

PART C – Decision under Appeal

The decision under appeal is the reconsideration decision dated June 13, 2016 made by the Ministry of Social Development and Social Innovation (the ministry) which determined that the appellant does not qualify as a Person with Persistent Multiple Barriers to Employment (PPMB) because he has not been receiving income assistance for at least 12 of the last 15 months as required under section 2(2) of the Employment and Assistance Regulation (EAR).

PART D – Relevant Legislation

The relevant legislation is section 2 of the EAR.

PART E – Summary of Facts

The evidence before the ministry at the time of the reconsideration decision consisted of:

- (1) An Employability Screen (undated) with a score of 8.
- (2) A Medical Report – PPMB (MR) dated June 8, 2017, completed by the appellant's physician indicating that the appellant suffers from osteoarthritis, back pain and chronic pain syndrome.
- (3) A letter from the ministry to the appellant dated June 13, 2017, denying the appellant PPMB status on the basis that he has not been in receipt of income assistance for at least 12 of the immediately preceding 15 months.
- (4) In his Reconsideration Application the appellant wrote: "I argue that I was eligible for this benefit for the past 24 calendar months ongoing; however, I voluntarily withheld my access to this benefit for a period of time. No one in the ministry informed me of this regulation and its implication. Therefore, I submit that it's unfair to deny me PPMB designation on the basis of that rule alone. I submit that I am an obvious candidate for PPMB. I have had chronic pain that has been clearly documented by my physician. Thus I am significantly impeded in searching for work."

PART F – Reasons for Panel Decision

The issue under appeal is the reasonableness of the ministry's decision which determined that the appellant does not qualify as a PPMB because he has not been receiving income assistance for at least 12 of the last 15 months as required under section 2(2) of the Employment and Assistance Regulation (EAR).

The relevant legislation is 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 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.

THE APPELLANT'S POSITION

In his appeal submission the appellant writes: "I believe I still had several months of PPMB designation unused which should have been reactivated when my file was reopened in April 2017, rather than having to apply again from the start."

THE MINISTRY'S POSITION

The ministry relied on its reconsideration decision. That decision found that the appellant qualified for PPMB status (presumably based on his Employability screening report, although this is not clear from the ministry's decision). However, as the appellant's file was "opened" in June 2013, he was approved for PPMB in June 2015, his "file was closed" in June 2016 and reopened in April 2017, he had not been "in receipt of income assistance" for 12 of the 15 months immediately preceding his application or PPMB in June 2017.

THE PANEL'S DECISION

Although this is not made clear in the ministry's decision, the panel finds that the phrase "file was closed" means that the appellant ceased receiving income assistance.

In this case, the appellant applied for PPMB status in June 2017. The immediately preceding 15 months dates back to March 2016. In that time period, the appellant was receiving income assistance in the months of March, April and May of 2016 and April and May of 2017. Thus, the appellant was receiving income assistance in 5 of the 15 months immediately preceding his application for PPMB. This is 7 months short of the 12 months required by section 2(2) of the EAR.

There are no legislated exceptions to this requirement. There is no period for which a person is eligible for PPMB so that there is no "unused" period of designation that can be "reactivated". Whether the appellant "voluntarily" withheld his access to PPMB status is not relevant. Whether the ministry informed the appellant of how the PPMB designation works is not relevant.

Accordingly, the panel concludes that the ministry's decision that the appellant does not qualify for PPMB designation because he does not meet the requirement of section 2(2) of the EAR was reasonably supported by the evidence before it, and confirms the ministry's decision.