Persons with Persistent and Multiple Barriers to Employment (PPMB) Appeal Guide

Part Two: The Appeal Tribunal

DISABILITY ALLIANCE BC ADVOCACY ACCESS PROGRAM

Disability Alliance BC has developed a number of guides to assist advocates and others who may be helping people to obtain benefits from the Ministry of Housing and Social Development (MSDSI or the Ministry).

This Guide provides information and explains how to assist someone who has lost the first level of appeal for denial of the Persons with Persistent and Multiple Barriers to Employment (PPMB) benefit - the Request for Reconsideration. The person has the right to ask for a review of their case by an Appeal Tribunal. This is the final level of appeal, unless the person chooses to go to the courts.

Our thanks to the funders of this Guide: The Law Foundation of BC, Public Legal Education and Information Project.

The information in this Guide is based on the legislation and policy that was current at the time of writing. The legislation and policy are subject to change. Please check the date on this page.

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THE LAW FOUNDATION OF BRITISH COLUMBIA

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Persons with Persistent and Multiple Barriers to Employment (PPMB) Definition

The Ministry of Social Development and Social Innovation (MSDSI) regional office decides if an applicant qualifies for the benefit based on the:

- PPMB Employability Screen
- information provided by a doctor in the PPMB *Medical Report*

To qualify for PPMB, applicants must meet the eligibility criteria set out in Section 2 of the *Employment and Assistance (EA) Act* Regulations. An overview of these requirements is given in the section below. For the exact wording of the legislation, please see the appendices in this Guide.

How to qualify for PPMB

- Applicants must have been receiving income assistance for 12 out of the previous 15 months, immediately before they apply.
- A doctor must state that the applicant has a medical condition that has lasted for at least 1 year, or has occurred frequently in the past year, and is likely to continue or reoccur for at least 2 more years.
- The applicant's medical condition must prevent them from searching for, accepting or continuing in employment.

Please see the appendices for the full definition of PPMB.

Addictions of any kind do not count as an eligible medical condition under the PPMB legislation.

Overview of the Appeal Process

- When applicants receive their denial letter from the Ministry, **they** must:
- Contact the Ministry (1-866-866-0800) and ask for a **Request for Reconsideration** form. A sample of this form is included in the appendices of this Guide.
- Complete the Request for Reconsideration form and include all the documents the applicant wants MSDSI to have when it is reconsidering the denial of the benefit.
- Return their Request for Reconsideration form and supporting documents to their local MSDSI office within **20 business days** of the date they receive their denial letter.

An extension may be granted by the Ministry if it is not possible to submit supporting documentation within 20 business days. The Ministry can delay the Reconsideration decision by 10 business days.

When MSDSI gets the Request for Reconsideration form, **MSDSI** must:

- Respond, in writing, with its decision within **10 business days** from the date it received the applicant's information.

If MSDSI denies the Reconsideration, the applicant can ask an Appeal Tribunal to hear their case. If they want to appeal to a Tribunal, **they** must:

- Inform the Employment and Assistance Appeal Tribunal (EAAT) office within 7 **business days** of receiving the denial letter that they want to go to Tribunal. Applicants do this by completing a form called the Notice of Appeal to the Employment and Assistance Appeal Tribunal. The Notice may be faxed or mailed to the EAAT office. The EAAT office will record the postmark date on the Notice. Often the local MSDSI office will agree to fax the Notice to the EAAT office for the applicant.

7 business days means that you count weekdays, not weekends or holidays. Day 1 is the day after the Reconsideration decision is received. Again, it is a good idea to write on the top of the denial letter the date it was received.

- Once the Notice of Appeal form has been sent, the Tribunal must be held within **15 business days**, unless the applicant, MSDSI and the Tribunal Chair agree to an extension.

Deciding whether to proceed to Tribunal

People who are denied PPMB at the Reconsideration level must decide whether or not to proceed to Tribunal within 7 business days of receiving the decision.

