

APPEAL NUMBER

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction (ministry) reconsideration decision dated April 24, 2019 which held that the appellant is not eligible for Persons with Persistent Multiple Barriers (PPMB) qualification pursuant to section 2 of the Employment and Assistance Regulation (EAR). The appellant had obtained PPMB qualification in 2017; however, upon review of the appellant's eligibility, the ministry found that since the appellant did not provide an updated medical report as required, it is unable to determine that in the opinion of a medical practitioner the appellant has a medical condition other than an addiction that is likely to continue for at least two years and that the appellant's medical condition presents a barrier that precludes him from searching or accepting or continuing in employment, as required by section 2(4)(a) and (b) of the EAR.

The ministry found that the appellant has been in receipt of income assistance for at least 12 of the past 15 months as required by section 2(2)(a) of the EAR and he does not qualify for PPMB under section 2(3) of the EAR because his employability screen score was less than 15.

PART D – RELEVANT LEGISLATION

Employment and Assistance Regulation – EAR- Section 2

PART E – SUMMARY OF FACTS

With the consent of both parties, the hearing was conducted as a written hearing, pursuant to section 22(3)(b) of the *Employment and Assistance Act*.

The evidence before the ministry at the time of reconsideration consists of:

1. A letter from the ministry to the appellant dated March 20, 2019, which explained to the appellant that in February 2019 a notice was sent to him advising that an updated medical report was required to determine his continue eligibility for PPMB. The letter further explained that failure submit the medical report would result in his benefits being reduced to support rate only.
2. Request for Reconsideration (RFR), signed and dated April 16, 2019, in which the appellant outlined his medical conditions,(such as COPD, hepatitis C, postherpetic neuralgia, manic depression, PTSD, and anxiety), and stated that he does not have a physician to help him with his medical difficulties.

Evidence On Appeal

Notice of Appeal (NOA), signed and dated May 3, 2019, in which the appellant outlined some of his medical conditions (which included which included mental illness, hepatitis C, chronic liver condition, and COPD), he stated that his medical conditions have not been treated, and that he does not have a physician.

The panel found that the NOA contained the appellant's argument.

PART F – REASONS FOR PANEL DECISION

The issue on the appeal is whether the ministry's decision to deny the appellant PPMB qualification because, without an updated medical report, it was unable to determine that in the opinion of a medical practitioner the appellant has a medical condition other than an addiction that is likely to continue for at least two years and that the appellant's medical condition presents a barrier that precludes him from searching or accepting or continuing in employment, as required by section 2(4)(a) and (b) of the EAR, was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the circumstances of the appellant.

Section 2 of the EAR sets out the eligibility requirements which are at issue on this appeal as follows:

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 argued that he has multiple medical conditions, that his medical conditions have not been treated and that he does not have a physician. He argued that the ministry's decision is incorrect.

The Ministry's Position

The ministry's position is that since the appellant did not submit an updated medical report, it is unable to determine that in the opinion of a medical practitioner the appellant has a medical condition other than an addiction that is likely to continue for at least two years and that the appellant's medical condition presents a barrier that precludes him from searching or accepting or continuing in employment, as required by section 2(4)(a) and (b) of the EAR.

The Panel's Decision

The legislation requires that in order to qualify for the designation of a Person with Persistent Multiple Barriers an individual must meet specific requirements. In this case the appellant must meet the requirements set out in section 2(4)(a) and (b) of the EAR. Section 2(4)(a) and (b) requires that in the opinion of a medical practitioner the appellant has a medical condition other than an addiction that is likely to continue for at least two years and that the appellant's medical condition presents a barrier that precludes him from searching or accepting or continuing in employment.

The evidence establishes that the appellant provided a medical report that was completed by his physician on February 9, 2017 and submitted to the ministry on February 24, 2017. In this 2017 medical report the physician confirmed a diagnosis of Schizophrenia which was expected to last 2 years or more. Based on this medical report the ministry determined that the appellant was eligible for PPMB on June 14, 2017. Per the ministry's requirement, PPMB eligibility must be reviewed every two years. According to the ministry's reconsideration decision, the appellant's PPMB would expire in June 2019. The evidence establishes that the ministry contacted the appellant in February and twice in March of 2019 in an attempt to obtain an updated medical report. The evidence also establishes that the appellant failed to provide an updated medical report as requested by the ministry.

In his RFR and NOA, the appellant discusses his multiple medical conditions and argued that he does not have access to a physician. However, the panel notes that the appellant is aware of the PPMB process as he completed it in 2017 and he did not explain why he did not return to the physician who completed the medical report in 2017. The panel also notes that in the RFR and NOA the appellant refers to medical conditions other than Schizophrenia, which was the original condition for which PPMB eligibility was determined in 2017. If this is no longer the medical condition for considering PPMB, then the ministry insistence on an updated medical report is reasonable and valid. Additionally, the appellant does not dispute the fact that a medical report has not been submitted. The panel finds that without the submission of a medical report, the ministry cannot determine whether the appellant meets the legislative criteria for maintaining his PPMB status.

The panel finds that the ministry reasonably concluded that since the appellant did not submit an updated medical report, it is unable to determine that in the opinion of a medical practitioner the appellant has a medical condition other than an addiction that is likely to continue for at least two years and that the appellant's medical condition presents a barrier that precludes him from searching or accepting or continuing in employment, as required by section 2(4)(a) and (b) of the EAR.

Conclusion

The panel finds that the ministry's reconsideration decision, which denied the appellant's request for a Person with Persistent Multiple Barriers qualification because the requirements of Section 2(4) of the EAR were not met, was reasonably supported by the evidence and a reasonable application of the applicable legislation. The panel confirms the ministry's decision. The appellant is not successful in his 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

Neena Keram

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2019/06/21

PRINT NAME

Kulwant Bal

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2019/06/21

PRINT NAME

Sandra Chan

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2019/06/21