

PART C – Decision under Appeal

The decision under appeal is the ministry's reconsideration decision dated February 28, 2012 which found that the appellant did not meet three of the five statutory requirements of Section 2 of the Employment and Assistance for Persons with Disabilities Act for designation as a person with disabilities (PWD). The ministry found that the appellant met the age requirement and that her impairment is likely to continue for at least two years. However, the ministry was not satisfied that the evidence establishes that she has a severe physical or mental impairment. The ministry was also not satisfied that the appellant's daily living activities (DLA) are, in the opinion of a prescribed professional, directly and significantly restricted either continuously or periodically for extended periods. As the ministry found that the appellant is not significantly restricted with DLA, it could not be determined that she requires the significant help or supervision of another person, the use of an assistive device, or the services of an assistance animal to perform DLA.

PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Act (EAPWDA), Section 2
Employment and Assistance for Persons with Disabilities Regulation (EAPWDR), Section 2

PART E – Summary of Facts

The evidence before the ministry at the time of the reconsideration decision consisted of:

- 1) Imaging Consultation Reports dated February 23, 2011 for X-Ray of right knee which states in part there is mild medial compartment interosseous narrowing but otherwise unremarkable; MRI of right knee states in part there is mild sprain proximal fibers fibular collateral ligament, intrameniscal degenerative signal posterior horn medial meniscus with a questionable vertical tear at posterior root attachment, and bone marrow edema medial tibial plateau;
- 2) Imaging Consultation Report dated March 27, 2011 for X-Ray of chest which states in part that there is patchy bilateral pneumonia with possible reactive adenopathy;
- 3) Asthma Care Program- Progress Notes dated April 18, 2011 which state in part that the appellant was admitted to hospital March 27, 2011 with an acute chronic exacerbation of chronic bronchitis/COPD; pulmonary function testing done January moderate to severe airflow obstruction with low diffusion capacity; COPD has impacted daily quality of life, unable to fish, hike, hunt and be active; complains of increasing dyspnea past 2 years; baseline spirometry testing done and lung function is reduced when compared to testing done January 2011;
- 4) Letter dated May 12, 2011 from a physician, a specialist in physical medicine and rehabilitation, that states in part that the appellant had a right knee injury which is currently constantly painful and worse with activity. She has not had any improvement in her pain symptoms although the swelling has reduced and is only occurring mildly and intermittently; she does not have significant ongoing mechanical symptoms, but her MRI does demonstrate a possible medial meniscal tear which may be contributing to her ongoing pain;
- 5) Letter dated July 25, 2011 from a physician, a specialist in orthopedic surgery, that states in part that the appellant is experiencing right knee pain; she is a 40-year-old woman who fell down the stairs a year and a half ago; her symptoms are pain, throbbing, snapping and locking and she cannot bike, hike and walk on uneven surfaces as it can give out on her. X-Rays revealed some minimal medial joint line changes but otherwise relatively normal and MRI was pretty normal although there is question of possible small tear of the posterior medial meniscus at the root attachment. Her pain, complicated by an ongoing court case, seems out of proportion to the radiographic findings and have counseled that there is a reasonable chance that an arthroscopy will not improve her symptoms and in fact could be completely normal but she is adamant she wants to proceed;
- 6) Person With Disabilities (PWD) Application: applicant information dated November 24, 2011, physician report dated November 10, 2011, and assessor report dated December 11, 2011, plus another copy of the same application with additional undated handwritten notes added;
- 7) Letter dated January 3, 2012 from a physician, a specialist in internal and respiratory medicine, that states in part that the appellant is making a significant effort at achieving smoking cessation, and using Spiriva once daily as well as Ventolin as necessary. The appellant reports since moving to a ground level residence, she has less difficulty with exacerbation of COPD but remains dyspneic at moderately low workloads. The assessment is severe airflow limitation with underlying chronic obstructive pulmonary disease; and,
- 8) Request for Reconsideration- Reasons.