The person can also choose to re-apply, rather than request an appeal. However, this will take longer than an appeal and there is a chance the second application will also be denied. If the application is denied a second time, the Ministry may dispute the applicant's right to request an appeal hearing. However, if there are new facts to consider, a second hearing will likely go ahead.

At a Tribunal hearing, people–called "appellants" during the appeal process–can provide additional information to the Ministry in support of their case. The appellant can also provide oral testimony and witnesses can also address the issue before the appeal panel (except at a written hearing).

Requesting a Tribunal Hearing

Completing the Notice of Appeal to the Appeal Tribunal form

This form is mailed with the Reconsideration Decision. A copy is included in the appendices and it is also available on the Employment and Assistance Appeal Tribunal website (see On Line Resources in this Guide).

1. When completing the Notice of Appeal, make sure the appellant's contact information is up-to-date and any special needs are clearly identified. For example, are accessible facilities or an interpreter required? When noting the reason for appeal, it is only necessary to write that the denial of the PPMB designation is being disputed. Make sure that 7 business days have not elapsed since your client received the Reconsideration decision.
2. The Notice of Appeal provides three ways in which an appeal can be heard:
    - **Orally in person**: the appellant and the advocate attend a hearing together, along with panel members and a Ministry representative. This kind of hearing is the best way to present written and oral testimony and the preferred option of most advocates.
    - **Orally via teleconference**: the appellant and the advocate present the case over the telephone. The Ministry representative and panel members are at different locations. This method presents a number of challenges because it is not easy to share new evidence or read visual clues.
    - **In writing:** this method requires the consent of the Ministry. If the appellant is choosing a written hearing, they must be prepared to provide a new perspective on PWD eligibility: to explain why the Reconsideration decision is wrong and to say something more than what was submitted with the Request for Reconsideration. Appellants do not have an opportunity to see or respond to the Ministry's submission (which is submitted after the appellant's submission) or to answer questions.
3. The Notice of Appeal must be signed and dated by the appellant. The quickest and most direct way to submit a Notice of Appeal is to fax it to the EAAT office (1-877-356-9687). The form can be mailed, but it must be postmarked before the 7 business day deadline.

Advocates should complete and submit the EAAT Release of Information with the appeal notice. This form notifies the EAAT that the appellant is being assisted by an advocate and allows the advocate to request a copy of the appeal record and to make decisions on their behalf. The Release of Information form can be downloaded from the EAAT website and is in the appendices of this Guide.

Adjournments

If the appellant cannot attend the hearing at the scheduled time, or needs more time to prepare the case, an adjournment can be requested. To make a request for an adjournment, the Ministry must agree to this request. The EAAT gives final approval. The Adjournment Request form can be downloaded from the EAAT website and must be received by the EAAT office at least 24 hours before the scheduled hearing.

The advocate and/or appellant can also ask for an adjournment at the Tribunal hearing—however, the panel does not have to agree to a postponement. We recommend asking for an adjournment in advance.

Rules about Evidence

At Tribunal, there are restrictions on information the panel can consider. The allowed evidence is:

- the information and records the Ministry had at Reconsideration, and
- any new oral or written information that are in support of the information that the Ministry had at Reconsideration.

The second point means that advocates can seek new evidence that is “in support” of the issue before the Tribunal panel. The EAAT has provided guidelines on what information can be accepted as “in support” of the appeal record (see Appendices). These guidelines suggest evidence that addresses the issue of PPMB eligibility—including a new doctor’s letter—should be admissible.

It is up to the Tribunal panel to decide whether or not new information is accepted and how much weight it is given. The panel chair can ask the Ministry and the advocate for their views on admissibility. The advocate should have five copies of new information (one for each person) and be prepared to explain why the new evidence should be allowed.

Preparing a PPMB case

The Tribunal panel focuses on the Ministry's Reconsideration decision, so it is important for both the advocate and the appellant to read this decision carefully. In PPMB cases, it is common for the Ministry to deny PPMB because they determine the applicant is capable of some kind of employment. The advocate should consider ways to refute the Ministry's assumptions by reviewing:

- the verbal testimony that can be presented at the Tribunal hearing, and
- the written evidence–including obtaining new information that is in support of the appeal record–that can be used at the hearing.

