

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development (ministry) reconsideration decision dated April 23, 2012 which found that the appellant did not meet four 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. However, the ministry was not satisfied that the evidence establishes that she has a severe physical or mental impairment and that her impairment is likely to continue for at least two years. 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) Person With Disabilities (PWD) Application: applicant information dated February 13, 2012 which included 3 additional typewritten pages, physician report dated February 16, 2012 and assessor report dated February 16, 2012;
- 2) Second copy of PWD Application with additional undated comments added to the assessor report by the appellant's physician;
- 3) EMG/Nerve Conduction Study Report dated February 16, 2012 which states in part that the appellant is a 34-year-old right-handed woman who, over the last 4 or 5 years, has experienced intermittent symptoms in the right arm. She experiences discomfort which starts in the shoulder region on the right side, extends down the radial aspect of the arm towards the thumb, index finger and middle finger. At times there is a tingling, burning type sensation and at other times she experiences more of a throbbing pain. The symptoms are often precipitated by driving but they can occur at any time. The symptoms are not associated with neck position and seem to occur more with repetitive activity of the arm and with driving. Occasionally she wakes up at night with these symptoms. She experiences no symptoms on the left side. She feels slightly weak at times but this does not appear to be a constant symptom. The appellant suffered a whiplash-type injury in a motor vehicle accident approximately 10 years ago and she has experienced chronic neck pain since then. The neck pain is constant whereas the arm symptoms seem to be intermittent. Facet rhizotomies were completed at multiple levels with no benefit and, in fact, she feels worse. A Cervical CT scan and MRI scan reveal evidence of foraminal stenosis at C6-7 likely associated with a sequestered disc. The appellant currently takes no medications. She works as a housecleaner. On physical examination, range of motion of the cervical spine was full, there were no cranial nerve findings, strength was normal in upper and lower extremities. There was no upper extremity muscle atrophy. The electro-physiologic studies showed nerve conduction studies in the right upper extremity were normal, no signs of denervation in C6 to C8 innervated muscles, neurodiagnostic findings are within normal limits. The clinical impression is that there is no evidence that she has a median neuropathy or some other potential entrapment neuropathy as a cause for the arm symptoms. There is also no definite evidence that she has an active C7 radiculopathy, despite the MRI scan findings which suggest that there is foraminal stenosis at the C6-7 level;
- 4) Diagnostic Imaging Report dated February 16, 2012 for an MRI of C-Spine which states in part that the finding is of disc protrusion versus sequestered disc fragment severely narrowing the right-sided C6-7 neural foramen. Suggest neurosurgical opinion.
- 5) Letter from the ministry to the appellant dated March 13, 2012 denying person with disabilities designation and enclosing a copy of the decision summary;
- 6) Letter dated March 30, 2012 from a neurosurgeon to the appellant's family physician which states in part that in approximately 2009 the appellant began to experience pain radiating down her right arm, the pain has progressively worsened and she finds it unbearable at times. She does not have persistent weakness or numbness in her right upper extremity; lifting objects with her right upper extremity or having her arm elevated dramatically worsens her pain. On physical examination, the appellant has a depressed affect and is clearly psychologically affected by her pain. The impression is right C7 radiculopathy without neurological deficit. In terms of the plan, the specialist believes surgery would very likely improve her arm pain; and,
- 7) Request for Reconsideration.

The appellant consented to a ministry observer attending the hearing for training purposes.

In her Notice of Appeal, the appellant states that she has been in severe pain since 2000 and she had surgery on her back and neck in early 2003 (faucet rhizotomy). The appellant states that she is having extreme difficulty performing her daily activities, washing her hair/body, dressing, cleaning, care of her children. The appellant states that she requires help every day with her cleaning, carrying groceries, and with care of her children. The appellant states that her family physician has expressed that she is not to lift any more than 5 lbs. or do repetitive movement with her right arm. The appellant states that her quality of life has diminished

greatly as she cannot maintain work to support her family and she is the only one that feels the pain every day.

