

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the ministry) dated May 3, 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 April 4, 2018 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 has confirmed that the appellant has medical conditions other than an addiction and the medical report indicates these medical conditions are not episodic in nature and the expected duration is 2 years or more. 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 February 14, 2018 confirms the appellant's primary medical conditions as "Osteoarthritis of feet" with an unspecified date of onset. Secondary medical conditions as "Shoulder pain" with an unspecified date of onset. In describing the nature of any restrictions specific to the appellant's medical conditions, the medical practitioner states "Pt pain in shoulder, feet (and) hips – can not lift or carry heavy."
- April 23, 2018 – the appellant submits his Request for Reconsideration stating "I am still in pain every day in my feet, hands and shoulders. In the winter months my throat gets clogged up with mucus and it is hard to breath. It's hard to walk very far with my feet get sore the more I walk."

Notice of Appeal: dated May 10, 2018, the Appellant states "Because I can not work. Really bad eye sight."

The appellant's submission to the written hearing, the appellant argues: "More I walk the more pain in feet because I cannot work. Really bad eye sight."

The ministry's submission to the written hearing:

"The ministry's submission in this matter will be the reconsideration summary provided in the Record of Ministry Decision."

The panel admitted the appellant's written testimony, which either substantiated or further explained information already before the ministry, as being in support of the information and records before the ministry at reconsideration in accordance with section 22(4) of the Employment and Assistance Act.

PART F – REASONS FOR PANEL DECISION

The issue under appeal is the reasonableness of the ministry's reconsideration decision dated May 3, 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.

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 ministry argues that in making a determination of whether the appellant is precluded from all types of employment the ministry relies on descriptions of restrictions specific to his medical conditions. The medical report does not describe the treatment or remedial approaches that have been tried to date or expected in the future and therefore it is difficult to establish that the appellant’s medical conditions preclude him from searching for, accepting or continuing in employment. As a result, the ministry determines that the appellant’s application for renewal of his eligibility for the PPMB category does not meet the requirement set out in section 2(f)(b) EAR.

The evidence before the panel is that the medical practitioner identifies the appellant’s primary medical conditions as “Osteoarthritis of feet with an unspecified date of onset. Secondary medical conditions as “Shoulder pain” with an unspecified date of onset. In describing the nature of any restrictions specific to the appellant’s medical conditions, the medical practitioner states “Pt pain in shoulder, feet (and) hips – can not lift or carry heavy.” There is no further description in mobility or physical ability. The medical report does not describe the treatment or remedial approaches that have been tried to date or expected in the future. In describing the nature of any restrictions specific to the appellant’s medical conditions, the medical practitioner states “Pt pain in shoulder, feet (and) hips – can not lift or carry heavy.” There is no further description in mobility or physical ability. Most importantly in this case, there is no evidence or information on how such restrictions or limitations affect his 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 him 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 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 on appeal.

PART G – ORDER

THE PANEL DECISION IS: (Check one) X UNANIMOUS BY MAJORITY

THE PANEL X CONFIRMS THE MINISTRY DECISION RESCINDS THE MINISTRY DECISION

If the ministry decision is rescinded, is the panel decision referred back to the Minister for a decision as to amount? Yes No

LEGISLATIVE AUTHORITY FOR THE DECISION:

Employment and Assistance Act

Section 24(1)(a) X or Section 24(1)(b)

and

Section 24(2)(a) X or Section 24(2)(b)

PART H – SIGNATURES

PRINT NAME

Ronald Terlesky

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2018/06/28

PRINT NAME

Joan Bubbs

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2018/06/28

PRINT NAME

Barbara Insley

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2018/06/28