Prior to the hearing, the appellant provided a note dated March 9, 2012 from a physician, a specialist in internal and respiratory medicine, which states in part that the appellant has severe chronic obstructive pulmonary disease; this process is not reversible, it is managed with bronchodilator therapy, pulmonary rehab, infection control, and smoking cessation. The ministry did not object to the admissibility of the note. The panel reviewed the note and admitted it as being a further description of the appellant's diagnosed condition and being in support of the information and records before the ministry on its reconsideration, pursuant to Section 22(4) of the Employment and Assistance Act.

In her Notice of Appeal, the appellant states that she is trying to deal with the effects of having COPD and there are things that she cannot do that she used to love. She loses her breath too fast to go hiking, biking and to play sports, skiing, etc. The appellant states that she will be moving in with her mother and her mother will be helping her with her daily chores. The appellant states that her chronic fatigue makes it very hard to

function on a daily basis and she has to carry her inhaler with her at all times due to coughing fits where she cannot catch her breath. The appellant states that when she goes shopping she has to take breaks and has started using a motorized cart, and a cane when walking around the house. She has not been able to clean her tub and the floors.

At the hearing, the appellant stated that she has had to realize that her lungs are not going to get better, that they're going to get worse and she is losing more of her memory and she is only 41 years old, which is very difficult to deal with. The appellant stated that she has a combination of conditions, including a sleep disorder, COPD and dyslexia, which affect in her so many ways and are causing her to re-think her whole life. The appellant stated that she has been trying to quit smoking and has cut back to 10 cigarettes a day. The appellant stated that she and her mother have moved in together to help each other, that the appellant's teenage daughter is a bit of a handful so her mother will help her manage her daughter too. The appellant stated that her previous residence had 15 stairs to the entrance and she would get short of breath climbing those stairs and she needed her son to help her carry groceries in. The appellant stated that she has chronic fatigue with her COPD and she can only do certain things for a certain length of time, then she has to lay down. The appellant stated that she felt her doctor had dropped the ball on the paperwork and did not fully complete the reports because he kept concentrating on her knee and issues with stress from her ex-husband whereas her main issue is her COPD. The appellant stated that she is constantly using inhalers and when she is shopping she needs to stop and catch her breath every 2 aisles or so. In response to a question, the appellant stated that her mobility is affected mostly by her COPD but also by her knee pain. The appellant stated that she has had major issues with her knee and she had surgery on February 22 or 23, 2012 and she has been doing physiotherapy twice a week but it's not helping so she needs to go back to see the surgeon. The appellant stated that after her surgery she was using the motorized shopping carts and getting help carrying things in.

In response to a question, the appellant stated that she has trouble getting up in the morning due to her insomnia and she needs help to wake her daughter up. The appellant explained that she finds it hard to get moving in the morning, that she has coughing fits where she almost throws up. The appellant stated that she also needs help with vacuuming because the dust bothers her lungs and she gets sick and since she is allergic to all antibiotics, she has to get her mother or daughter to do the vacuuming and dusting. The appellant stated that doing laundry is an issue because she cannot carry loads without losing her breath and she cannot mow the lawn because if she over-exerts herself she has to sit for an hour to get her breathing back under control and she uses her inhaler and her medications. The appellant explained that her son lived with her from August 2011, when she kicked out her ex, until a few days ago since she needed help and could not make it on her own. The appellant explained that her son helped her with laundry, cooking, vacuuming, cleaning the bathrooms and, after her knee surgery, with driving her around. The appellant stated that she takes medications for her sleep disorder and Ativan for anxiety since she can go into an anxiety or panic attack. The appellant stated that she cannot bike ride anymore or other physical activities like hiking, and she is pretty much exhausted by 4:00 p.m. each day. The appellant explained that if she forces herself to do more, then she will have no energy the next day or if she really overdoes it she will crash for the next 4 days. In response to a question, the appellant stated that she can still go camping and fishing, but she cannot walk more than a couple of miles before losing her breath. The appellant stated that she can do the dishes and can cook as long as she is careful not to inhale certain types of food odours, specifically from fried foods, and she can do light cleaning; she cannot dust but she can organize things. The appellant stated that she will bring her daughter to help with shopping, with lifting things into the cart. The appellant stated that her lungs are tested about every 6 months and she has been told they are at 50% capacity in terms of the oxygen that is being brought into her system.

