

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 January 24, 2017, which determined that the appellant is not eligible for persons with persistent multiple barriers (PPMB) designation because he did not meet all required criteria under Section 2 of the Employment and Assistance Regulation (EAR). In particular neither Section 2(3) or 2(4)(b) were met.

The ministry determined that the appellant met Section 2(2) as he has been a recipient of income assistance for at least 12 months of the preceding 15 calendar months. As well, the ministry determined that the appellant scored 14 on the employability screen in Schedule E, not meeting the required minimum of 15 under Section 2(3). As a result, the appellant was 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, he has a medical condition that has continued for at least one year and is likely to continue for at least 2 more years. Section 2(4)(b) was not met because, in the opinion of the minister, the appellant’s medical condition is not a barrier that precludes the appellant from searching for, accepting or continuing in employment.

PART D – Relevant Legislation

Employment and Assistance Regulation (EAR), Section 2.

PART E – Summary of Facts

After confirming that the appellant was notified, the hearing proceeded under section 86(b) of the Employment and Assistance Regulation.

The information before the ministry at reconsideration included the following:

1. PPMB renewal request letter dated April 6, 2016 from the ministry indicating that the appellant's PPMB status renewal was due by July 2016.
2. PPMB Medical Report, dated April 26, 2016, indicating that:
 - The physician is a general practitioner (methadone maintenance program) who has been the patient's medical practitioner for 6 months or less and has not examined previous medical records.
 - The appellant suffers from Hepatitis C (onset 2009) and Depression (onset +/- 1990).
 - Treatment includes antidepressants – on/off.
 - The condition has existed 7+ years and is expected to continue for 2 years or more
 - The medical condition(s) are chronic in nature.
3. PPMB Employability Screen, indicating that the appellant's employability screen score is 14.
4. PPMB checklist indicating that:
 - The appellant has been on assistance 12 of the last 15 months.
 - The appellant's employability screen score is 14.
 - A medical practitioner has confirmed a medical condition that has continued for at least one year and is likely to continue for 2 years or has occurred frequently over the past year and is likely to continue for at least the next 2 years.
5. PPMB denial letter dated July 14, 2016, indicating that the appellant no longer meets the requirements for the PPMB category because the requirements of Section 2(3) and 2(4)(b) have not been met.
6. PPMB decision summary indicating:
 - Medical conditions of Hepatitis C and depression.
 - The condition has existed for more than one year.
 - The condition is expected to last 2+ years.
 - The condition is chronic.
 - No restrictions are listed by the physician.
 - The appellant's employability screen score is 14, so assessment under section 2(4) was considered. No restrictions were indicated by the physician in the current medical report, therefore it could not be determined that the appellant's condition precludes his ability to search for, accept and continue in employment.
 - Not eligible for PPMB.
7. An undated prescription slip note from a Nurse Practitioner, which stated, "This patient has a new medical diagnosis that is not included in his PPMB form."
8. The appellant's Request for Reconsideration, dated December 20, 2017, which included the following information:
 - I have recently been seeing nurse practitioner [name omitted] and Dr. [name omitted] to get a new diagnosis on my health.
 - The last PPMB application was filled out by Dr. [name omitted] the first time I have seen him and him being my methadone doctor only he never had sufficient information on my health.

Notice of Appeal

In the Notice of Appeal, dated February 9, 2017, the appellant provided the following information:

- It was just recently that I found out I have cirrhosis of the liver and I'm waiting to get a colonoscopy.
- I cannot go to the bathroom without great difficulty so hopefully I can find some answers as to why I have no energy and I am dizzy and nauseous all the time.

At the Hearing

Appellant

The appellant was not in attendance at the hearing.

Ministry

The ministry relied on its reconsideration decision at the hearing.

Admissibility of Additional Information

The panel determined the information provided in the Notice of Appeal was admissible under s. 22(4) of the EAA as it was in support of the evidence before the minister at reconsideration.

PART F – Reasons for Panel Decision

The issue in this 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 he did not meet all required criteria under Section 2 of the Employment and Assistance Regulation. More specifically, the issue is whether the evidence reasonably supported the following determinations or whether they were a reasonable application of the legislation in the appellant's circumstances:

The ministry determined that the appellant had not demonstrated that:

- Section 2(4)(b) was met, because in the opinion of the minister, his medical condition other than an addiction is not a barrier that precludes the appellant from searching for, accepting or continuing in employment
- Section 2(3) was met because the appellant scored 14 on the employability screen in Schedule E, and did not meet the required 15 under Section 2(3)(a)(i).

The Regulation provides:

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 information provided by the appellant does not address the appellant's score of 14 on the employability screen in Schedule E, and does not disclose any argument that the appellant meets the required 15 under Section 2(3)(a)(i). The appellant argues that he has a new diagnosis and that the information provided in the PPMB Medical Report is not complete because the physician who completed the form did not have sufficient information about his health. The appellant further argues that he has been seeing another physician and a nurse practitioner to get a new diagnosis. The appellant argues that he has cirrhosis of the liver and is waiting for a colonoscopy; he has no energy and is dizzy and nauseous all the time and has difficulty going to the bathroom.

Ministry's Position

The ministry's position is that the appellant has scored 14 on the employability screen in Schedule E and as such does not meet the requirements of section 2(3); therefore, the appellant's PPMB renewal must be assessed under Section 2(4). The ministry argues that while the appellant has met the criteria under 2(4)(a), he has not met the requirement under section 2(4)(b) which requires that the medical condition and subsequent restrictions must preclude all forms of employment. The ministry's position is that the information provided in the medical report does not disclose any restrictions that preclude all forms of employment activities for the appellant. The ministry further argues that while the appellant has provided a note from his NP confirming a new diagnosis, it does not indicate the specific diagnosis. The ministry argues that there is insufficient evidence to verify that the appellant's medical conditions preclude all forms of employment activities and he does not meet the requirement of Section 2(4)(b) of the EAR.

Panel Decision

The panel notes that in the appellant's PPMB Medical Report dated April 26, 2016, appellant's primary medical conditions are listed as Hepatitis C and Depression. These conditions are reported as chronic, have persisted for 7+ years and are expected to continue for 2 years or more. The appellant's treatment is indicated as antidepressants – on/off. The panel further notes that the physician who has been the appellant's medical practitioner for 6 months or less indicates that an examination of previous medical records was not conducted.

After reviewing the information provided, the panel finds that while the appellant had indicated that he suffers from additional medical conditions, this diagnosis has not been specified and there is no information about any restrictions relating to his employability. There is also no information in the PPMB Medical Report about any restrictions. The legislation requires that in the opinion of the minister, the medical condition(s) is a barrier that precludes the person from searching for, accepting or continuing in employment. The panel acknowledges that the appellant has had PPMB designation for previous years; nevertheless, the panel finds that the ministry's determination that there is insufficient evidence to verify that the appellant's medical conditions preclude all forms of employment activities is reasonable.

Conclusion

Having reviewed and considered all evidence and relevant legislation the panel concludes that the ministry's reconsideration decision, which held that the appellant does not qualify as a person with persistent multiple barriers to employment because he did not meet all required criteria under Section 2 of the EAR, is reasonably supported by the evidence and a reasonable application of the legislation in the appellant's circumstances. The panel confirms the ministry's reconsideration decision. The



appellant is not successful in his appeal.