

### PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development (ministry) 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 his impairment is likely to continue for at least two years. However, the ministry was not satisfied that the evidence establishes that he 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 he 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) Person With Disabilities (PWD) Application: applicant information dated January 10, 2012, consisting of a typewritten page, physician report dated December 24, 2011 and assessor report dated December 24, 2011;
- 2) Letter from the ministry to the appellant dated January 29, 2012 denying person with disabilities designation and enclosing a copy of the decision summary;
- 3) Copy of page from physician report dated March 5, 2012 signed by the appellant's psychiatrist which states in part that the psychiatrist responds "yes" to the question whether the appellant's impairment directly restricts his ability to perform daily living activities, and that the appellant is continuously restricted in personal self care, meal preparation, management of medications, basic housework, daily shopping, mobility outside the home, use of transportation, management of finances and social functioning, with no restriction in the area of mobility inside the home; With respect to social functioning, the psychiatrist notes "...poor judgment, forgetful, decision making impaired, difficulty interacting with others", and regarding the degree of restriction "too anxious to perform"; with respect to the assistance needed: "...requires assistance with ADL, requires his wife's help, she is getting tired of it;"
- 4) Question form dated March 20, 2012 signed by the appellant's psychiatrist which states in part, in response to the question whether the appellant has a severe mental impairment, when the impact of his conditions on his daily functioning is considered, that: "Yes, he has a generalized anxiety disorder and obsessive compulsive disorder; does the appellant often taken significantly longer than normal to complete most daily living activities as a direct result of his mental limitations: "yes"; is the appellant's level of activity significantly reduced as a direct result of his impairment: "yes"; is his ability to cope with the stresses of daily life, make appropriate decisions in a timely manner, and interact with other people significantly restricted by his mental impairment: "yes"; how often is he significantly restricted in his ability to perform daily living activities by one or more of his recurring symptoms: "Frequently over past 14 years"; overall, do his health limitation significantly restrict his ability to perform a range of daily living activities continuously or periodically for extended periods: "yes, difficulty decision making"; and, as a result of his health restrictions, does the appellant need significant help or supervision from other people to manage daily living activities: "Yes"; and,
- 5) Request for Reconsideration.

Prior to the hearing, the appellant's advocate provided additional documents as follows:

- 1) Written submission on behalf of the appellant;
- 2) Self Report by the appellant dated April 30, 2012 which states in part that he has had severe debilitating anxiety and obsessive compulsive disorder since childhood but it was not diagnosed until 1997. The appellant states that he began seeing the psychiatrist about that time and has seen him on and off since then. The appellant states that In March 2011 he became suicidal and was treated in hospital. The appellant states that he also has a right ankle deformity from an injury in 2000 and that he needs to wear an ankle brace for support, that this is where he gets the gout attacks. The appellant states that he has severe chronic pain in his right ankle that restricts standing, walking, and climbing stairs. The appellant explains that his gout attacks are down to about 4 times per year but his ankle hurts every day. The appellant states that he is significantly affected every day by his mental health condition and his sore and weak right ankle. The appellant states that he only bathes and dresses when he has to go out, generally once every 4 or 5 days since he leaves home only when absolutely necessary due to anxiety. The appellant explains that he might drive his wife and kids to the shopping centre and stay in the car while they shop because he is too anxious to be in public. The appellant states that he is too anxious to do anything including personal self care, meal preparation, taking his medications and renewing prescriptions and paying bills; these things do not get done unless his wife does them or makes him bathe, take his medications, and pay the bills. The appellant states that his oral health is very poor because he rarely performs oral hygiene and has put off going to the dentist for 3 or 4 years due to anxiety. The appellant states that his wife has to renew his prescriptions, remind him to take medications and manage their finances or this is not done; she must make most of the meals, do all the housework and shop with a small amount of help from him;

- 3) Question form dated May 8, 2012 signed by the appellant's psychiatrist which states in part that he agrees with the self report completed by the appellant on April 30, 2012 and that the psychiatrist supports the appellant's application for disability.

The ministry did not raise an objection to the admissibility of these documents. The panel reviewed the documents and admitted the appellant's self report and the Question form as being a further description of the appellant's diagnosed impairments 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. The panel accepted the Written Submission on behalf of the appellant as argument on behalf of the appellant.

