



Appealing Denial of the Persons with Persistent Multiple Barriers (PPMB) Benefit: The Appeal Tribunal

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If your application for the Persons with Persistent Multiple Barriers (PPMB) benefit was turned down by the Ministry of Social Development and Poverty Reduction (MSDPR) and your Request for Reconsideration has been denied, you can appeal the Ministry's decision. You can ask for an Appeal Tribunal to hear your case.

This Help Sheet is designed to help you understand the appeal process and how to ask for an Appeal Tribunal. Please note that, although this Help Sheet provides an overview of the appeal process and gives suggestions on how you may increase your chance of success, it does not take the place of an advocate's assistance.

We strongly suggest you seek the advice of an advocate at the beginning of the process. To speak to an advocate, contact the Advocacy Access program (604-872-1278 or toll-free 1-800-663-1278) or go to the PovNet website (www.povnet.org) and click on "Find an Advocate" to see if there is an advocate in your area.

If you are looking for assistance to apply for a Request of Reconsideration for PPMB, see **Help Sheet 11A: Appealing Denial of the Persons with Persistent Multiple Barriers (PPMB) Benefit: The Request for Reconsideration**. If you are looking for assistance to apply for PPMB, see **Help Sheet 6: The Persons with Persistent Multiple Barriers (PPMB) Benefit**.



How to appeal the denial of your PPMB benefit

There are two levels in the appeal process:

Level 1: The Request for Reconsideration

If your Request for Reconsideration is successful MSDPR will give you the PPMB benefit.

Level 2: The Appeal Tribunal

If MSDPR turns down your Request for Reconsideration you can go to Level 2 of the appeal process and ask for an Appeal Tribunal.

If you are using this Help Sheet, you should be at Level 2 of the appeal process. This means that you have sent MSDPR a Request for Reconsideration and MSDPR has turned down your request.

How to apply for an Appeal Tribunal

When you receive a letter, called the Reconsideration Decision, from MSDPR saying that your Request for Reconsideration has been denied, you should take the following steps:

1. Act immediately

When you receive the Reconsideration Decision, **you have only 7 business days** to ask for an Appeal Tribunal to hear your case. The day after you receive the denial letter from MSDPR is Day 1. From that day, you count weekdays, but not weekends or holidays.

TIP: When you get the Reconsideration Decision from MSDPR, immediately write the date on the top.

2. Do you still think you are eligible for PPMB status?

Look carefully at the reasons why MSDPR has turned down your original application and your Request for Reconsideration. Review the requirements you must meet to qualify for the PPMB benefit:

Your health professional must indicate that:

- You have a medical condition that has lasted for one year and is likely to continue for at least 2 more years, **or**;
- You have a health condition that has occurred frequently in the past year and is likely to continue for at least 2 or more years.

Examples of work activities that could be affected by various health conditions include and are not limited to:

- Concentration, memory, ability to plan, organize and complete tasks and make quick calculations and judgements, ability to communicate and interact with others



effectively, ability to stand and/or walk for long periods of time, to lift and carry, manual dexterity that can be limited by painful hands or fingers, etc.

Your health professional can enclose copies of any documentation that confirms or verifies the nature and severity of the restrictions on your ability to function at work. Such documentation can include but is not limited to:

- Laboratory or diagnostic reports and psychological reports, including WorkBC contractor psychological vocational reports.

Aside from your medical condition, you must have at least one additional severe barrier to employment. On page 5 of the PPMB application form there is a list of severe barriers and you can tick off the barrier or barriers that apply to you.

- Homelessness currently or in the past 12 months
- Family violence currently or in the past 6 months
- In need of English language training
- Not having basic skills for employment
- Less than grade 12 education
- Criminal record
- Have accessed emergency health, mental health or addiction service multiple times in the past 12 months
- Recent convention refugee
- Former child in care of the BC Ministry of Children and Family Development or similar Canadian jurisdiction
- Other severe barriers to employment.

You can provide information or documentation to support the barrier or barriers you have identified.

3. Asking for an Appeal Tribunal

You have a right to ask for an Appeal Tribunal to hear your case and, you hope, decide in your favour. But you have to decide if an Appeal Tribunal is your best course of action. It is important to understand what you can and cannot do at the Tribunal hearing:

- You **can** provide the Tribunal with more information to **support** the evidence that you have already given MSDPR in your original application, and in your Request for Reconsideration. For example, you could provide a letter from your doctor that clarifies issues related to your PPMB application.
- You **can** also give testimony (tell your story) or ask witnesses to give testimony if they have knowledge of your health limitations.



But:

- You cannot provide new evidence that has nothing to do with your PPMB appeal. For example, a letter stating that you do not have enough money to live on does not relate to PPMB eligibility.
- The Tribunal Chair decides which evidence will be accepted.

4. Complete the Notice of Appeal to the Employment and Assistance Appeal Tribunal (EAAT) form

This form is mailed with the Reconsideration Decision. It is also available on the EAAT website. Please see page 6 of this Help Sheet for the website address.

