

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the ministry) dated January 17, 2018 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). The ministry determined that the appellant's medical conditions do not preclude him from searching for, accepting or continuing in employment.

PART D – RELEVANT LEGISLATION

EAR, section 2

PART E – SUMMARY OF FACTS

The evidence before the ministry at the time of reconsideration:

- The appellant has been a recipient of income assistance for at least 12 of the immediately preceding 15 calendar months.
- The appellant held PPMB status prior to the renewal application and Decision Summary dated November 17, 2017 which held the appellant not eligible for PPMB status under section 2(4)(b) EAR.
- The appellant's most recent Employability Screen indicates that his score is 11 and the ministry has considered the appellant's application under s.2(2) and 2(4) EAR.
- The ministry found that the appellant has medical conditions other than an addiction and these medical conditions have existed for 6 years, are not episodic in nature, and the expected duration is 2 years or more.
- The ministry has determined that the appellant has medical conditions that has continued for at least one year and is likely to continue for at least 2 more years. Therefore, the appellant's application meets the eligibility criteria set out in S.2(4)(a)(i) EAR.
- Medical Report – PPMB signed by a medical practitioner on October 20, 2017 confirms the appellant's primary medical conditions as "Anxiety and PTSD" with a date of onset of 2011. Secondary medical conditions are not identified. In making a determination of whether the appellant is precluded from all types of employment the ministry relies on descriptions of restrictions specific to her medical conditions. The medical report does not describe the nature/details of any restrictions specific to the appellant's medical conditions and therefore it is difficult to establish that the appellant's medical conditions preclude her from searching for, accepting or continuing in employment. As a result, the ministry determines that the appellant's application for renewal of her eligibility for the PPMB category does not meet the requirement set out in section 2(f)(b) EAR.
- January 5, 2018 – the appellant submits her Request for Reconsideration outlining the circumstances of her medical conditions.

Notice of Appeal dated January 26, 2018, the Appellant stated the following:

"There is doctors new notes that wasn't read, the photocopy only had the old info and I submitted new info and its near the end of the package I sent in." The additional information provided by the medical practitioner states – "Short Term Trouble memory GAF=50."

At the hearing

The appellant reviewed the circumstances of her medical conditions and stated that nothing has changed and in fact, her condition is worsening. She states that she didn't choose this life and is doing everything she can to improve and to live a better life. She states that she will begin treatment with a phycologist and receive counselling.

The ministry re-stated the information and reasons contained in the reconsideration decision. The ministry pointed to the Medical Report – Persons with Persistent Multiple Barriers dated August 29, 2013, May 6, 2015 and June 26, 2015. In all these reports, the medical practitioner listed restrictions that impacted the appellant's employability. In the Medical Report – Persons with Persistent Multiple Barriers dated October 20, 2017 the medical practitioner does not list any restrictions to employability.

PART F – REASONS FOR PANEL DECISION

The issue under appeal is the reasonableness of the ministry's reconsideration decision 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). The ministry determined that the appellant's medical conditions do not preclude him from searching for, accepting or continuing in employment.

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,

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.*

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 11 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 11. 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 identifies the appellant’s primary medical conditions as “Anxiety and PTSD, with a date of onset of 2011. Secondary medical conditions are not identified. In describing the treatment/remedial approaches that have been tried to date or are expected in the future, the medical practitioner states the appellant has been prescribed medication for several years. The degree to which medication has improved or is expected to improve the appellant’s medical conditions is not described. Most importantly in this case, the medical practitioner does not describe the nature/details of any restrictions specific to the appellant’s medical conditions. The restrictions section of the Medical Report – Persons with Persistent Multiple Barriers is left blank. There is no evidence or information on restrictions or limitations the appellant 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(4) EAR.

Conclusion:

Having reviewed and considered all 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(4) EAR was reasonably supported by the evidence. The panel therefore confirms the ministry’s decision.

The appellant is not successful on appeal.