellant met the requirement of subsection (2) as she has been in receipt of income assistance for 12 of the immediately preceding 15 calendar months and that her application would be assessed under subsection (4) rather than (3) based on her employability screen score of 11. The ministry was satisfied that the requirement of subsection (4)(a) was met as a medical practitioner has confirmed that the appellant has a medical condition, other than an addiction, that has continued at least for 1 year and is likely to continue for at least 2 more years. However, the ministry determined that the requirement of subsection (4)(b) was not met as it could not be determined that the appellant's medical condition precluded her from searching for, accepting or continuing in employment.

PART D – Relevant Legislation

EAR, section 2

PART E – Summary of Facts

The appellant has been a recipient of income assistance for at least 12 of the immediately preceding 15 calendar months. Her employability screen score is 11.

In support of her PPMB application the appellant provided a “Medical Report - Persons with Persistent Multiple Barriers” (MR) form dated April 4, 2016 and completed by a medical practitioner. It identifies chronic depression as primary medical condition and chronic anxiety as secondary medical condition. Treatment is described as “antidepressant medications” / “counselling”, [no comments are provided under “outcome”]. “Chronic mood disorder” is noted under “restrictions”.

In addition, the appellant provided 4 MRs dated in 2008, 2010, 2012 and 2013. The panel notes that PPMB qualification is subject to a 2 year renewal and, as such, re-qualification is contingent upon current medical information.

In her July 29, 2016, request for reconsideration the appellant writes that she cannot hold employment because she loses concentration and gets flustered. She cannot handle the responsibility. She has very high anxiety and cannot do much for more than 2 hours. Her medication helps her from being so depressed that she is bed ridden. She is too moody to work well with others and has trouble with menopause.

In her Notice of Appeal dated August 19, 2016 the appellant states she could not make it to see her doctor because his office is in another community and her vehicle broke down. As a result she could not get more information from him.

At the hearing the appellant clarified that she received counselling 4 years ago for an abusive situation; it helped her then and she does not receive counselling at present. Sometimes she feels good, but not often enough to hold a regular job. At the moment she cannot work as she is helping her daughter caring for her grandchildren. She drives them to school and back and has no time to look for a new doctor - it takes a lot of gas to drive to her current doctor’s location. Previously she was able to work at a family business and provided a comfortable no-stress setting.

Pursuant to section 22(4) of the Employment and Assistance Act, the panel admits the appellant’s statements in his Notice of Appeal and at the hearing as being in support of the information and record that was before the ministry at the time of reconsideration; specifically, these statements further illustrate information provided by the appellant on barriers that prevent her from searching for or accepting employment.

The ministry relied on its reconsideration decision.

PART F – Reasons for Panel Decision

The issue under appeal is whether the ministry's reconsideration decision which held that the appellant did not qualify as PPMB because she had not met the requirement of section 2(4)(b) of the EAR, that her medical condition precludes her from searching for, accepting of or continuing in employment, is reasonably supported by the evidence or a reasonable application of the legislation in the appellant's circumstances.

Relevant Legislation – 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

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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's position is that her medical condition precludes her from any work and should qualify her for PPMB status: she has high anxiety, loses concentration, gets flustered, cannot handle responsibility and "can't do much for more than a couple of hours". She is too moody to work well with others and has trouble with menopause. Her medication does not remove her barriers but only helps her from being bed ridden. As she is currently caring after her grandchildren she has no time to look for work. Her doctor should have noted her restrictions in the prescribed form but was too busy to do so.

Ministry's position

The ministry's position is that the information provided does not demonstrate that the appellant's medical condition presents a barrier precluding her from searching for, accepting or continuing in employment because the medical practitioner does not describe the nature of any restrictions specific to the appellant's medical conditions. Therefore, it cannot be said that the appellant is unable to participate in any type of employment for any length of time except in a supported or sheltered-type work environment. Consequently, the appellant's application does not meet the requirements set out in the EAR, section 2(4)(b).

Panel Decision

Section 2 of the EAR sets out the requirements for PPMB qualification. The requirements of subsection (2) must be met as must the requirements of either subsection (3) or (4). The requirements of subsection (3) apply where an applicant has an employability screen score of at least 15, otherwise, the requirements of subsection (4) apply.

In the appellant's case, the ministry determined that the requirements of subsection (2) were met and that the appellant's application must be assessed under subsection (4) based on her employability screen score of 11. That the appellant's employability screen score is 11 is not in dispute and accordingly, the requirements of subsection (4) apply in the appellant's circumstances. The requirements of subsection (4)(a) were found to have been met. The only basis for denial was the requirement of subsection (4)(b) that the ministry be of the opinion that the medical conditions confirmed by the medical practitioner are a barrier that precludes the appellant from searching for, accepting or continuing in employment.

While the appellant argues that her anxiety, lack of concentration, moodiness, and menopausal problems preclude her from any kind of work the ministry finds that in absence of restrictions described by the medical practitioner it cannot be established that the appellant is precluded from searching for, accepting, or continuing in employment.

While the medical practitioner writes "chronic mood disorder" as "restrictions" he/she does not provide any comments describing the nature and extent of these restrictions. As a result the panel finds that there is insufficient evidence that the appellant is unable to participate in any type of employment for any length of time except in a supported or sheltered-type work environment; consequently, the panel finds the ministry reasonably concluded that the information provided does not demonstrate that the appellant's medical condition presents a barrier precluding her from searching for, accepting or continuing in employment as required by section 2(2)(b) of the EAR.

As the reconsideration decision was reasonably supported by the evidence, the panel confirms the decision. The appellant is not successful on appeal.