In his self report included with the PWD application, the appellant states that he has been dealing with depression and extreme anxiety for roughly 15 years and he has recently been diagnosed with a bad case of gout. The appellant states that now that both have come at the same time, it has made both conditions very hard to live with on a daily basis. The appellant states that his mental disability has made his life very hard due to the inability to function normally in society both socially and productively. The appellant states that he has had a very hard time maintaining proper employment and being a productive member of the community. The appellant states that with his physical disability he was not able to walk from weeks to months and he had no use of his legs for 3 months. The appellant states that he lost his previous employment due to his mental disability and he is in his early 40's and having to relearn and change careers is depressing, that "...sometimes leaves me to like being in a no win situation on most days." The appellant states that he manages what he can in terms of being able to take care of himself but when his gout acts up he is completely useless and his wife takes care of their 2 children; that due to his inability to handle stress and anxiety properly, she has to manage them and him when the situation arises. The appellant states that on good days he is almost fully functional with the occasional mental issues but during bad days it is up to his wife.

The physician who completed the physician report indicates the appellant has been his patient since 1995 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 anxiety disorder, mood disorder, and gouty arthritis. The physician adds a comment regarding the severity of the medical condition relevant to the appellant's impairment "...history of recurrent anxiety disorders and panic attacks since 1998; in March 2011 [the appellant] developed acute exacerbation of his anxiety symptoms in association with depression." The physician adds that the appellant was assessed in hospital by a psychiatrist and diagnosed with anxiety disorder and depression, that symptoms were precipitated by the responsibility of caring for 2 young children, that he lost his job due to severe and persistent gouty arthritis affecting his lower extremities, he requires an ankle brace for support and he is still followed by a psychiatrist. The physician indicates that the appellant has been prescribed medications that interfere with his ability to perform daily living activities (DLA), namely Prozac and Ativan, and he requires an aid for his impairment in the form of an ankle brace. The physician reports that the appellant can walk 2 to 4 blocks unaided on a flat surface, he can climb 5 or more steps unaided, can lift 15 to 35 lbs. and has no limitation with remaining seated. The physician indicates that there are no difficulties with communication. The physician indicates that there are significant deficits with cognitive and emotional function in the areas of executive, emotional disturbance, motivation, impulse control, motor activity and attention or sustained concentration. In response to the question whether the appellant's impairment directly restricts his ability to perform DLA, the physician indicates "yes" and reports that the appellant is periodically restricted in the areas of personal self care, meal preparation, basic housework, daily shopping, mobility inside the home, mobility outside the home, use of transportation, and management of finances, and social functioning, with no restriction in the area of management of medications. With respect to social functioning, the physician adds the comment "...depression, anxiety affects his ability to communicate with others." For information regarding "periodic", the physician comments "...during period of either acute exacerbation of his anxiety or gout."

The physician also completed the assessor report and indicates that that the appellant has a satisfactory ability to communicate in all areas with a note that "...usually satisfactory except during his episodes of panic attack/ anxiety or depression." The physician indicates that the appellant is independent with all areas of mobility and

physical ability, including walking indoors and walking outdoors, climbing stairs, standing, lifting and carrying and holding, with the comment "...gouty attack will significantly affect his ability to walk, climb, stand." The physician indicates 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 chair. The physician reports that the appellant is also independent with doing laundry and basic housekeeping. The physician indicates that the appellant is independent with most tasks of shopping, including going to and from stores, reading prices and labels, making appropriate choices, and paying for purchases, but requires periodic assistance from another person for carrying purchases home. Further, the physician reports that the appellant requires periodic assistance with all of the tasks of managing meals, including meal planning, food preparation, cooking and safe storage of food, with the comment "...wife usually helps him to prepare food and cooking." The physician indicates that the appellant is independent with most tasks of paying rent and bills (including banking), all tasks of managing medications (filling/refilling prescriptions, taking as directed and safe handling and storage) and transportation (getting in and out of a vehicle, using public transit, and using transit schedules and arranging transportation).

