

### PART C – Decision under Appeal

The decision under appeal is the ministry's reconsideration decision dated April 17, 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) An Authorization and Waiver of Confidentiality form dated February 22, 2012 and signed by the Appellant in favor of her physician;
- 2) The Appellant's Person With Disabilities (PWD) Application with applicant information dated December 13, 2011, physician report dated January 18, 2012 and assessor report dated January 18, 2012;
- 3) Persons with Disabilities Designation Decision Summary dated February 3, 2012;
- 4) A fax cover sheet from the Appellant's Advocate addressed to the Ministry dated February 22, 2012 enclosing a waiver signed by the Appellant;
- 5) A statement of the Appellant dated April 2012 and with the words "Approved by email communication" in the signature line;
- 6) A letter dated April 16, 2012 from a chiropractor that states in part that the Appellant has complained of cervical and thoracic pain ongoing since July 24, 2011; that the Appellant exhibits significant soft tissue tension, locked posterior rotation and significant spinal torsion throughout the majority of her back; that a plan of management will include spinal manipulative therapy, Active Release Techniques and exercise prescription as well as low intensity laser treatments; that the Appellant receives regular massage therapy; that any form of activity would be perceived as extremely strenuous; and that the Appellant seems motivated to do any and all exercises although as treatment has just started anything too strenuous will limit her road to recovery;

Prior to the hearing, the appellant provided a copy of an Extended Statement from her chiropractor dated May 3, 2012. This statement indicates that the Appellant received chiropractic treatment on April 23, April 26, April 30 and May 3, 2012. At the bottom of the page it notes in that 6-8 treatments are recommended at a cost of \$50.00 each. 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 treatment 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 has a severe disability and that every day it significantly restricts her activities. The appellant states that she needs help from others, or should be getting it, due to her disability.

At the hearing, the appellant stated that her physical condition is severe and she is worried that it will get worse over time. She stated that she will likely have to invest in a good chair or some manner of back support. She stated that her chiropractor has told her that once her initial treatments are complete, she will need to come once a month for ongoing treatment which she can't afford. The appellant stated that she may need more things beyond the slant board and clay pack as her condition worsens. The appellant stated that she is 54 years old and that in addition to her physical injuries, she suffers from depression and anxiety. She says that she will require an intensive management program. She says that with respect to any tasks that she does, she can see in the future that she may not be as independent as she is now. Because she has had to restrict her activities, the appellant says that there are some things she can't do like vacuum, wash a tub or reach high things. The appellant stated that her chiropractor advised her to use very slow movements and that she is currently receiving laser treatments on her neck. Further, she uses pillows for back and hip support which takes pressure off her spine and provides padding for hips and she uses a heating

pad but that these are only a temporary fix. The appellant stated that she can't sit for more than an hour or two and that when she does she needs back support. The appellant stated that she becomes fatigued very easily and that she is constantly rotating between sitting, lying and standing to relieve pain in back. The appellant stated that her pain interferes with her sleep patterns and she often wakes up at 4:00 am leaving her tired during the day. The appellant stated that there is never a time when her back isn't in spasm. The appellant stated that her doctor has told her that this will be an ongoing problem and she thinks the arthritis will be a problem for the rest of her life. The appellant stated that she doesn't require an assistive device yet but she does need treatment now as well as vitamins and supplements as suggested by her doctor that cost money she can't afford and that she may require aids in the future that require money too. The appellant stated that her life changed overnight and she's been required to make a lifetime adjustment in the 9 ½ months since her car accident. The appellant stated that she is not getting better despite treatments and that is very depressing and that she gets really down at times due to having to make the adjustments. The appellant stated that the affordability is depressing too. The appellant stated that she used to be in very good shape and it is hard to be told not to hike and not to do the things she used to. The appellant stated that for relief from pain she would heat up a clay pack in water which takes about an hour and it weighs about 7lbs but that she has discontinued using it due to its weight. The appellant continued that she doesn't carry a heavy purse now and she only carries bags that are light. The appellant stated that she is trying to adjust to her situation and that she is fortunate to have her daughter to help her with shopping and with cleaning her home once a month.