The main source of verbal testimony is the appellant. The advocate should interview their client and prepare them to answer questions. In a PPMB Tribunal, the appellant is often asked to describe their barriers to employment. They may also be asked what steps they have taken to overcome these barriers.

When reviewing the written record, the advocate should consider obtaining additional letters, from the client's doctor for example, which will clarify the client's eligibility for the PPMB designation. This new information can address omissions and flaws in the appeal record. We recommend faxing any supporting documents to the EAAT office at least 3 business days before the hearing.

We recommend that the advocate prepare a written submission for the Tribunal panel and Ministry representative. This submission should outline the reason for denial, all evidence that is in the appellant's favour, and the argument on how the appellant's situation satisfies the definition of PPMB–and therefore the Ministry's Reconsideration decision is unreasonable. An example of a Tribunal submission can be found in the Appendices.

Tips for Advocates

- A doctor's opinion on "unemployability" is important because it is the appellant's health-related restrictions to employment that is one of the main determinants of PPMB.
- Although it is helpful to establish that the appellant's medical conditions prevent them from doing any kind of work, it is not necessary to establish that the appellant cannot work at all. For most applicants, the PPMB requirement is that their medical condition precludes them from searching for, accepting **or** continuing in employment. A person may be able to get a job, but cannot keep a job – in this case they should qualify for PPMB.

- Treatment or training may have helped the appellant, but they may not be ready to pursue and maintain employment. If they cannot do this, they should be eligible for PPMB.
- Examples of previous PPMB tribunal decisions can be found on the EAAT website. Go to www.gov.bc.ca/eaat
- If the appellant has been on PPMB and been denied on re-application, an important question to ask is: has their health and circumstances significantly improved over the past couple of years? If it has not, they should still qualify for PPMB.
- If you are submitting new 'supporting documentation,' try to send it to the EAAT office at least 3 business days before the appeal hearing. The EAAT will then have time to forward it to the Tribunal participants.

Tribunal Overview

Prior to an In-Person or Teleconference Tribunal hearing

- The EAAT office will have distributed the Appeal Record. The Appeal Record contains all the documents the Ministry used at the Reconsideration stage and any information that was sent to the EAAT since then. Each of the panel members will have this Appeal Record before the hearing.
- The EAAT office will mail a letter to all parties notifying them of the date, time and location of hearing.

The Tribunal Panel and who will be at the Hearing

The Tribunal panel consists of up to three community members, with one person acting as Chair of the panel. The members are selected from an appointed list by the EAAT office. The Ministry will usually send a representative who will defend the Reconsideration decision. The advocate and appellant should also attend the hearing, along with any witnesses who will testify in support of the appellant.

What happens at the Tribunal Hearing

- The hearing begins with introductions of everyone present. Then the Chair will explain what is going to take place.
- The Chair will ensure that everyone has all the documentation that is in the Appeal Record. The Chair should be advised if there are any omissions or inconsistencies. At this point, the panel can be asked to accept any information "in support" of the case. Copies of this new evidence should be distributed to all the parties and the Chair should be asked to make a decision on admissibility.

- Once this has been determined, the Chair will ask the advocate and/or appellant to present their case, to explain why the Reconsideration decision is not reasonable. The appellant should be prepared to answer questions from the panel and Ministry representative.
- If there are witnesses that have come to testify, it may be suggested to the Chair that they do so after the advocate and appellant have presented the case. The panel members and Ministry representative can also question witnesses.
- Then the Ministry representative will be asked to explain and defend the Reconsideration decision. After this submission, the representative may be questioned by the advocate, appellant or by the panel members.
- The advocate may choose to make a brief closing summation at the end of the hearing–in which case the Chair should be advised before the hearing.
- The panel will not advise the appellant of the decision at the end of the hearing. A written decision is sent to the EAAT office within five business days and the EAAT office has another five business days to mail the Tribunal decision to the appellant.