The physician indicates that there are no major impacts to cognitive and emotional functioning, with moderate impacts in the areas of bodily functions ("sleep disturbance"), emotion, and attention/concentration, with minimal/moderate impacts in impulse control, executive, and motivation. The physician reports minimal impacts in 3 remaining areas, and no impact in 2 areas. The physician adds comments that the symptoms are mostly influenced by his level of anxiety and depressive mood. The physician indicates that the appellant requires periodic support/ supervision in two areas of social functioning, including developing and maintaining relationships and interacting appropriately with others ("dependent on mood/anxiety level"), while being independent with making appropriate social decisions, dealing appropriately with unexpected demands, and securing assistance from others. The physician reports good functioning in both the appellant's 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 he does not have a severe mental or physical impairment and that his 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 as follows:

### Persons with disabilities

2 (1) In this section:

"**assistive device**" means a device designed to enable a person to perform a daily living activity that, because of a severe mental or physical impairment, the person is unable to perform;

"**daily living activity**" has the prescribed meaning;

"**prescribed professional**" has the prescribed meaning.

(2) The minister may designate a person who has reached 18 years of age as a person with disabilities for the purposes of this Act if the minister is satisfied that the person has a severe mental or physical impairment that

(a) in the opinion of a medical practitioner is likely to continue for at least 2 years, and

(b) in the opinion of a prescribed professional

(i) directly and significantly restricts the person's ability to perform daily living activities either

(A) continuously, or

(B) periodically for extended periods, and

(ii) as a result of those restrictions, the person requires help to perform those activities.

(3) For the purposes of subsection (2),

(a) a person who has a severe mental impairment includes a person with a mental disorder, and

(b) a person requires help in relation to a daily living activity if, in order to perform it, the person requires

(i) an assistive device,

(ii) the significant help or supervision of another person, or

(iii) the services of an assistance animal.

(4) The minister may rescind a designation under subsection (2).

Section 2(1)(a) of the EAPWDR defines DLA for a person who has a severe physical or mental impairment as follows:

### Definitions for Act

2 (1) For the purposes of the Act and this regulation, "**daily living activities**" ,

(a) in relation to a person who has a severe physical impairment or a severe mental impairment, means the following activities:

(i) prepare own meals;

(ii) manage personal finances;

(iii) shop for personal needs;

(iv) use public or personal transportation facilities;

- (v) perform housework to maintain the person's place of residence in acceptable sanitary condition;
  - (vi) move about indoors and outdoors;
  - (vii) perform personal hygiene and self care;
  - (viii) manage personal medication, and
- (b) in relation to a person who has a severe mental impairment, includes the following activities:
- (i) make decisions about personal activities, care or finances;
  - (ii) relate to, communicate or interact with others effectively.

The ministry argues that the evidence does not show that the appellant has a severe physical impairment. The ministry argues that in terms of physical functioning, the physician indicates that the appellant is able to walk 2 to 4 blocks and to climb 5 or more steps unaided and to lift 15 to 35 lbs. with no sitting limitation. The ministry points out that the physician reports the appellant is independent in all aspects of mobility and physical abilities with the comment that "...gouty attacks will significantly affect his ability to walk, climb, stand" and there is no information on the frequency or duration of such attacks. The ministry argues that the functional skill limitations are not significantly restricted and are performed independently, although an ankle brace is used for support. The advocate argues, on behalf of the appellant, that he has a severe physical impairment as a result of gouty arthritis. The advocate argues that the physician indicates that the appellant's walking is restricted to 2 to 4 blocks. The advocate argues that the physician has reported that the appellant requires an assistive device, being an ankle brace, and that the appellant, therefore, is not "independent" with walking indoors and out, standing, lifting, carrying and holding. The advocate points out that the psychiatrist endorsed the appellant's self-report of April 30, 2012 which states that the appellant has severe chronic pain in his right ankle that restricts standing, walking, and climbing stairs, that his gout attacks are down to about 4 times a year but his ankle hurts every day.