In response to a question, the appellant stated that she sustained a compression fracture of her vertebrae as well as whiplash in a motor vehicle accident in July 2011 and that following the accident she started receiving massage therapy and physiotherapy in late July 2011 and then chiropractic treatment on April 23, 2012, and that she had received no similar treatment prior to that as there was no need for it aside from some treatment for her carpal tunnel condition. The appellant stated that her osteoarthritis in her hip, osteoporosis, carpal tunnel and fractured humerus pre-dated the motor vehicle accident. In response to a question, the appellant stated that she had developed techniques to assist her in transferring on and off chairs and in and out of bed. The appellant stated that she has learned to roll off and onto bed and that she uses her abdomen and legs more to take the pressure off of her back. The appellant also stated that when sitting, she places her feet on a foam roll, uses cushions and a heating pad. In response to a question, the appellant stated that she has not taken any medication for her physical injuries other than painkillers initially at the time of the motor vehicle accident. She continued that she has taken homeopathic anti-inflammatories and always has her heating pad ready. In response to a question, the appellant stated that she has constant pressure and spasms in the muscles that support her spine and that this pain is always present which in turn impedes her sleep. In response to a question the appellant said that her chiropractor gave her two basic and simple exercises and directed her not to overdo things. She continued that her chiropractor has recommended ongoing treatment once per month after her initial treatment. In response to a question, the appellant stated that she is careful about how she moves and that she has to think about and plan her movements and she used putting her shoes on as an example. Further, the appellant stated that she washes dishes right away after meals rather than letting them accumulate, she doesn't store things too high and she uses smaller containers to avoid heavy lifting.

In her self-report included in the PWD application, the appellant states that she was in a car accident on July 24, 2011 and has a fractured vertebra and suffers from whiplash. The appellant states that she is in pain every day from her back, neck and shoulders and that there is very little mobility in her spine. The appellant states that she is very stiff and rigid all over and that she has to lie down

frequently to ease her muscle tension and pain. The appellant adds that her condition has intensified and worsened over time despite physiotherapy and massage therapy. The appellant states that her symptoms include nausea, exhaustion, frustration, depression, anxiety and restlessness. The appellant states that her neck and back pain limit what she can do and how much she can do throughout the day. She states that she can't stand or sit for long before having to move to another position or lie down and apply heat to the affected areas. She says she cannot perform simple menial tasks such as vacuuming, washing out the bathtub or anything that requires bending in extreme or reaching too high for something without experiencing pain. The appellant states that it takes her twice as long to finish a task as it used to or what a normal person could do in that time and that she has to break frequently to rest her back and neck. The appellant adds that she can't and won't lift anything heavy nor will she push or pull or extend herself in such a way as to aggravate her condition and cause more pain. She adds that she has to find someone else to do it for her if that is the case. The appellant states that shopping is more frequent as she is unable to carry the weight she used to noting about half as much. She adds that without a vehicle, it is much more time consuming and tiring and costs more for bus fare as well. The appellant states that she feels depressed most of the time and fearful and anxiety ridden about her future health and well-being. She notes that it is a huge life adjustment not only physically but mentally and emotionally as she has to adapt in all ways and develop coping tools and techniques to maintain.

The physician who completed the physician report has confirmed that the appellant has been his patient since October 4, 2011 and that he has seen the appellant 2 to 10 times in the past 12 months. In the physician report, the physician confirms a diagnosis of compression fracture vertebrae with date of onset July 2011, osteoarthritis in the hip, osteoporosis, carpal tunnel with date of onset March 2008 and fractured humerus with date of onset April 2009. In the physician report, the physician adds comments that the appellant is "...in chronic pain. Nerve impingement at left scapula. Has had multiple fractures secondary to osteoporosis. Limited range of movement and recurrent muscle spasms aggravated [sic] by lifting and physical activity." The physician report indicates that the appellant has been prescribed no medication that would interfere with her ability to perform DLA and the physician reports that the appellant does not require an aid for her impairment. With respect to the degree and course of impairment, the physician notes that the appellant's osteoporosis and osteoarthritis are progressive in nature. The physician reports that the appellant can walk 4 or more blocks unaided on a flat surface, she can climb 5 or more stairs unaided, she can lift 5 to 15 lbs., and can remain seated for 1 – 2 hours. The physician indicates that there are significant deficits with cognitive and emotional function in the areas of consciousness, memory, emotional disturbance and motivation. The physician notes "chronic pain contributing to depressed mood." Finally, the physician provides additional comments stating that the appellant has prominent degenerative disc disease present at C5-6-7, compression fracture with wedging and loss of disc height at T8, "DDD at L4-5 and L5-S1", spondylolisthesis L4-5 and osteoarthritis bilaterally in her hips.