The Tribunal Result

Tribunal decisions are either unanimous or by majority. The appeal is successful if the panel "rescinds" the Ministry's decision. It is lost if the panel "confirms" the Ministry's Reconsideration decision.

Frequently Asked Questions

Q. What happens if the appeal is lost?

A. In some situations, it may be possible to take the case to the third stage of appeal, the judicial review. A judicial review application must be filed to the Supreme Court of BC within 60 days of the Tribunal decision. To do this, the appellant should consult with a lawyer. A person can choose to re-apply for PPMB, especially if there is new information to consider.

Q. What happens if the appeal is won?

A. If it is a new application for PPMB, benefits are payable on the first day of the month after the date of the Reconsideration decision.

Q. How long is the Tribunal hearing?

A. The EAAT office schedules a hearing for two hours. Many Chairs suggest that the appellant's submission should be no longer than an hour.

On-Line Resources

DABC publishes various publications and current information on our website at www.disabilityalliancebc.org

For various community resources, go to: www.povnet.org.

Your Welfare Rights: A Guide to BC Employment and Assistance can be found on the Legal Services Society website at www.lss.bc.ca, under publications.

Public access to MSDSI policy, programs and services is available at *Online Resource* at www.gov.bc.ca/meia/online_resource.

You can see BC's income assistance acts and regulations at www.eia.gov.bc.ca/ministry/leg.htm.

Employment and Assistance Appeal Tribunal website at www.gov.bc.ca/eaat

Appendices

PPMB Definition

Persons With Persistent & Multiple Barriers to Employment (PPMB)

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, 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. (B.C. Reg. 263/2002)

The following Guidelines are from the EAAT website:
www.gov.bc.ca/eaat/popt/additional_evidence.html

Additional Evidence

Parties often provide the Tribunal in advance of hearings or the panel at hearings with additional evidence that does not form part of the information and records that were before the minister when the reconsideration decision was made. Panels cannot admit additional evidence unless they determine that it is supporting evidence, that is to say being evidence that is "in support of" the information and records that were before the Minister at reconsideration as per section 22(4)(b) of the *Employment and Assistance Act*.

The role of the panel is to:

1. determine whether the additional evidence is admissible as supporting evidence;
2. state why the panel determined the additional evidence was or was not admissible;
3. if necessary, determine the weight to be given to the admissible supporting evidence; and
4. make findings of fact.

Determining whether the Additional Evidence is Admissible

Section 22(4)(b) of the *Employment and Assistance Act* states:

A panel may admit as evidence only

a. the information and records that were before the minister when the decision being appealed was made, and
b. oral or written testimony in support of the information and records referred to in paragraph (a).

The "information and records that were before the minister when the decision being appealed was made" is referred to as the record of the ministry decision. The appeal record for the Tribunal hearing is initially comprised of the Notice of Appeal and the record of the ministry decision. Ultimately it also includes submissions made by the parties, additional information admitted into evidence by the panel, and the Tribunal decision.

Section 22(4)(b) is designed to strike a balance between a pure appeal on the record of the ministry decision and a hearing *de novo* (a completely new hearing). It contemplates that while a party may wish to submit additional evidence to the panel on the appeal, the panel is only empowered to admit "oral or written testimony in support of" the record of the ministry decision; it provides appellants with a limited opportunity to augment their evidence on appeal but it does not provide them with a hearing *de novo* or new hearing. If the additional evidence substantiates or corroborates the information and records before the minister at the reconsideration stage, the evidence should be admitted; if it does not, then it does not meet the test of admissibility under s. 22(4)(b) of the *Employment and Assistance Act* and should not be admitted.

For example, consider an appellant who argued at reconsideration that he met the 2 year employment requirement for the purposes of section 8(1) of the *Employment and Assistance Act*, but on appeal argues under section 18(4) of the Employment and Assistance Regulation that he was prevented due to circumstances beyond his control from searching for, accepting or continuing in employment as he did not have a work permit. He provides the panel with a copy of a work permit, dated after the reconsideration decision, which allows him to work as of that date. This additional evidence is not admissible under section 22(4)(b) as it is not *"in support of"* the records of the ministry decision as it neither substantiates nor corroborates the information and records before the minister when the decision being appealed was made.