- a) Be sure to include information on any special needs that you might have, in order to attend the Appeal Tribunal hearing. For example, will you need accessible facilities or an interpreter? If someone is helping you with your Tribunal, you can send in a Release of Information with the Notice of Appeal. This form, available on the EAAT website, acknowledges the role of your advocate or helper.
- b) Remember, you must submit the form requesting an Appeal Tribunal within **7 business days**. Then, the Tribunal must be held within 15 business days after that, unless you, MSDPR, and the Tribunal Chair agree to a time extension.
- c) Decide which kind of Tribunal to request. The EAAT form gives you three choices: in person, in writing or by conference call. The following are some things to consider when making your decision.

In person. This is often the best option.

- If you attend the Appeal Tribunal hearing in person, the panel members can see you and you can see them.
- It is often easier to tell your story (make your argument) and present your evidence in person.
- It may be easier for your witnesses to give testimony.
- Make sure you have a copy of all the documents that the Tribunal is looking at.

In writing. This means that you send your information in writing to the Appeal Tribunal, but you do not appear before the panel members.

- You will not be present to answer any questions the panel members may have.
- Writing a good argument can be difficult. Remember, you are asking the Tribunal panel members to decide that the Ministry made the wrong decision. Your argument has to be well organized and you must know the kinds of information that will convince the Tribunal panel to overturn the Ministry's decision.
- You cannot see what documents the panel members are reviewing, so you cannot be certain that you have copies of all of them.



- Testimony from witnesses must be in writing.

By conference call. This means that you present your information on the telephone to the Tribunal panel members.

- You must have a phone you can use for at least an hour, without anyone interrupting you.
- You should feel comfortable talking to more than one person who you cannot see.
- Body language is important—it says a lot about what a person is thinking and feeling. You will not be able to see and use this kind of information over the phone.
- You need to fax or mail any new supporting documentation to the EAAT in advance.
- It may be harder for your witnesses to give testimony.

5. Submit your completed form right away

- a) Sign your form.
- b) The form can be mailed or faxed to the EAAT office. The address is on the form. It is usually faster to fax your form. Toll-free: 1-877-356-9687. If you do not have access to a fax machine, ask your local MSDPR office to date stamp your form and fax it for you. **Make sure you get a copy.**

Before an in-person or teleconference Tribunal hearing

- The EAAT office will mail you a package called the Appeal Record. The Appeal Record contains all the documents that the Ministry used when it decided to deny your PPMB application and Request for Reconsideration. Each of the Tribunal panel members will have this Appeal Record before the hearing.
- The EAAT office will mail you a letter advising you of the date and time of the Tribunal hearing.
- You usually receive about one week's notice of your Tribunal hearing. If you cannot attend the hearing on that scheduled day, phone the EAAT office and request a time extension (also called an adjournment). An Appeal Adjournment Request form can be found on the EAAT website under "Forms." Try to give as much notice as possible when asking for an adjournment. Everyone—you, MSDPR, the Tribunal Chair—must agree to the time extension. If the time extension is granted, another date will be set for the hearing.

What happens at the Tribunal hearing

- a) The Tribunal hearing will begin with introductions of all the people there. The Tribunal panel can have up to three people, but is often less. There will usually be a representative from the Ministry. The Tribunal Chair will explain what is going to take place.
- b) The Chair will make sure that everyone has all the documentation that is in the Appeal Record. If there is anything wrong or missing, you should tell the Chair. This is also when you can ask the Chair to accept any information "in support" of your case, by giving the



Chair and panel members this material.

- c) After everyone has looked at the documents, you will be asked to explain why you believe the Ministry's decision to deny you the PPMB benefit is not reasonable.
- d) If you have witnesses that have come to speak, they will be invited to speak or answer your questions. The panel members will then have the chance to question your witnesses and the Ministry representative.
- e) Then, the Ministry will present its argument to support its decision. Again, the panel members will be able to ask questions. You also have the right to question the Ministry representative.
- f) When the panel feels that all the information has been presented, you can ask to make some closing remarks before the hearing ends.
- g) The Appeal Tribunal will issue a written decision, which will be sent by mail, usually within two weeks of the Tribunal hearing.

The Tribunal result

If you have won your Tribunal, the letter will say that the Ministry's decision has been "rescinded." You will start receiving your PPMB benefits the month following your Tribunal decision.

If the Tribunal decision "confirms" the Ministry's decision to deny your benefits, this means you have lost. You may want to speak to an advocate.

PPMB Tribunal tips

- Review the Appeal Record before the hearing. Mark any pages you plan to refer to.
- If you plan to give the Tribunal panel any supporting documentation, try to have it in time to fax it to the EAAT office, at least three business days before the hearing. If that isn't possible, make four copies to take to the hearing: one for each panel member and one for the Ministry representative.
- Write down what you want to say at the Tribunal hearing. It helps you to organize your thoughts and stay on topic.
- An advocate, if available, may help you prepare and present your case. If you do not have an advocate, you can ask someone you know to go with you as a support person (a support person is not usually a witness).
- Be prepared to answer questions about your disability and about all the ways it stops you from working.
- The emphasis of your presentation should be on your "limitations," not your "abilities."
- Examples of previous Tribunal decisions can be found on the EAAT website.

To access the EAAT website, go to <http://www.eaat.ca/>.





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www.disabilityalliancebc.org/publications.



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