The appellant's physician also completed the assessor report and indicates that the appellant's ability to communicate is good with speaking and hearing and satisfactory with reading and writing, with the note "some problems with concentration." With respect to mobility and physician ability, the physician indicates the appellant is independent walking indoors and outdoors and climbing stairs but requires periodic assistance lifting and takes significantly longer than typical with standing, lifting, carrying and holding and notes, in the report, that "...takes twice as long to get anything done. Limit weight that she can carry at once. Cannot lift anything greater than 2 lbs. Need to rest frequently. Chronic back pain with sitting or standing." With respect to cognitive and emotional functioning, the physician indicates that the appellant's mental impairment has a moderate impact on her emotion and

attention/concentration but the physician does not check any of the remaining categories. The physician comments that for the last five months, the appellant has felt anxiety ridden and fearful about her condition and the future. The physician says that any stress on top of that which the appellant is experiencing is too much and that she has a fragile emotional state and feels depressed all the time. The physician states that the appellant feels confused and "slow thinking process" and he quotes the appellant as saying "...my physical problems restrict what I can do." The physician indicates that the appellant is independent with all tasks of personal care other than transfers in and out of bed and on and off of chair which takes significantly longer than typical with the note that the appellant has developed techniques to handle this. The physician indicates that with basic housekeeping the appellant takes significantly longer than typical with laundry and basic housekeeping and notes that she needs to rest and sit down. With all tasks of shopping, the physician indicates that the appellant is independent with reading prices and labels, making appropriate choices and paying for purchases but that she takes significantly longer than typical with going to and from stores as well as carrying purchases home. 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 getting in and out of a vehicle and using public transit but that she is independent with using transit schedules and arranging transportation.

The physician has assessed the appellant as being independent in social functioning in respect of making appropriate social decisions and interacting appropriately with others but that she requires periodic support/supervision in her ability to develop and maintain relationships, secure assistance from others and deal appropriately with unexpected demands for which the physician notes "anxious." The physician indicates that the appellant has marginal functioning in both immediate and extended social networks. With respect to assistance provided, the physician notes that the help required by the appellant for DLA is provided by "other" and that the assistance that would be necessary includes a bus pass, swimming pass, massage and chiropractic treatment, calcium supplements, glucosamine and MSN. The physician does not indicate that the appellant requires assistance through the use of assistive devices but comments that she uses a clay pack for heat on her neck and back as well as a slant board and that for equipment required but not currently being used, the appellant requires a cork block for her sacral region. Lastly, the physician states that the appellant does not have an assistance animal and that the "...progress [sic] nature of disease can lead to more requirements in future."

## PART F – Reasons for Panel Decision

The issue on this 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 based on all of the evidence, the appellant has not met all of the criteria for PWD designation as set out in the EAPWDA and EAPWDR. While the ministry acknowledges that the appellant does have limitations, the ministry argues the evidence does not establish a severe physical impairment. The ministry references the physician report where it indicates that in terms of physical functioning, the appellant is able to walk 4 or more blocks and climb 5 or more steps unaided, remain seated for 1 – 2 hours and lift 5 – 15 lbs. The ministry says that it is unclear why the physician comments that the appellant cannot lift "anything >2lbs" when the physician has indicated in his functional assessment that the appellant can lift 5-15 lbs. and independently manage the majority of her DLA including heavier tasks such as cooking and basic housekeeping. The ministry references the assessor report where the physician indicates that the appellant can independently walk indoors and outdoors and climb stairs.

The appellant argues that the decision of *Hudson v. Employment and Assistance Appeal Tribunal*, 2009 BCSC 1461 stands for the proposition that the applicant section of the PWD application must be considered and given weight by the ministry in preparing its reconsideration decision unless there is a reason not to. In the present case, the appellant submits that there is no reason not to consider her evidence and that it is corroborated by that of her physician and chiropractor. The appellant argues

that the reconsideration officer did not consider the appellant's statements in the PWD application insofar as no reference was made to the contents of her statements and as such, the reconsideration decision was unreasonable. The appellant argues that the *Hudson* decision requires that a "big picture approach" be taken in determining applications for PWD designation and that the ministry failed to properly consider the evidence of the appellant's chiropractor as corroborative of the appellant's statements. The appellant submits that she is in constant need of rest, that she needs to lie down frequently to ease her muscle tension and pain and that her physical condition is severe, describing it as constant and consistent pressure and spasm in her neck and back. The appellant states that she experiences pain every day in her back, neck and shoulders and that she has very little mobility in her spine. The appellant states that her condition has worsened and intensified over time and that her symptoms include nausea, exhaustion, frustration, depression, anxiety and restlessness and that her back and neck pain limit what she can do and how much she can do throughout the day.