In contrast, if an appellant appealing the denial of the PWD designation submits a doctor's note verifying the appellant's testimony in the Record of the Ministry Decision regarding the need for help with daily living activities, the doctor's note could properly be admitted as it is written testimony *"in support of"* the information and records, corroborating the information before the minister at reconsideration.

Additional evidence should not be admitted if it introduces an entirely new issue that is not related to the issue in the record of the ministry decision. For example, an appellant may be appealing a reconsideration decision to deny a request for a wheelchair. On appeal,

the appellant may present a doctor's prescription for two items, a wheelchair and a hearing aid. The additional evidence in support of the request for a wheelchair is admissible as it is supporting evidence, corroborating the information in the record of the ministry's decision. The portion of the additional evidence that prescribes the hearing aid is not admissible because it raises a new issue, a request for a hearing aid, that is not *"in support of"* information and records before the Minister at reconsideration.

Panel members often deal with situations where the admissibility of additional evidence is not so clear. In PWD cases, for example, appellants frequently provide additional evidence on appeal regarding a medical diagnosis or condition. If this medical diagnosis or condition is not contained in the record of the ministry decision, then the additional evidence would not be admissible as it would not be *"in support of"* or corroborate the information and records before the minister at reconsideration. The additional evidence must first be put before the minister for a decision as the panel's jurisdiction is appellate in nature and limited to determining whether the ministry's decision was reasonable. The Tribunal is not mandated to make decisions at first instance.

Panels should request and consider both parties' views on the admissibility of any information that is tendered as additional evidence, record the positions of the parties, and provide reasons for the panel's determination with respect to the admissibility of such evidence. Panels must also ensure parties have an opportunity to comment on the substantive content of the additional evidence.

Determining Weight and Findings of Fact

The panel must make findings of fact based on the evidence. Findings of fact are the primary relevant facts that are "at issue" between the parties and which must be established before the legislation can be applied. If there is contradictory evidence, the

panel will need to determine what evidence it accepts and state why it prefers or gives more reliance or weight to that evidence over other evidence.

Panels may consider credibility in weighing evidence.

Credibility

There are two common errors made when determining credibility of evidence based on the demeanour of a witness or party:

- mistakenly believing someone who is lying
- mistakenly disbelieving someone who is telling the truth

Faryna v. Chorny, [1952] D.L.R. 354 contains the classic statement for resolving issues of credibility. It downplays the idea that demeanour is an indicator of truthfulness or credibility.

The credibility of interested witnesses, particularly in cases of conflict of evidence, cannot be gauged solely by the test of whether the personal demeanour of the particular witness carried conviction of the truth. The test must reasonably subject his [or her] story to an examination of its consistency with the probabilities that surround the currently existing conditions. In short, the real test of the truth of the story of a witness in such a case must be its harmony with the preponderance of the probabilities which a practical and informed person would readily recognize as reasonable in that place and in those conditions.

Consequently, if demeanour is not a good indicator of truthfulness, then it should be possible for a decision maker to resolve credibility issues with some degree of confidence without ever laying eyes on the witnesses or parties.

Some factors to weigh:

- ability to perceive, to recall or to communicate about the testimony
- consistency with undisputed facts
- consistent with other sources of evidence

To resolve a conflict in the evidence, consider the evidence before you in light of all of the surrounding circumstances. Ultimately, the panel must articulate reasons that illustrate its decision making process was justifiable, transparent and intelligible.

APPELLANT'S SUBMISSION TO THE TRIBUNAL

Appeal No. 2014-000000

Appellant: Sam Black

Issue: Eligibility for the Persons with Persistent Multiple Barriers Designation (PPMB)

Legislation:
Employment and Assistance Regulation, Section 2 Persons who have persistent multiple barriers to employment

Background:
The appellant is a single 53 year-old single man on income assistance. He started his application for the PPMB designation in July 2014. His application was denied on October 8, 2014. The Reconsideration Decision, made on November 7 2014, upheld the denial and he is appealing this decision.