The panel finds that the evidence of a medical practitioner confirms a diagnosis of gouty arthritis. The physician adds a comment regarding the severity of the medical condition relevant to the appellant's impairment that he lost his job due to severe and persistent gouty arthritis affecting his lower extremities and he requires an ankle brace for support. The physician indicates that the appellant has been prescribed medications that interfere with his ability to perform daily living activities (DLA), namely Prozac and Ativan which are related to his mental disorders, and he requires an aid for his impairment in the form of an ankle brace. The physician reports that the appellant can walk 2 to 4 blocks unaided on a flat surface, he can climb 5 or more steps unaided, can lift 15 to 35 lbs. and has no limitation with remaining seated. In the assessor report, the physician indicates that the appellant is independent with all areas of mobility and physical ability, including walking indoors and walking outdoors, climbing stairs, standing, lifting and carrying and holding, with the comment "...gouty attack will significantly affect his ability to walk, climb, stand." In his self-report dated April 30, 2012, the appellant states that he has severe chronic pain in his right ankle that restricts standing, walking, and climbing stairs, that his gout attacks are down to about 4 times per year but his ankle hurts every day. In the appellant's self report included with the PWD application, he states that he had no use of his legs for 3 months. The panel finds that the evidence demonstrates that although the bouts of gout attacks exacerbate the appellant's arthritis and may further limit his functional skills and mobility, which are otherwise independent, the ministry reasonably determined that the frequency and duration of these attacks has not been confirmed by the appellant's physician. 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 appellant's physician reports several deficits to cognitive and emotional functioning however there is no difficulty with communication which is "...usually satisfactory except during his episodes of panic attacks/anxiety or depression." The ministry argues that no frequency or duration of these episodes is described to allow the ministry to determine its significance. The ministry points out that impacts on daily functioning vary between minimal to moderate with no major impacts and the appellant's physician comments

"...symptoms were mostly influenced by his level of anxiety and depressive mood." The appellant's advocate argues that the evidence establishes that the appellant suffers from a severe mental impairment as a result of both an anxiety disorder/ obsessive compulsive disorder and a mood disorder/ depression. The advocate points to the physician's description of a history of recurrent anxiety disorder and panic attacks and treatment and assessment at the hospital in 2011 for severe anxiety and depression and that currently the appellant is still followed by a psychiatrist. The advocate also points to the assessor report in which the physician indicates that the appellant's depression and anxiety affected his decision-making process and the ability to remain focused and, although he assesses satisfactory ability to communicate, he also explains that these activities were usually satisfactory except during episodes of an attack/ anxiety or depression. The advocate argues that the appellant's psychiatrist confirms, in the Question form dated March 20, 2012, that the appellant has a severe impairment with generalized anxiety disorder and obsessive compulsive disorder. The advocate points out that the psychiatrist also indicates, on the page from the physician report, that the appellant requires continuous assistance with social functioning which is impacted by poor judgment, forgetfulness, impaired decision making and difficulty interacting with others.

The panel finds that the evidence of a medical practitioner confirms a diagnosis of anxiety disorder/ obsessive compulsive disorder and a mood disorder/ depression. The physician adds a comment regarding the severity of the medical condition relevant to the appellant's impairment "...history of recurrent anxiety disorders and panic attacks since 1998; in March 2011 [the appellant] developed acute exacerbation of his anxiety symptoms in association with depression." The physician adds that the appellant was assessed in hospital by a psychiatrist and diagnosed with anxiety disorder and depression and that he is still followed by a psychiatrist. The physician indicates that the appellant has been prescribed medications that interfere with his ability to perform daily living activities (DLA), namely the psychotropic medications Prozac and Ativan. In the physician report, the physician indicates that there are no difficulties with communication, but in the assessor report he indicates that the appellant has a satisfactory ability to communicate in all areas with a note that "...usually satisfactory except during his episodes of panic attack/ anxiety or depression." The physician indicates that there are significant deficits in 6 of 11 areas of cognitive and emotional functioning, namely executive, emotional disturbance, motivation, impulse control, motor activity and attention or sustained concentration. In the assessor report, the physician indicates that there are no major impacts to cognitive and emotional functioning, with moderate impacts in the areas of bodily functions ("sleep disturbance"), emotion, and attention/concentration, with minimal/moderate impacts in impulse control, executive, and motivation. The physician reports minimal or no impacts in the remaining 5 areas. The physician adds comments that the symptoms are mostly influenced by his level of anxiety and depressive mood. In the Question form dated March 20, 2012, the psychiatrist who has followed the appellant since 1997 indicates, in response to the question whether the appellant has a severe mental impairment, when the impact of his conditions on his daily functioning is considered, that: "Yes, he has a generalized anxiety disorder and obsessive compulsive disorder."