The panel notes that the evidence of a medical practitioner confirms a diagnosis of compression fracture in the appellant's vertebrae, osteoarthritis in her hip, osteoporosis, carpal tunnel and a fractured humerus. The physician describes the severity of the appellant's medical conditions as including "chronic pain" with "nerve impingement at left scapula" as well as "multiple fractures secondary to osteoporosis" and "limited range of movement and recurrent muscle spasms aggravated [sic] by lifting and physical activity." The physician reports that the appellant does not require an aid for her impairment and that her osteoporosis and osteoarthritis are progressive in nature. The physician reports that the appellant can walk 4 or more blocks unaided on a flat surface, she can climb 5 or more stairs unaided, she can lift 5 to 15 lbs., and can remain seated for 1 to 2 hours. The physician indicates that the appellant requires periodic assistance with lifting and that she takes significantly longer standing, lifting and carrying and holding and he adds the comment that the appellant "...takes twice as long to get anything done. Limit weight that she can carry at once. Can not [sic] lift anything > 2 lbs. Need to rest frequently. Chronic back pain with sitting or standing." The panel finds that the appellant's chiropractor has diagnosed her with "significant soft-tissue tension in the scalenes, levator scapulae, trapezius, supraspinatus, rhomboids and paraspinal muscles bilaterally, however worse on the right." The panel finds that the evidence of the chiropractor includes the finding that "It is very evident that with such severe spinal rotation and muscular symptoms any form of activity whatsoever would be perceived as extremely strenuous."

Overall, the panel notes the evidence that the appellant experiences chronic pain in her neck, back and shoulders that is constant in nature with the result being that she is in constant need of rest or change of position and that she experiences a limited range of motion as reported by her physician. While there is some inconsistency between the physician's written statement that the appellant cannot lift anything over 2 lbs as opposed to the notation in the physician report that the appellant can lift between 5 and 15 lbs., the panel also notes the testimony of the appellant that her ability to lift and carry is significantly restricted. The panel concludes that considering the evidence as a whole, the ministry was not reasonable in relying on the numerical indicators (number of blocks, etc) and not giving sufficient weight to these functional abnormalities in its determination that the evidence does not establish a severe physical impairment.

With respect to mental functioning, the ministry submits that the appellant's physician notes deficits in her cognitive and emotional functioning in the areas of consciousness, emotional disturbance and motivation and that her impairments have moderate impacts in the areas of emotion and attention. However, the ministry argues that the appellant's physician did not indicate how the appellant's



impairments impact the remaining 12 categories of cognitive and emotional functioning and as such, the evidence does not establish that the appellant has a severe mental impairment. The appellant argues that due to her physical symptoms, she has suffered from depression and anxiety particularly when she thinks about how her physical condition will affect her in the future.

The appellant's physician indicates that she has significant deficits with cognitive and emotional function in 4 out of 11 defined areas, being consciousness, memory, emotional disturbance and motivation and he comments that the appellant suffers from "...chronic pain contributing to depressed mood." In the assessor report, the physician notes that the appellant's ability to communicate is good in speaking and hearing but satisfactory in reading and writing and he notes that the appellant has "some problems with concentration." The physician indicates that there are two moderate impacts to cognitive and emotional functioning in emotion and attention/concentration but the physician has not checked the remaining 12 areas. The physician also adds the following comments: "For the last 5/12, she has felt anxiety ridden, fearful about condition and future. Any stress at all on top of what she is experiencing is too much. Fragile emotional state. Feels depressed all the time. Feels confused and slow thinking process. "My physical problems restrict what I can do"." The physician indicates that there are restrictions with social functioning in that the appellant requires periodic support/supervision in her ability to develop and maintain relationships, in her ability to deal appropriately with unexpected demands which he notes "anxious", and her ability to secure assistance from others. The appellant further notes that the appellant has marginal functioning with immediate and extended social networks with no other comments provided.

