

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 June 6, 2017 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 section 2(2) as he has been in receipt of income assistance for 12 of the immediately preceding 15 calendar months and that his application would be assessed under section 2(4) rather than section 2(3) based on his employability screen score of 9. The ministry was not satisfied that the requirement of section 2(4)(a) was met as a medical practitioner has confirmed that the appellant has a medical condition that is linked to his addiction and the minister will not consider these restrictions as part of the appellants' PPMB application. 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 information before the ministry at the time of reconsideration included the following:

- The appellant has been a recipient of income assistance for at least 12 of the immediately preceding 15 calendar months. His employability screen score is 9.
- In support of his PPMB application the appellant provided a “Medical Report - Persons with Persistent Multiple Barriers” (MR) form dated April 20, 2017 completed by a Nurse Practitioner and reviewed and signed by a medical practitioner. The MR states the appellant’s primary medical condition as depression/alcohol abuse disorder with a date of onset listed as 1990 and a secondary medical condition of degenerative disc disease (cervical) with date of onset listed as 1980/1994. The MR indicates that the appellant’s medical conditions have existed for longer than one year, and they are expected to continue 2 years or more. The MR states that restrictions associated with the appellant’s medical conditions are “chronic neck pain - intermittent left arm numbness, and Depression/alcohol – unable to maintain relationships, sobriety, follow through with tasks, poor in social situations.”
- In his May 10, 2017 request for reconsideration the appellant writes that nurse practitioners have been authorized to complete disability forms. A nurse practitioner completed and signed my form and we will have the original re-signed by a medical doctor to prevent any delay. The appellant provided a psychiatric assessment and history and a diagnostic imaging report. The psychiatric assessment states “Appellant agreed with me that it appears that most of his problems are related to his alcohol use with the possibility of an underlying mild depressive disorder.

Additional information provided

In his Notice of Appeal dated June 12, 2017 the appellant states he feels his Psychiatrist got it wrong about “almost all of my problems” were a result of alcohol.

The ministry relied on the reconsideration decision and did not make a submission to the written hearing.

PART F – Reasons for Panel Decision

The issue to be decided in this appeal is whether the ministry's decision to deny the appellant PPMB designation 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's medical condition is linked to his addiction and the minister will not consider these restrictions as part of the appellants' PPMB application as required in EAR section 2(4)(a) and his medical condition is not a barrier that precludes him from searching for, accepting, or continuing employment as required by EAR section 2(4)(b).

The relevant legislation is EAR section 2 as follows:

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 in the Notice of Appeal that he feels his Psychiatrist got it wrong about "almost all of my problems" were a result of alcohol.

Ministry's position

The ministry's position is that there is no dispute that the appellant experiences chronic neck pain and intermittent left arm numbness, however these restrictions are not adequately described. There is no indication that the use of his arms is limited or restricted, or that his neck pain presents any physical limitations. In the absence of descriptive information, the minister is not satisfied that the appellant is unable to search for, accept or continue employment as a result of degenerative disc disease. The medical conditions of the appellant, based on the MR, are that his depression is linked to his alcohol addiction and the psychiatric report indicates his depression is categorized as mild. The restrictions of "unable to maintain relationships, sobriety, follow through with tasks, poor in social situations" is related back to the appellant's alcohol abuse disorder. The ministry will not consider these restrictions as part of the appellant's PPMB application.

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. Section 2(1)(b) EAR 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 9 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 9.

Section 2(4) of the EAR states "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."

The ministry does not dispute that the appellant experiences chronic neck pain and intermittent left arm numbness, however the ministry argues that these restrictions are not adequately described. The panel finds that in the absence of descriptive information the ministry reasonably determined that it is not satisfied that the appellant is unable to search for, accept or continue employment as a result of degenerative disc disease pursuant to Section 2(4)(b) EAR.

The ministry argues that, based on the MR, the appellant's depression is linked to his alcohol addiction and the psychiatric report indicates his depression is categorized as mild. The ministry further argues that the restrictions of "unable to maintain relationships, sobriety, follow through with tasks, poor in social situations" is related back to the appellant's alcohol abuse disorder. The panel has reviewed the evidence and finds that the ministry was reasonable to not consider these restrictions as part of the appellant's PPMB application pursuant to Section 2(4) 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 he did not meet all the criteria set out in section 2(4) EAR was reasonably supported by the evidence. The panel therefore confirms the ministry's decision. The appellant is not successful in his appeal.