

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the ministry) reconsideration decision dated February 7, 2020, which held that the appellant has not met all eligibility requirements for qualification as a Person with Persistent Multiple Barriers to Employment (PPMB) under section 2 of the Employment and Assistance Regulation (EAR).

The ministry determined that the appellant met the requirement of section 2(2)(a) as the appellant is a recipient of income assistance. The ministry determined further that the appellant has a health condition that has continued for at least 1 year and is likely to continue for at least 2 more years, and has therefore met the requirements under section 2(2)(b)(i). The ministry held that the appellant's health condition is a barrier that seriously impedes the ability to search for, accept, or continue in employment and thus the requirement of section 2(2)(b)(ii) is met.

However, the ministry is unable to confirm that the appellant experiences any of the additional barriers described in section 2(3). Therefore, the requirements set out under section 2(2)(c) and 2(3) are not met.

PART D – RELEVANT LEGISLATION

EAR, section 2

PART E – SUMMARY OF FACTS

On December 20, 2020 the ministry received the appellant's application for PPMB.

In section 2 of the application the appellant checks 1 out of 10 boxes to indicate "other severe barrier(s) to employment" and writes "interstitial cystitis / pelvic floor dysfunction". The remaining 9 boxes (homelessness; domestic violence; need of English language skill training; not having basic skills for employment; criminal record; less than grade 12 education; have accessed emergency health, mental health or addiction services multiple times in the past 12 months; Former Child in Care of the BC Ministry of Children and Family Development or equivalent) are unchecked.

In the Request for Reconsideration dated January 24, 2020, the appellant describes in detail the medical issues that prevented the appellant from finding and keeping a job.

In the Notice of Appeal dated February 12, 20120 the appellant writes: "I am unable to work and I need the extra benefits that PPMB offers."

At the hearing the appellant reported the following: The appellant

- made a mistake by checking the box "other severe barrier(s) to employment" and by reiterating information about the health condition.
- verified that none of the other barriers listed in the application apply in the appellant's case.
- understands now that 2 barriers are needed to qualify for PPMB designation and the appellant has only 1 barrier - the health condition.
- suffers severe health problems but is not diagnosed with clinical depression.
- has problems with memory because of lack of sleep.
- received a call from the ministry worker who said that the appellant has to apply for PPMB designation.
- was misled by the ministry and not informed that it was possible to apply for another designation.

The ministry presented their reconsideration decision and added the following information:

- The ministry would never force anyone to apply for PPMB designation or insist that a client apply first for PPMB before applying for PWD designation.
- There may have been a misunderstanding and the ministry apologized for that.

Admissibility of new evidence

The panel admitted the appellant's Notice of Appeal and testimony at the hearing pursuant section 22(4) of the *Employment and Assistance Act* as this information is relevant to the issue on appeal.

Procedural Issue

With the appellant's consent, a ministry observer attended the hearing.

PART F – REASONS FOR PANEL DECISION

The issue under appeal is whether the ministry's reconsideration decision which held that the appellant does not meet all eligibility requirements for qualification as a Person with Persistent Multiple Barriers to employment (PPMB) under section 2 of the EAR is reasonably supported by the evidence or a reasonable application of the legislation in the appellant's circumstances. Specifically, the ministry determined that it is unable to confirm that the appellant experiences any of the additional barriers described in section 2(3), and therefore does not meet the requirements set out under section 2(2)(c) and 2(3).

EAR, section 2

Persons who have persistent multiple barriers to employment

- (2) A person qualifies as a person who has persistent multiple barriers to employment if the person
- (a) is a recipient of income assistance or hardship assistance,
 - (b) has a health condition that is confirmed by a health professional and that,
 - (i) in the opinion of the health professional,
 - (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) faces one or more additional barriers described in subsection (3).
- (3) For the purposes of subsection (2) (c), an additional barrier is any of the following:
- (a) any of the following circumstances if, in the opinion of the minister, the circumstance seriously impedes the person's ability to search for, accept or continue in employment:
 - (i) currently experiencing homelessness or having experienced homelessness in the past 12 months;
 - (ii) currently experiencing domestic violence or having experienced domestic violence in the past 6 months;
 - (iii) needing English language skills training;
 - (iv) not having basic skills for employment;
 - (v) having a criminal record;
 - (vi) having an education below grade 12;
 - (vii) having accessed emergency health, mental health or addiction services multiple times in the past 12 months;
 - (viii) being a Convention refugee as determined under the *Immigration and Refugee Protection Act* (Canada) or the *Immigration Act* (Canada), or having been such a refugee in the past 24 months, or being in the process of having a claim for refugee protection, or application for protection, determined or decided under the *Immigration and Refugee Protection Act* (Canada);
 - (ix) being a person who was a child in care or received similar care under an enactment of another Canadian jurisdiction;
 - (b) a circumstance that the minister considers to be a circumstance that seriously impedes the person's ability to search for, accept or continue in employment.