The appellant's psychiatrist indicates, in the page from the physician report, that the appellant is restricted on a continuous basis with social functioning and notes "...poor judgment, forgetful, decision making impaired, difficulty interacting with others." The appellant's physician reports, on the other hand, that the appellant is periodically restricted with social function with the comment "...during period of either acute exacerbation of his anxiety or gout" and "...depression, anxiety affects his ability to communicate with others." The physician indicates that the appellant requires periodic support/ supervision in two areas of social functioning, including developing and maintaining relationships and interacting appropriately with others ("dependent on mood/anxiety level"), while being independent with making appropriate social decisions, dealing appropriately with unexpected demands, and securing assistance from others. Overall, the physician reports good functioning in both the appellant's immediate and extended social networks. The panel places more weight on the assessment by the appellant's psychiatrist, given that he has been involved with the appellant's care since about 1997, or for approximately 15 years, and is a specialist in the area of mental disorders. The panel finds that the evidence demonstrates that the appellant developed acute exacerbation of his anxiety symptoms in association with depression in March 2011 and that his long-term psychiatrist has indicated his condition is



currently assessed as severe generalized anxiety disorder and obsessive compulsive disorder. The panel finds that the ministry's decision, which concluded that the evidence does not establish a severe mental impairment, was not 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 appellant's physician reports periodic restrictions to 9 out of 10 DLA described as "...during periods of either acute exacerbation of his anxiety or gout" and with respect to social functioning that "...depression, anxiety affects his ability to communicate with others." The ministry argues that the appellant's physician reports that the appellant is able to perform 22 out of 28 DLA independently. The ministry points out that the physician indicates that social functioning is independent in 3 out of 5 aspects with periodic support/supervision required to develop/maintain relationships, to interact appropriately with others described as "...dependent on mood/anxiety level." The ministry argues that the amended page from the physician report has been completed by the appellant's physician with no explanation for this change, i.e. whether the appellant's conditions have deteriorated since completion of the PWD application on December 24, 2011. The ministry argues that while continuous restriction is reported to most DLA, restriction does not appear to affect the appellant's ability to perform DLA as he is independently able to do the majority of his daily tasks with little help from others. The appellant, through his advocate, argues that the evidence of his family physician and the psychiatrist, establishes that he is directly and significantly restricted in his ability to perform his DLA, either continuously or periodically for extended periods of time. The advocate argues that the appellant's psychiatrist completed the page from the physician report and reports continuous restrictions to all but one DLA and that social functioning is impacted by poor judgment, forgetfulness, impaired decision making and difficulty interacting with others. The advocate argues that the appellant's psychiatrist has also confirmed, in the Question form, that the appellant is significantly restricted in his ability to perform DLA by one or more of his symptoms recurring frequently over the past 14 years. The advocate points out that the psychiatrist has endorsed the appellant's self report dated April 30, 2012 in which he states that he is so anxious about doing anything, including personal care, meal preparation, managing medications and paying bills, that his wife must make him bathe, take his medications and pay bills and his oral hygiene is poor because he rarely performs oral hygiene or goes to the dentist.

The panel finds that the legislation requires that the ministry must 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. Whereas the ministry argues that the appellant's physician completed the additional page from the physician report, the panel finds that the psychiatrist who has been following the appellant since approximately 1997 completed this form, as confirmed by the appellant's advocate. In terms of preparing his own meals, the psychiatrist indicated in the page from the physician report that the appellant is continuously restricted in the area of meal preparation and the appellant's physician reported that the appellant is periodically restricted and requires periodic assistance from another person, with the note "...wife usually helps him to prepare food and cooking." In the self report endorsed by the psychiatrist, the appellant stated that he is too anxious to do anything including meal preparation, that this does not get done unless his wife does it and that his wife has to make most of the meals. For managing personal finances, the psychiatrist reported that the appellant is continuously restricted and the physician indicated that the appellant is periodically restricted. The physician also indicated that the appellant is independent with paying rent and bills and banking while requiring periodic assistance from another person with budgeting. The appellant stated in his self report that he is too anxious to do anything including paying bills, that this will not get done unless his wife does it or makes him pay the bills. The appellant stated that his wife has to remind him to manage their finances or this is not done

