

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the “ministry”) reconsideration decision of December 22, 2016 wherein the ministry determined the appellant does not meet the criteria for qualification as a Person with Persistent Multiple Barriers (PPMB) to employment under section 2 Employment and Assistance Regulation (EAR).

In particular, the ministry determined that the appellant does not have a medical condition that is confirmed by a medical practitioner that, in the opinion of the minister, is a barrier that precludes the appellant from searching for, accepting or continuing in employment as set out in section 2(4)(b) EAR.

PART D – Relevant Legislation

EAR, section 2

PART E – Summary of Facts

The Appellant was not in attendance at the hearing. After confirming that she was notified, the hearing proceeded under s. 86 of the Employment and Assistance Regulation (EAR).

The evidence before the ministry at the time of reconsideration:

- Medical Report – PPMB application signed by a medical practitioner (MP) on August 29, 2016 stating the primary medical condition of Paranoia/Anxiety (a mental health disorder) and a secondary medical condition of Osteoarthritis. The expected duration of the medical conditions is 2 years or more and it has existed for 8 years and is not episodic in nature.
- Employability Screen indicating the appellant's score of 12;
- Persons with Persistent Multiple Barriers – Decision Summary dated October 25, 2016 from the ministry to the appellant stating that the ministry does not have sufficient verification of how the appellant's restrictions preclude her from searching for, accepting or continuing in employment.
- Request for Reconsideration signed by appellant on November 24, 2016 requesting an extension – waiting for doctor's review on further information, and providing articles not related to the appellant's specific medical conditions and/or needs.

Notice of Appeal (undated but stamped as "received" by the Employment and Assistance Appeal Tribunal on January 16, 2017, the Appellant stated the following:

"The tribunal has not made consideration for the high stress and potential life threatening aspects of my condition and mitigating factors regarding my file."

At the hearing, the ministry re-stated the information and reasons contained in the reconsideration decision.

PART F – Reasons for Panel Decision

The issue under appeal is the reasonableness of the ministry's reconsideration wherein the ministry determined the appellant does not meet the criteria for qualification as a PPMB under section 2 EAR.

In particular, the ministry determined that the appellant does not have a medical condition that is confirmed by a medical practitioner that, in the opinion of the minister, is a barrier that precludes the appellant from searching for, accepting or continuing in employment as set out in section 2(4)(b) EAR.

Relevant Legislation:

Section 2 EAR

(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,

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- 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.*

Position of the Appellant:

The appellant argues in the Notice of Appeal that “the tribunal has not made consideration for the high stress and potential life threatening aspects of my condition and mitigating factors regarding my file.”

Position of the ministry:

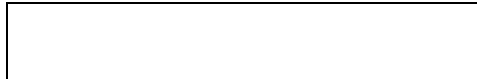
The ministry position is that the appellants’ physician indicates that the appellants’ condition is not episodic in nature and when asked to describe the nature of any restrictions specific to her condition, the physician narrates that her osteoarthritis limits her standing and other physical work. The appellant has not provided any information on restrictions or limitations she faces or how it affects her employability. The ministry notes that there are sedentary jobs available that do not require such hard physical work and therefore, the ministry is not satisfied that the appellant is precluded from searching for, accepting or continuing in employment as set out in section 2(4)(b) EAR.

Panel Decision

To qualify as a person who has persistent multiple barriers to employment, section 2(1)(a) EAR states that a person must meet the requirements set out in section 2 EAR and section 2(1)(b) states that a person must meet the requirements set out in section 2(3) or section 2(4) EAR. Section 2(3)(a)(i) states that “the minister has determined that the person scores at least 15 on the employability screen set out in Schedule E.” The appellant scored 12 on the employability screen. The panel finds that the ministry reasonably relied on section 2(4) based on the results of the appellant’s employability screen score of 12. Section 2(4) EAR states that the person has a medical condition, other than an addiction, that is confirmed by a medical practitioner and that (b) in the opinion of the minister, is a barrier that precludes the person from searching for, accepting or continuing in employment.

The evidence before the panel is that the medical practitioner states the appellants’ condition is not episodic in nature and when asked to describe the nature of any restrictions specific to her condition, the physician narrates that her osteoarthritis limits her standing and other physical work. There is no evidence or information on restrictions or limitations she faces or how such restrictions or limitations affect her employability.

The panel finds that the ministry reasonably determined that based on the evidence provided by the medical practitioner there is not sufficient evidence to establish that the appellant has a barrier that precludes her from searching for, accepting or continuing employment and has not met all the requirements set out in section 2 EAR.



Conclusion:

Having reviewed and considered all of the evidence and the relevant legislation, the panel finds that the ministry's decision that the appellant was not eligible for PPMB designation as she did not meet all the criteria set out in section 2 EAR was reasonably supported by the evidence. The panel therefore confirms the ministry's decision.