

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 April 25, 2019 that held that the appellant was not eligible for renewal of his Persons with Persistent Multiple Barriers (PPMB) designation.

The ministry found that the appellant met the requirements of Section 2(2) (receipt of income assistance for more than 12 of the preceding 15 months), Section 3 (a)(i) (scoring at least 15 on the employability screen score(ESS), Section 3(a)(ii)(the minister considers the appellant has barriers that seriously impede his ability to search for, accept or continue employment), and Section 3(c) (the appellant has continued to work with medical professionals and has taken all reasonable steps to overcome his barriers).

However, the ministry was not satisfied that the information provided established that the appellant met the criterion set out in Section 3(b)(i)(A), (a medical practitioner confirms the appellant’s medical conditions, the length of time of having the conditions, or the expected duration of the medical conditions). As a medical practitioner did not complete the forms or confirm the information contained in the PPMB medical report, Section 3(b)(i)(A) has not been met and the minister is unable to approve the appellant’s request for renewal of his PPMB designation.

PART D – RELEVANT LEGISLATION

Employment and Assistance Regulation (EAR), Section 2

PART E – SUMMARY OF FACTS

The appellant receives income assistance as a sole recipient, his file opened November 13, 2015.

January 8, 2019 – appellant submitted a renewal for PPMB designation.

March 14, 2019 – the application was denied.

March 20, 2019 – the appellant requested a reconsideration of the decision.

March 26, 2019 – the appellant submitted his Request for Reconsideration and requested an extension.

April 15, 2019 – the appellant submitted additional documents. The reconsideration officer (RO) called the appellant to discuss the medical report and left a message at the appellant's doctor's office to have the doctor sign off on the appellant's medical report. A message was left with the appellant to call the ministry to discuss this.

April 16, 2019 – The RO called the appellant but was unable to leave a message. A message was left for a call back with the doctor's office.

April 23, 2019 –The RO called the appellant's doctor's office but did not receive a call back.

April 25, 2019 – In its Reconsideration Decision the ministry found the appellant was not eligible for renewal of PPMB designation.

The evidence before the ministry at reconsideration included the following:

- The appellant's request for an extension "in order to obtain the medical report from physician recognized British Columbia or orthopedic is gonna take a while to see a specialist".
- Request for Reconsideration application section 3, Reason for request for Reconsideration where the appellant stated:
 - He has bilateral progressive knee osteoarthritis that affects the usual daily activities
 - He had surgery on his knee without success
 - He needs assistance from a friend to clean, purchase groceries and carry heavy items
 - He is using a knee brace to help with walking but finds it hard to do stairs
 - He has provided a medical report explaining his condition, the ministry can contact his clinic any time
 - He is on physiotherapy for his knees and psychotherapy for his mental condition
 - He has PTSD, anxiety and severe depression

- Persons With Persistent Multiple Barriers form completed April 12, 2019 completed by a Nurse Practitioner which notes:
 - The appellant suffers from PTSD/Depression and bilateral knee osteoarthritis
 - Under treatments- Wellbutrin- no change, Trazodone- no change, Prazosin- effective, counselling effective
 - Condition has lasted a year
 - Expected duration 2 years or more
 - Medical condition is not episodic in nature
 - Restricted mobility with knees. Uses knee brace for long distances.
- Persons With Persistent Multiple Barriers Decision Summary notes:
 - Conditions- PTSD, depression, Osteoarthritis
 - Treatment- Wellbutrin, Trazodone, Advil, Tylenol, counselling and physio/stretching
 - Outcome- minimal to mental health, physical condition stable.
 - Prognosis- condition has existed more than a year and is expected to have a duration of 2+ years.
 - Condition is not episodic in nature.
 - Restriction- none identified
 - Eligible to apply for PPMB as appellant has been on assistance for at least previous 12-15 months
 - Not eligible for PPMB as Medical Report was not completed by a Medical Practitioner registered with the College of Physicians and Surgeons of British Columbia and licenced to practise clinical medicine in BC
- Employability Screen
 - Total Score 17
- Client Employability Profile
 - Severely Limits Employment Options
 - Unemployed for over 3 years
 - Severe lack of employment search and planning skills
 - Education grade 0-9
 - Ineffective interpersonal skills/unable to communicate with others in an effective manner
 - No Employment Limitations
 - Transportation
 - Adequate shelter
 - Child Care-N/A
 - Criminal Record- N/A
 - Areas not noted by Nurse Practitioner
 - Literacy
 - Health

- Disability

- **In the appellant's Notice of Appeal, he notes:**
 - His medical report has been sent twice
 - It is unfair to be denied just because the doctor didn't answer the phone or that he did not answer
 - He is using a device for his knees, goes to counselling and physiotherapy, and psychotherapy, depends on friends, and is on treatments.
- **Appellant Submission dated May 24, 2019 included:**
 - Release of Information form
 - The medical report- PPMB (already submitted)
 - Copy of Parking Permit for people with disabilities expiry 2022

Admissibility of Additional Information

The panel considered the documentation and agreed that the Parking Permit supported the appellant's claim for PPMB. Therefore, the panel admitted this additional information as being in support of information and records that were before the ministry at the time of the reconsideration, in accordance with Section 22(4)(b) of the Employment and Assistance Act.

PART F – REASONS FOR PANEL DECISION

The issue in this appeal is whether the ministry was reasonable in determining that the appellant did not qualify for PPMB because he did not meet the criterion set out in section 2(3)(b) of the EAR. More specifically, the issue is whether the ministry's decision, which held that the medical information provided in the Medical Report was not completed by a Medical Practitioner registered with the College of Physicians and Surgeons of British Columbia and licenced to practise clinical medicine in BC is reasonably supported by the evidence or is a reasonable application of the legislation in the circumstances of the appellant.

The relevant legislation is from 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.

[en. B.C. Reg. 368/2002.]

Ministry Position

The ministry accepts the appellant does have medical conditions that affect his employability but notes the medical report was not completed by a medical practitioner, nor has a medical practitioner reviewed the information provided by the nurse practitioner and confirmed the

medical conditions, the length of time the appellant has had the conditions, or the expected duration of the appellant's medical conditions.

Appellant's Position

The appellant submits he has multiple barriers that qualify him for PPMB designation and feels it is unfair that he is denied this designation because his medical report was not completed by a recognized medical practitioner. He had hoped the ministry would verify his medical report by contacting his clinic.

Panel Decision

Section 3(b)(i)(A), "a medical practitioner confirms the appellant's medical conditions, the length of time of having the conditions, or the expected duration of the medical conditions" is a legislative requirement that must be met by the appellant if he is to be deemed eligible for PPMB.

The evidence suggests the ministry was diligent in trying to obtain medical confirmation from a qualified medical practitioner a number of times, (April 15, 16 and 23), as it was not supplied by the appellant. The appellant was aware of this requirement as he had requested an extension to obtain this information for his appeal but failed to supply the required documentation. The panel finds as a medical practitioner did not complete the forms or confirm the information contained in the PPMB medical report, Section 3(b)(i)(A) has not been met.

Conclusion

The panel finds that the ministry's reconsideration decision that determined that the appellant was not eligible for PPMB designation was reasonably supported by the evidence. The panel therefore confirms the ministry's decision. The appellant is not successful on appeal.

APPEAL NUMBER

PART G – ORDER

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

THE PANEL 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) or Section 24(1)(b)

and

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

PART H – SIGNATURES

PRINT NAME

Charles Schellinck

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2019/06/24

PRINT NAME

Linda Pierre

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2019/06/24

PRINT NAME

Inge Morrissey

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2019/06/24