In her self-report included in the PWD application, the appellant adds that she has battled depression and a sleep disorder for over 20 years and has been prone to bronchial pneumonia since she was 15 years old. The appellant states that within the last year she has been diagnosed with emphysema of the lungs and she had her son move in with her in September 2011 to help her with some of her day-to-day issues. The appellant

states that she lives in an upper floor suite and has 15 stairs to walk up, that she has been having troubles with carrying groceries into her suite and has a hard time getting her breath by the time she reaches the top stair. The appellant states that as her son is moving out at the end of February 2012, she does not know how she will carry things into her suite without help. The appellant states that the combination of her health issues are making it harder for her to live on a day-to-day basis. The appellant adds a note that the surgery on her knee is booked for February 22, 2012 and she will not know the outcome for some time to follow.

The physician who completed the physician report has confirmed, in the amended copy, that the appellant has been his patient for "many years" and that he has seen the appellant 2 to 10 times in the past 12 months. In both copies of the physician report, the physician confirms a diagnosis of major depression, generalized anxiety disorder, chronic obstructive pulmonary disorder (COPD), and right knee disability, pain. In both copies of the report, the physician adds comments that the appellant is "...physically limited from work by significant dyspnea caused by COPD, aggravated by chronic cigarette smoking; further disabled by knee pain caused by torn miniscus resulting in ongoing pain, swelling; unable to walk or work; also immobilized by fear/anxiety related to very real death threats (illegible) by ex-husband; this lady is further impaired by major depression that incapacitates her ability to sustain any work." The physician report indicates that the appellant has been prescribed medication for knee pain that may interfere with her ability to perform DLA and that the duration of treatment is uncertain as they are awaiting an arthroscopy. The physician reports that the appellant does not require an aid for her impairment. In terms of the degree of the impairment, the physician notes in the amended report that "...this lady's disorder is getting much worse with time - severely limiting her breathing and (illegible); her anxiety and depression have progressively deteriorated, she can barely function in ADL let alone work." The physician reports that the appellant can walk 1 to 2 blocks unaided on a flat surface, she can climb 5 or more stairs unaided, she can lift 15 to 35 lbs., and can remain seated less than 1 hour. The physician indicates that there are significant deficits with cognitive and emotional function in the areas of memory, emotional disturbance and attention or sustained concentration, with a note in the amended copy of the report that the appellant is "...overwhelmed by family worries- her son in trouble, her mother severely disabled, her coping skills maxed out; resulting in significant impairment with memory and emotional lability." The physician agrees that the appellant's impairment directly restricts her ability to perform DLA and assesses continuous restrictions in the areas of daily shopping, mobility inside the home and mobility outside the home as well as restrictions with social functioning with the note "...from increased stress" and that social functioning is "...impacted by significant stress aggravated by death threats from ex-husband" and that the appellant is "...overwhelmed by all aspects of her personal life." The physician assesses the appellant as not restricted in the DLA of personal self care, meal preparation, management of medications, basic housework, use of transportation, and management of finances.