The definition of PPMB
The appellant has been on assistance for over 12 months. His medical condition has continued for at least one year and is likely to continue for at least 2 more years.

According to the ministry, the appellant's score on the employability screen is under 15 (page 24), the "employability test", noted under Section 2(4)(b), is that the medical condition, other than an addiction, that is confirmed by a medical practitioner, must , in the opinion of the minister, be "a barrier that precludes the person from searching for, accepting or continuing in employment" (page 11)

Argument

1. Part of the reason for denial given in the Reconsideration Decision by the ministry is that because Depression and Anxiety have not lasted for at least one year, they cannot be considered as two of the restrictions that may preclude the appellant from searching for, accepting, or continuing in employment (pages 9,10). We submit that this interpretation is unreasonably narrow and not consistent with the regulatory requirements of the PPMB designation.

2. Under section 2(4) a medical condition must, other than an addiction, must be 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

   We submit that when both PPMB medical reports are considered, a number of medical conditions are identified: right knee meniscal tear, lower back pain –

chronic, depression, anxiety which are confirmed as long lasting by the physician. According to the second PPMB medical report (page 22), the medical condition has lasted 3 years and the expected duration is 2 years. Therefore the PPMB duration requirement has been satisfied.

3. We submit that it is unreasonable for the ministry to discount the impact of the depression and anxiety on the appellant's ability to work. Dr. White has written that part of the appellant's health-related restrictions are decreased attention, concentration and energy (page 17). The doctor has noted that the appellant is being prescribed an anti-depressant (Citalopram 40mg) but there is "no change yet" (page 22). The appellant's mental health restrictions are an important reason why the appellant cannot work.

4. The appellant states that he has been taking anti-depressants since August 2013; however, his symptoms of depression and anxiety predated his agreeing to take medication by a couple of years. He is still struggling with depression and anxiety

5. In addition, we submit that it was unreasonable for the ministry, in the Reconsideration Decision, to ignore the relevance of the lower back pain that was noted on the first PPMB medical report (page 16, 23). According to Dr. White, this condition goes back to 2006 and is "chronic" – he gets lower back pain with standing and bending. Although there is no mention of the lower back pain in the second PPMB medical report, we submit that it is extremely unlikely for a condition that has existed since 2006 and described as chronic to disappear in the space of a few months. (Perhaps the doctor was of the opinion that he had already noted it as a secondary medical condition so he did not have to repeat it on the second form).

6. The appellant states that he continues to experience severe lower back pain. He has had this pain since he fell off a ladder a number of years ago. He takes pain killers (Advil) to help reduce the degree of pain.

7. In the seventh paragraph of the Reconsideration Decision (page 9), the ministry writes that "a medical condition is considered to preclude the recipient from searching for, accepting, or continuing in employment when, as a result of a medical condition, the recipient is unable to participate in any type of employment for any length of time except in a supported or sheltered-type work environment." We submit that this interpretation is unreasonably narrow and is not consistent with the PPMB regulatory requirement. For example, a recipient may be capable of some very limited work activity, however the recipient's medical condition prevents them from **continuing** in employment – restrictions such as pain and depression could make them an unreliable employee

8. The Reconsideration Decision states that the ministry is only considering the right knee miniscal tear as a barrier that precludes the appellant from searching for, accepting, or continuing in employment (page 10). We submit that this approach is unreasonably narrow and not consistent with the regulatory requirement of the PPMB designation. As noted previously, there are other medical conditions that the appellant has that the ministry can consider and these conditions also restrict his ability to work

9. In the letter from the advocate to Dr. White dated October 31, 2014, submitted with the request for reconsideration, Dr. White has confirmed that his patient is precluded from searching for, accepting, or continuing in employment in the foreseeable future by his physical and mental conditions (page 13)

10. The appellant states that his chronic knee and back pain, restricted movement, limited mobility, fatigue, low energy, lack of concentration and focus, low mood and anxiety all prevent him from pursuing employment-related activities.

