

PART C – DECISION UNDER APPEAL

The decision under appeal is the reconsideration decision dated November 28, 2017, made by the Ministry of Social Development and Poverty Reduction (the ministry), which determined that the appellant was not eligible for designation as a Person with Persistent Multiple Barriers to Employment (PPMB) because her application was not completed by a “medical practitioner” as required by sections 2(3)(b) and 2(4)(a) 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. A Medical Report – Persons with Persistent Multiple Barriers dated October 11, 2017 regarding the appellant and completed by a Nurse Practitioner.
2. An Employability Screen form (undated) regarding the appellant with a score of 10.
3. A number of letters from various community agencies speaking to the activities and character of the appellant.
4. A short hand-written document (undated) prepared by the appellant describing her medical conditions including: anxiety, OCD, depression and insomnia.
5. A letter dated November 9, 2017 from the Nurse Practitioner who completed the PPMB application form to the ministry stating: “Please be informed that Nurse Practitioners are able to sign off on PPMB forms. It’s been a recent change, within the last year I believe.”
6. A Request for Reconsideration form dated November 15, 2017 completed by the appellant in which she states that her initial application for PPMB was denied because the PPMB form was not completed by a “medical practitioner”, but she is given to understand that Nurse practitioners are currently permitted to complete and sign off on PPMB forms.

PART F – REASONS FOR PANEL DECISION

The issue under appeal is whether the ministry's determination that the appellant is not eligible for PPMB status because her PPMB form was not completed by a "medical practitioner" as required by sections Section 2(3)(b) and 2(4)(a) of the EAR was reasonably supported by the evidence or was a reasonable application of the legislation in the circumstances of the appellant.

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

The appellant submitted 59 pages of background material at appeal. Some of this submission consisted of handwritten pages providing an extensive amount of background information regarding the appellant's medical conditions and history. The remainder of this submission consisted of copies of information that was before the ministry at the time of the reconsideration decision. The panel read and considered this information, but found that it was not relevant to the question at appeal.

In her Reasons for Appeal the appellant writes: "because I was denied my pension for one reason. I corrected that reason, then was denied again and told that I do not qualify." At the hearing the appellant clarified that this statement refers to the fact that her PPMB application was denied because the PPMB form was not completed by a Nurse Practitioner and not a "medical practitioner", but her Nurse Practitioner informed the ministry that she believed that she was in fact authorized to complete the form.

THE MINISTRY'S POSITION

The ministry's position at the appeal hearing was that the legislation is clear that a PPMB form must be completed by a "medical practitioner" and cannot be completed by a Nurse Practitioner as in this case.

THE PANEL'S DECISION

Section 2(3)(b) and 2(4)(a) of the EAR require that the medical condition of an applicant for PPMB be confirmed by a "medical practitioner" and that in the opinion of the "medical practitioner" the condition has continued for at least 1 year and will continue for at least 2 more years.

The term "medical practitioner" is defined in the *Interpretation Act* as: "a registrant of the College of Physicians and Surgeons of British Columbia entitled under the *Health Professions Act* to practise

medicine and to use the title “medical practitioner” . A Nurse Practitioner does not fall under this definition and so is not authorized to complete and sign off on a PPMB form.

Accordingly, the panel finds that the ministry’s reconsideration decision finding that the appellant was not eligible for PPMB was a reasonable application of the relevant legislation to the situation of the appellant and confirms the ministry’s decision.