The physician has also completed the assessor report and indicates that the appellant's ability to communicate is good with speaking and satisfactory with reading and hearing but poor with writing, with the note "dyslexia" and, in the amended report, that there is "...significant limitation by learning disorder, very difficult to learn new tasks or jobs." The physician indicates the appellant takes significantly longer than typical with walking indoors, walking outdoors as well as with climbing stairs and carrying and holding ("knee pain and dyspnea") and notes, in the amended report, that "...significantly disabling pain does have serious impact on all these activities, in spite of her best efforts." The physician indicates that the appellant is independent with all tasks of personal care, with basic housekeeping and with all tasks of shopping, including going to and from stores, reading prices and labels, making appropriate choices, paying for purchases, and carrying purchases home. On the amended report, a notation has been made "please see attachments", being the Imaging Consultation Reports, the Asthma Care Program progress notes, the letters dated May 12 and July 25 2011, and January 3, 2012. Further, the physician reports that the appellant is independent with all of the tasks of managing meals, including meal planning, food preparation, cooking and safe storage of food. The physician indicates that the appellant is independent with paying rent and bills (including banking and budgeting), as well as with managing medications. The physician reports that the appellant takes significantly longer than typical with all tasks of managing transportation, including getting in and out of a vehicle, using public transit, and with using transit schedules and arranging transportation ("knee pain and dyspnea"), with the additional comment on the

amended report that "...mobilization remains difficult not simply because of knee pain, but her ability and endurance are significantly affected by shortness of breath from COPD."

In the assessor report, the physician has indicated that there is a major impact to daily cognitive and emotional functioning in bodily functions (e.g. eating problems, toileting problems, poor hygiene, sleep disturbance), moderate impacts to emotion and other neuropsychological problems (e.g. visual/spatial problems, psychomotor problems, learning disabilities), and no impacts identified in the remaining 11 areas. The physician also adds comments in both copies of the report that the appellant has "...severe stress from ex-husband when breaches his restraining order and threatens to kill her; disabled from work, stress increases, significant ongoing depression." The physician has not assessed the appellant on either copy of the report with respect to a need for support/supervision in the areas of social functioning which include making appropriate social decisions, developing and maintaining relationships, interacting appropriately with others, dealing appropriately with unexpected demands, and securing assistance from others, but notes that the appellant is affected by increased stress and depression and it is uncertain the support or supervision required. The physician indicates that the appellant has marginal functioning in both immediate and extended social networks.

PART F – Reasons for Panel Decision

The issue on the appeal is whether the ministry reasonably concluded that the appellant is not eligible for designation as a person with disabilities (PWD) as she does not have a severe mental or physical impairment and that her daily living activities (DLA) are not, in the opinion of a prescribed professional, directly and significantly restricted either continuously or periodically for extended periods and that, as a result of those restrictions, it could not be determined that the appellant requires the significant help or supervision of another person, the use of an assistive device, or the services of an assistance animal to perform DLA.

The criteria for being designated as a person with disabilities (PWD) are set out in Section 2 of the EAPWDA. The minister may designate a person as a PWD when the following requirements are met. Pursuant to Section 2(2), the person must have reached the age of 18 and the minister must be satisfied that the person has a severe mental or physical impairment. Under Section 2(2)(a) the impairment must be likely, in the opinion of a medical practitioner, to continue for at least 2 years. The impairment must also, in the opinion of a prescribed professional, directly and significantly restrict the person's ability to perform DLA either continuously or periodically for extended periods, as set out in Section 2(2)(b)(i). As a result of those restrictions, the person must require help to perform DLA, pursuant to Section 2(2)(b)(ii). Section 2(3)(b) sets out that a person requires help in relation to DLA if, in order to perform it, the person requires an assistive device, the significant help or supervision of another person, or the services of an assistance animal.

Section 2(1)(a) of the EAPWDR defines DLA for a person who has a severe physical or mental impairment as: prepare own meals, manage personal finances, shop for personal needs, use public or personal transportation facilities, perform housework to maintain the person's place of residence in acceptable sanitary condition, move about indoors and outdoors, perform personal hygiene and self care, and manage personal medication. In relation to a person who has a severe mental impairment, there are two additional activities, namely: making decisions about personal activities, care or finances, and relating to, communicating or interacting with others effectively.