The panel notes that the appellant suffers from depression and anxiety although more specifically when considering the potential for her physical condition to worsen over time and as such the panel concludes that considering the evidence as a whole, the ministry's determination 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 argues that the appellant can manage the majority of her DLA independently and that while the evidence suggests that it takes the appellant longer to transfer in and out of bed, on and off of chairs, do laundry and basic housekeeping, going to and from stores, carrying purchases home, getting in and out of a vehicle and using public transit, her physician does not say how much longer it takes nor does the physician state whether the appellant requires periodic or continuous assistance from another person with her DLA. The Ministry submitted that while completion of DLA takes longer for the appellant, the evidence demonstrates that she can independently manage the majority of her DLA and as such the evidence does not demonstrate a significant restriction. The ministry argues that the Assessor Report in the PWD application indicates that the appellant uses a clay pack and a slant board but that there is no indication these are required by the appellant to complete her DLA and as such, it cannot be concluded that the appellant requires significant assistance from another person to complete her DLA.

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 appellant argues that her pain, constant need for rest, restrictions regarding lifting and carrying, limited range of motion and constant pain limit her ability to function and perform her DLA. The appellant cites numerous examples in the PWD application form which reference her need to rest, her limited ability to lift and carry, her limited range of motion and her constant pain. The



appellant argues that her constant need for rest is a direct and significant result of her injuries and which restrict her ability to function and the appellant takes the position that the ministry has not acknowledged this.

The panel finds that the legislation requires that the ministry be 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 the appellant's physician indicates in the assessor report of the PWD application that she is independent in 20 of 28 DLA tasks. In terms of preparing her own meals, the physician indicates in the assessor report, that the appellant is independent with all tasks including meal planning, food preparation, cooking and safe storage of food. For managing personal finances, the physician indicates that the appellant is independent with all tasks. In terms of shopping for her personal needs, the physician indicates that the appellant takes significantly longer going to and from stores and carrying purchases home but that she is independent in reading prices and labels, making appropriate choices and paying for purchases. The appellant stated that her daughter helps her with shopping as she can reach higher items and carry heavier items.

For use of public or personal transportation facilities, the physician indicates in the assessor report that the appellant takes significantly longer than typical with getting in and out of a vehicle and using public transit but that she is independent in using transit schedules and arranging transportation. With respect to performing housework to maintain the appellant's place of residence in an acceptable sanitary condition, the physician notes in the assessor report that the appellant takes significantly longer than typical with doing basic housekeeping and laundry and notes that the appellant needs to rest and sit down. The appellant states that she cannot vacuum or wash the bathtub and that her daughter comes over once a month to help clean her home. The appellant's chiropractor states that "any form of activity whatsoever would be perceived as extremely strenuous." For moving about indoors and outdoors, the physician indicates that the appellant is independent walking indoors and outdoors and with climbing stairs but that she requires periodic assistance from another person for lifting and that she takes significantly longer than typical with standing, lifting and carrying and holding. The physician does not indicate that the appellant uses an assistive device for mobility. The physician notes that the appellant takes twice as long to get anything done and that she limits the weight she can carry at once. The physician says that the appellant cannot lift anything that weighs more than 2lbs, that she needs to rest frequently and that she has chronic back pain with sitting or standing.

Regarding performing personal hygiene and self-care, the physician indicates in the assessor report that the appellant is independent with dressing, grooming, bathing, toileting, feeding self and regulating diet but takes significantly longer than typical with transfers in/out of bed and transfers on/off a chair for which the physician notes that the appellant has developed techniques to handle these. With respect to managing her personal medications, the physician again indicates that the appellant is independent with all tasks including filling/refilling prescriptions, taking as directed and safe handling and storage.

Looking at the evidence as a whole, the panel finds that the appellant's physician reports that the appellant is independent in most DLA and that she does not require either periodic or continuous assistance from another person for any of the listed DLA other than lifting although she does take significantly longer than typical with some. The appellant's chiropractor states that any activity by the appellant would be perceived as extremely strenuous but the legislative test goes beyond this

description and requires that a prescribed professional be of the opinion that DLA be directly and significantly restricted either continuously or periodically for extended periods. 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 lives alone and receives periodic help from family, being her daughter. 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.