Appellant's Position

The appellant's position is that the appellant was misled by the ministry and not informed that it was possible to apply for another designation.

Ministry's Position

The ministry determined that the requirements set out under section 2(2)(c) are not met because it is unable to confirm that the appellant experiences any of the additional barriers described in section 2(3). While the appellant indicated "other" on the application, medical conditions were reiterated rather than any additional barriers being identified that seriously impede the appellant's ability to search for, accept, or continue in employment.

Section 2(2)(c) sets out that the person must face one or more additional barriers listed in section 2(3) which seriously impede the person's ability to look for, accept, or continue in employment, including homelessness; domestic violence; need of English language skill training; not having basic skills for employment; criminal record; less than grade 12 education; have accessed emergency health, mental health or addiction services multiple times in the past 12 months; Former Child in Care of the BC Ministry of Children and Family Development or equivalent; a circumstance that the ministry considers to be a circumstance that seriously impedes the person's ability to search for, accept or continue in employment.

The ministry would never force anyone to apply for PPMB designation or insist that a client apply for PPMB before applying for PWD designation. There may have been a misunderstanding.

Panel Decision

Section 2 of the EAR sets out the requirements for PPMB qualification. All requirements of subsection (2) and (3) must be met to be eligible for PPMB designation.

Subsection (2) (c) sets out that in addition to a health condition a person must face 1 or more additional barriers to qualify. Section 3(a) sets out 9 circumstances that may create an additional barrier to employment: homelessness; domestic violence; lack of language skills; lack of basic employment skills; criminal record; below grade 12 education; emergency health, mental health, or addiction; refugee status; a former child in care under Canadian jurisdiction. Section (3)(b) allows for any other circumstance that the minister considers to be a circumstance that seriously impedes the person's ability to search for, accept or continue in employment.

While the appellant argues that serious health conditions described in the application and further elaborated on in the request for reconsideration and at the hearing present barriers to finding and keeping employment, the panel finds that the ministry reasonably determined that the appellant does not meet the requirements set out under section 2(2)(c) and 2(3) and, as a result, is not eligible for PPMB status. While the appellant reiterates medical information that has been described by the appellant's physician in the PPMB application the panel finds that there is no evidence of an additional barrier that seriously impedes the appellant's ability to search for, accept, or continue in employment.

While the appellant claims to be misled by the ministry the panel finds there is not enough evidence to support this claim.

APPEAL NUMBER
2020-00048

Based on the foregoing the panel finds that the ministry's decision denying the appellant's request for PPMB designation was a reasonably supported by the evidence and a reasonable application of the legislation in the circumstances of the appellant. The appellant is not successful on appeal.

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| PARTG-ORDER | |
| THE PANEL DECISION IS: (Check one) <input checked="" type="checkbox"/> UNANIMOUS <input type="checkbox"/> BY MAJORITY | |
| THE PANEL <input checked="" type="checkbox"/> CONFIRMS THE MINISTRY DECISION <input type="checkbox"/> 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? <input type="checkbox"/> Yes <input type="checkbox"/> No | |
| LEGISLATIVE AUTHORITY FOR THE DECISION: | |
| <i>Employment and Assistance Act</i> | |
| Section 24(1)(a) <input checked="" type="checkbox"/> or Section 24(1)(b) <input type="checkbox"/> | |
| and | |
| Section 24(2)(a) <input checked="" type="checkbox"/> or Section 24(2)(b) <input type="checkbox"/> | |

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| PARTH-SIGNATURES | |
| PRINT NAME Inge Morrissey | |
| SIGNATURE OF CHAIR | DATE (YEAR/MONTH/DAY) 2020/03/09 |

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|---------------------------|-------------------------------------|
| PRINT NAME Angie Blake | |
| SIGNATURE OF MEMBER | DATE (YEAR/MONTH/DAY) 2020/03/09 |

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| PRINT NAME Keith Lacroix | |
| SIGNATURE OF MEMBER | DATE (YEAR/MONTH/DAY) 2020/03/09 |