The ministry argues that the evidence does not establish that the appellant has a severe physical impairment. The ministry points to the physician report where it is indicated that the appellant is able to walk 1 to 2 blocks unaided, to climb 5 or more steps unaided, to lift 5 to 15 lbs. (sic), and to remain seated for less than an hour and argues that the functional skill limitations described are more in keeping with a moderate degree of impairment. The ministry argues that although the physician indicates that the appellant's mobility takes significantly longer to complete, he does not provide information on how much longer it takes or that the appellant needs significant assistance from another person. The appellant argues that the evidence establishes that she suffers from a severe physical impairment as a result of the combination of serious health conditions, including COPD, right knee pain, and a sleep disorder. The appellant argues that the note dated March 9, 2012 from a physician, a specialist in internal and respiratory medicine, states that the appellant has severe chronic obstructive pulmonary disease and that this is not reversible. The appellant argues that her lungs are at 50% capacity in terms of the oxygen that is being brought into her system and that she has chronic fatigue with her COPD and she can only do certain things for a certain length of time, then she has to lay down. The appellant argues that she has had major issues with her knee and she had surgery on February 22 or 23, 2012 and she has been doing physiotherapy twice a week but it's not helping so she needs to go back to see the surgeon. The appellant points out that she has had a sleep disorder for 20 years and she takes medication to treat it.

The panel finds that the evidence of a medical practitioner confirms a diagnosis of COPD and right knee pain and that the appellant is "...physically limited from work by significant dyspnea caused by COPD... further disabled by knee pain caused by torn miniscus resulting in ongoing pain, swelling; unable to walk or work." Although the appellant states that she has had a sleep disorder for 20 years, the panel finds that this has not been diagnosed by a medical practitioner, as required by the legislation. A physician who is a specialist in

internal and respiratory medicine states in a note dated March 9, 2012 that the appellant has 'severe COPD' and this is not reversible but that it is managed with bronchodilator therapy, pulmonary rehab, infection control, and smoking cessation. The appellant states that her chronic fatigue makes it very hard to function on a daily basis and she has to carry her inhaler with her at all times due to coughing fits where she cannot catch her breath. With respect to the appellant's knee pain, a specialist in orthopedic surgery states in a letter dated July 25, 2011 that X-Rays revealed some minimal medial joint line changes but are otherwise relatively normal and an MRI was pretty normal although there is question of possible small tear of the posterior medial meniscus at the root attachment. The specialist states that the appellant's pain seems out of proportion to the radiographic findings. The specialist counseled that there is a reasonable chance that an arthroscopy will not improve the appellant's symptoms and in fact could be completely normal but the appellant is adamant she wants to proceed. The appellant stated that she had the surgery to her knee on February 22 or 23, 2012 and she has been doing physiotherapy twice a week but it's not helping so she needs to go back to see the surgeon.

The appellant's physician indicates that the appellant has been prescribed medication for knee pain that may interfere with her ability to perform DLA and that the duration of treatment is uncertain as they were awaiting an arthroscopy at the time. The physician reports the appellant does not require an aid for her impairment and that the appellant can walk 1 to 2 blocks unaided on a flat surface, she can climb 5 or more stairs unaided, she can lift 15 to 35 lbs., and can remain seated less than 1 hour. The physician indicates the appellant takes significantly longer than typical with walking indoors, walking outdoors as well as with climbing stairs and carrying and holding ("knee pain and dyspnea") and notes, in the amended report, that "...significantly disabling pain does have serious impact on all these activities, in spite of her best efforts." However, the panel finds that the physician has not amended the specific assessments of the appellant's mobility and physical ability, nor indicated how much longer it takes for the appellant in these areas. Also, the appellant stated that she can still go camping and fishing but she cannot walk more than a couple of miles before losing her breath. Overall, the panel finds that the evidence demonstrates that the appellant remains independent with her mobility and physical functioning and that the ministry was reasonable in finding a moderate degree of impairment. Therefore, the panel finds that the ministry's determination that the evidence does not establish a severe physical impairment, was reasonable.