In summary, we submit that the appellant does meet all the eligibility "person with persistent multiple barriers to employment." When all the information and opinion are considered, we submit that it was not reasonable for the ministry to deny this designation.

Conclusion:
We respectfully request that the appeal panel rule that the ministry did not reasonably apply the legislation to the facts of this case; therefore we ask the Tribunal to rescind the ministry's Reconsideration Decision and allow this appeal

Prepared by the advocate on behalf of the appellant

December 9, 2014

Employment and Assistance Appeal Tribunal

Notice of Appeal

To start your appeal, you only need to send this completed form within **7 business days** of receiving the ministry's reconsideration decision.

APPELLANT INFORMATION			
NAME	CASE NUMBER	RECONSIDERATION SERVICE NUMBER	
MAILING ADDRESS: (Information about your appeal will be sent to the address you submit unless you provide a different address)		CITY	POSTAL CODE
		TELEPHONE NUMBER	
RECONSIDERATION DECISION RECEIVED ON	Month ☐ Day ☐ Year ☐		

REASONS FOR APPEAL
Tell us why you disagree with the Ministry's reconsideration decision: *(The Tribunal will obtain a copy of the record of the Ministry's decision)*

TYPE OF APPEAL HEARING	**SUPPORT AT YOUR HEARING**
I would like my appeal to be held (select one): *(The Tribunal will attempt to accommodate your request)*	*(You may bring an interpreter, for example, a friend or family member to your hearing)*
☐ Oral in person	Do you require the Tribunal to arrange for an interpreter? ☐ Yes
☐ Oral by telephone	If yes, what language or dialect?
☐ In writing	Do you require a hearing room with wheelchair access? ☐ Yes

YOUR SIGNATURE	DATE (MONTH/DAY/YEAR)

Send the completed Notice of Appeal form to:

Employment and Assistance Appeal Tribunal
PO Box 9994 Stn Prov Govt Victoria BC V8W 9R7
Toll Free Fax: 1-877-356-9687
Fax in Victoria: 250-356-9687
Email: eaat@gov.bc.ca

Questions? Call Toll Free: 1-866-557-0035, or in Victoria: 250-356-6374

The personal information requested on this form is collected under the authority of and will be used for the purpose of administering the *Employment and Assistance Act*, the *Employment and Assistance for Persons with Disabilities Act* and the *Child Care Subsidy Act*. The disclosure of this information is subject to the provisions of the *Freedom of Information and Protection of Privacy Act*. If you have any questions about the collection, use and disclosure of this information, please contact the Employment and Assistance Appeal Tribunal.

Employment and Assistance Appeal Tribunal

Release of Information

This form allows you control over who receives your personal information. You will need to complete and return this form to the Tribunal if you wish to have a representative (agent, lawyer or advocate):

INFORMATION ABOUT YOUR REPRESENTATIVE		
NAME OF REPRESENTATIVE	NAME OF AGENCY	
MAILING ADDRESS		POSTAL CODE
TELEPHONE	FAX NUMBER	
Do you want information/documents about your appeal sent to:	Yourself	☐
	Your Representative	☐
	Both of You	☐
Do you want your Representative to attend your hearing?	☐ Yes	☐ No
Do you want your Representative to make decisions on your behalf?	☐ Yes	☐ No

I consent to the Employment and Assistance Appeal Tribunal disclosing all information on Appeal Number _____ including my personal information, to the above mentioned Representative. This consent is valid until this appeal process has been completed.

APPELLANT'S NAME (PRINT)	
APPELLANT'S SIGNATURE:	DATE (MONTH/DAY/YEAR)

Send the completed Release of Information form to:

Employment and Assistance Appeal Tribunal
PO Box 9994 Stn Prov Govt Victoria BC V8W 9R7
Toll Free Fax: 1-877-356-9687
Fax in Victoria: 250-356-9687
Email: eaat@gov.bc.ca

Questions? Call Toll Free: 1-866-557-0035, or in Victoria: 250-356-6374

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