In terms of shopping for his personal needs, the psychiatrist indicated that the appellant is continuously restricted in this area and the physician reported that the appellant is periodically restricted and independent with most tasks but requires periodic assistance from another person with carrying purchases home. In his self report endorsed by the psychiatrist, the appellant stated that his wife has to do all the shopping with a



small amount of help from him, that he might drive his wife and kids to the shopping centre and stay in the car while they shop because he is too anxious to be in public. For use of public or personal transportation facilities, the psychiatrist indicated that the appellant is continuously restricted in this area and the physician indicated that the appellant is restricted on a periodic basis while being independent with all tasks including getting in and out of a vehicle, using public transit, and using transit schedules and arranging transportation. The appellant indicated in his self report that he drives and that he is anxious in public. With respect to performing housework to maintain the appellant's place of residence in an acceptable sanitary condition, the psychiatrist indicated that the appellant is continuously restricted and the physician reported that the appellant is periodically restricted but independent with basic housekeeping and doing his laundry. In his self report endorsed by the psychiatrist, the appellant stated that his wife has to do all the housework with a small amount of help from him.

For moving about indoors and outdoors, the psychiatrist reported in the page from the physician report that the appellant is continuously restricted with mobility outside the home but not restricted with mobility inside the home and the physician assessed the appellant as periodically restricted with both indoor and outdoor mobility. Regarding performing personal hygiene and self care, the psychiatrist indicated that the appellant is continuously restricted with personal self care and the physician reported that the appellant is restricted on a periodic basis while being independent with all tasks, including dressing, grooming, bathing, toileting, feeding self, regulating diet, transfers in/out of bed and transfers on/off chair. In his self report, the appellant stated that he is significantly affected every day by his mental health condition, that he only bathes and dresses when he has to go out, generally once every 4 or 5 days since he leaves home only when absolutely necessary due to anxiety. The appellant stated that he is too anxious to do anything including personal self care, that this does not get done unless his wife does them or makes him bathe. The appellant stated that his oral health is very poor because he rarely performs oral hygiene and has put off going to the dentist for 3 or 4 years due to anxiety. With respect to managing his personal medications, the psychiatrist indicated that the appellant is restricted on a continuous basis and the physician assessed the appellant as not restricted and independent with all tasks, including filling/refilling prescriptions, taking as directed and safe handling and storage. The appellant stated that he leaves home only when absolutely necessary due to anxiety, that he is too anxious to do anything including taking his medications and renewing prescriptions, that these things do not get done unless his wife does them or makes him take his medications.

For making decisions about personal activities, care or finances, the psychiatrist reported that the appellant is restricted on a continuous basis with social functioning characterized as "...poor judgment, forgetful, decision making impaired, difficulty interacting with others." In response to the question whether the appellant's ability to cope with the stresses of daily life, make appropriate decisions in a timely manner, and interact with other people significantly restricted by his mental impairment, the psychiatrist indicated: "yes." Also, in response to the question whether, overall, do the appellant's health limitations significantly restrict his ability to perform a range of DLA continuously or periodically for extended periods, the psychiatrist responded: "yes, difficulty decision making." The physician indicated that the appellant is periodically restricted with social functioning and comments "...depression, anxiety affects his ability to communicate with others" while, at the same time, assessing the appellant as being independent with making appropriate social decisions. For relating to, communicating or interacting with others effectively, the physician indicated that the appellant has a satisfactory ability to communicate but noted "...usually satisfactory except during his episodes of panic attack/anxiety or depression." In the assessor report, the physician assessed the appellant as requiring periodic support/ supervision interacting appropriately with others while, at the same time, having good functioning in both his immediate and extended social networks.

The panel finds that the appellant's long-term psychiatrist reported that the appellant is continuously restricted in 9 out of 10 areas of DLA and the appellant's long-term physician also assessed restrictions to a majority of DLA. While the physician also assessed the appellant as being independently able to perform most of the tasks of DLA, the panel finds that the evidence of the psychiatrist as a specialist, who has endorsed the appellant's self-report, demonstrates that the appellant is restricted on a continuous basis in most areas of

DLA. 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 not 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 psychiatrist and the appellant that he lives with his family and receives assistance primarily from his wife and that he uses an assistive device in the form of an ankle brace. In the page from the physician report, the psychiatrist reported with respect to the assistance needed that the appellant "...requires assistance with ADL, requires his wife's help, she is getting tired of it." 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 not reasonable.

The panel finds that the ministry's reconsideration decision was not reasonably supported by the evidence and rescinds the decision. Therefore, the ministry's decision is overturned in favour of the appellant.