The ministry argues that the evidence does not show that the appellant has a severe mental impairment. The ministry argues that the physician has identified significant deficits to cognitive and emotional functioning in the areas of memory, emotional disturbance, and attention or sustained concentration, with a major impact to daily functioning in bodily function and moderate impacts to memory and other neuropsychological problems ("severe stress from ex-husband with breaching his restraining order and threatening to kill her; disabled from work-stress and significant ongoing depression"). The ministry argues that the limitations for mental impairment described by the appellant's long-time physician are more in keeping with a moderate degree of impairment. The appellant argues that the evidence establishes that she suffers from a severe mental impairment as a result of major depression, generalized anxiety disorder and a learning disability, being dyslexia. The appellant argues that she has battled depression for over 20 years and that she takes medication for anxiety since she can go into an anxiety or panic attack. The appellant argues that her physician has noted that she has dyslexia and that this is a significant limitation since it is very difficult to learn new tasks or jobs.

The panel finds that the evidence of a medical practitioner confirms a diagnosis of major depression and generalized anxiety disorder that are likely to continue for 2 years or more, and the physician adds comments that the appellant is "...immobilized by fear/anxiety related to very real death threats (illegible) by ex-husband; this lady is further impaired by major depression that incapacitates her ability to sustain any work." The physician indicates that there are significant deficits with cognitive and emotional function in 3 out of 11 defined areas, being memory, emotional disturbance and attention or sustained concentration and adds comments in the amended copy of the report that the appellant is "...overwhelmed by family worries- her son in trouble, her mother severely disabled, her coping skills maxed out; resulting in significant impairment with memory and emotional lability." In the assessor report, the physician has indicated that there is one major impact to daily

cognitive and emotional functioning in bodily functions (e.g. eating problems, toileting problems, poor hygiene, sleep disturbance), and two moderate impacts to emotion and other neuropsychological problems (e.g. visual/spatial problems, psychomotor problems, learning disabilities), and no impacts identified in the remaining 11 areas. The physician also adds comments that the appellant has "...severe stress from ex-husband when breaches his restraining order and threatens to kill her; disabled from work, stress increases, significant ongoing depression." The physician indicates that there are restrictions with social functioning with the note "...from increased stress" and that social functioning is "...impacted by significant stress aggravated by death threats from ex-husband" and that the appellant is "...overwhelmed by all aspects of her personal life." The physician has not assessed the appellant with respect to a need for support/supervision in the areas of social functioning which include making appropriate social decisions, developing and maintaining relationships, interacting appropriately with others, dealing appropriately with unexpected demands, and securing assistance from others, but notes that the appellant is affected by increased stress and depression and it is uncertain the support or supervision required. The physician indicates that the appellant has marginal functioning in both immediate and extended social networks with no other comments provided. The panel finds that the evidence demonstrates that the appellant is under considerable situational stress but that the ministry was reasonable in concluding that the specific assessments by the appellant's long-time physician are consistent with a moderate degree of impairment. The panel finds that the ministry's decision, which concluded that the evidence does not establish a severe mental impairment, was reasonable.

The ministry argues that the evidence does not establish that the appellant's daily living activities (DLA) are, in the opinion of a prescribed professional, directly and significantly restricted either continuously or periodically for extended periods. The ministry points out that the physician reports that the appellant requires continuous assistance with daily shopping and mobility inside/outside the home and that social functioning is impacted by depression and significant stress, but he has not provided information on the degree of assistance required. The ministry argues that the physician indicates the appellant takes significantly longer getting in/out of a vehicle, using public transit and using transit schedules and arranging transportation due to knee pain and dyspnea, but that most of the appellant's DLA are independent. The appellant argues that the opinion of a prescribed professional confirms her impairments directly and significantly restrict her ability to perform DLA either continuously or periodically for extended periods.

The panel finds that the legislation requires that the ministry is satisfied that the opinion of a prescribed professional confirms that the appellant's ability to perform DLA is directly and significantly restricted either continuously or periodically for extended periods. The panel finds that although the appellant's physician has commented that her anxiety and depression have progressively deteriorated and that "...she can barely function in ADL let alone work", that this conclusion is not supported by the individual assessments of DLA. In terms of preparing her own meals, the physician indicates in the physician report that the appellant is not restricted in this area and, in the assessor report, that the appellant is independent with all tasks, including meal planning, food preparation, cooking and safe storage of food. The physician has added a note in the amended report that the appellant's ability and endurance are significantly affected by shortness of breath from COPD, but there has been no change in the specific assessments to indicate the areas and relative significance of these stated impacts. For managing personal finances, the physician indicates that the appellant is not restricted and that she is independent with all tasks. In terms of shopping for her personal needs, the physician indicates that the appellant is restricted on a continuous basis yet independent with all tasks, including going to and from stores, reading prices and labels, making appropriate choices, paying for purchases, and carrying purchases home. The appellant stated that she is constantly using inhalers and when she is shopping she needs to stop and catch her breath every 2 aisles or so, that she has to take breaks and has started using a motorized cart, and she brings her daughter to help with lifting items into the cart. In the assessor report, a note has been made to "see attachments" which include the Imaging Consultation Reports, the Asthma Care Program progress notes, the letters dated May 12 and July 25 2011, and January 3, 2012, but the panel finds that these do not include assessments of the appellant's ability to perform specific DLA.

For use of public or personal transportation facilities, the physician indicates in the physician report that the

appellant is not restricted in this area and, in the assessor report, that the appellant takes significantly longer than typical with getting in and out of a vehicle, using public transit and with using transit schedules and arranging transportation due to knee pain and dyspnea. With respect to performing housework to maintain the appellant's place of residence in an acceptable sanitary condition, the physician reports that the appellant is not restricted with this DLA and, in the assessor report, that she is independent with doing basic housekeeping and laundry. The appellant stated that she can do light cleaning, she cannot dust or vacuum, for example, because of the dust these activities create but she can organize things. For moving about indoors and outdoors, the physician indicates that the appellant is restricted on a continuous basis with mobility inside and outside the home which is assessed in the assessor report as taking significantly longer than typical with walking indoors and with walking outdoors and the appellant does not use an assistive device for mobility. Regarding performing personal hygiene and self care, the physician indicates that the appellant is not restricted and, in the assessor report, that the appellant is independent with all tasks of personal care, including dressing, grooming, bathing, toileting, feeding self, regulating diet, transfers in/out of bed and transfers on/off a chair. With respect to managing her personal medications, the physician again indicates that the appellant is not restricted and is independent with all tasks including filling/refilling prescriptions, taking as directed and safe handling and storage. For making decisions about personal activities, care or finances, the physician does not provide an assessment of the areas of social functioning but notes that the appellant is overwhelmed by all aspects of her personal life. For relating to, communicating or interacting with others effectively, the physician assesses the appellant's ability to communicate as good or satisfactory in most areas and does not provide a specific assessment in the aspects of social functioning.

Looking at the evidence as a whole, the panel finds that the prescribed professional has reported that the appellant is continuously restricted with shopping and mobility inside and outside the home while remaining independent with the individual tasks of these DLA. The panel finds that although social functioning is assessed as restricted, there is no further indication of the degree of restriction. The panel finds that the ministry reasonably concluded that the evidence demonstrates that the appellant performs a majority of her DLA independently. Therefore, the panel finds that the ministry's determination that the evidence of a prescribed professional does not establish a direct and significant restriction on the appellant's ability to perform DLA either continuously or periodically for extended periods, as required by Section 2(2)(b)(i) of the EAPWDA, was reasonable.

In determining whether the ministry reasonably concluded that the appellant does not require the significant help or supervision of another person or the use of an assistive device, the panel relies on the information from the physician and the appellant that she has most recently lived with family and receives help from family, being her son, daughter and mother. As it has not been established that DLA are significantly restricted, the panel finds that the ministry's conclusion that the requirement for significant help or supervision of another person, an assistive device, or the services of an assistance animal to perform DLA, under Section 2(2)(b)(ii) of the EAPWDA, has not been met was reasonable.

Overall, the panel finds that the ministry's reconsideration decision was reasonably supported by the evidence and confirms the decision pursuant to Section 24(2)(a) of the Employment and Assistance Act.