In her self-report included with the PWD application, the appellant states that she has bulging discs in her neck at C6/7 and this causes intense pins and needles feeling down her right arm and in her right index and middle fingers and thumb. She also feels numbness in her right arm, shoulder, neck and right hand. The appellant states that she gets this feeling if her right arm is up for longer than 4-5 minutes picking up her young daughter, lifting a milk jug, writing a letter, or washing her car. She rates her pain at 10 on a scale from 1 to 10, with 10 being the highest. The appellant states that the pain is so unbearable it makes everyday tasks hard. The appellant states that she has excruciating headaches 4-5 days a week that last half a day to sometimes a full day and they are so painful that they incapacitate her. Sweeping, mopping and vacuuming are difficult chores as her right shoulder and arm go intensely tingly and numb. Washing the dishes is not as difficult but drying and putting away the dishes is painful. Making a bed is now a two-person effort as she cannot lift the mattress. Washing the laundry can be very trying sometimes and folding the laundry and putting it away is frustrating and painful.

At the hearing, the appellant stated that she has had a lot of contact with her family physician over the years. The appellant stated that she had a motor vehicle accident in 2000 and surgery on her back in 2003 but it did not work as she is still in immense pain every day. The appellant stated that she has neck pain and headaches and sometimes she feels like she needs to hold up her head with her hands because her head is too heavy for her neck. The appellant stated that she cannot lift a milk jug, she cannot squeeze anything and cannot hold anything. The appellant stated that she worked as a chambermaid but has not been able to do that work since December 2011. The appellant stated that she cannot play with her kids, like going swimming with them, and it has affected her quality of life. The appellant stated that her family physician has told her not to lift more than 5 lbs. of weight and not to do any repetitive movements. The appellant stated that she cannot carry her own groceries in from the car, even though it is not very far, and with housekeeping she will often have to have friends come over to help. The appellant stated that she wants to work and make a living but she has been in pain for years and her doctor thinks she should be on disability. In response to a question, the appellant clarified that she is right-handed and she can do certain things with her left hand, like writing, but the pain is in her neck and it is still affected. The appellant stated that her doctor knows she does not like to take medications because she has a young daughter and she needs to be coherent to care for her and she is concerned about the addictive quality of some of the pain killers, like Percocet or Oxycontin. The appellant stated that she tried medication for one day and took them back. The appellant stated that her doctor is aware that she has been using marijuana for pain relief and has told her to keep smoking it if it is helping. The appellant stated that she is not currently using any assistive devices and that her doctor has not recommended a neck brace.

The appellant stated that the neurosurgeon is recommending more surgery involving taking one disc out and fusing the remaining discs and she will not be able to turn her head. The appellant explained that the physician told her that there is no guarantee that the surgery will work and if the doctor messes up there are side effects and draw backs to the surgery. The appellant is concerned because the neurosurgeon has only seen her once for about 20 minutes and her family physician has seen her many times. The appellant stated that the facet rhizotomy that she had in 2003 involved burning the nerves in her neck to half way down her back to try to stop the pain but it just left her back feeling numb and tingly, with a pins and needles sensation. The appellant stated that her hair used to be very long but she had to cut it off since the weight was pulling on her neck and she found she could not properly wash it because of her arm. The appellant stated that she feels she is not being a good provider to her family, it does not make her feel good, and only she knows how much pain she is in and what she has to live with every day. In response to a question, the appellant explained that after she was denied the PWD designation the first time in March 2012, she went back to see her family physician and left the completed PWD application with her, and that her physician changed her responses and added some notes at that time.

The physician who completed the physician report confirms that the appellant has been her patient for

approximately 8 years and that she has seen the appellant 2 to 10 times in the past 12 months. The physician confirms a diagnosis of C6/C7 disc herniation, foraminal stenosis and adds comments that the appellant "...presented with numbness and pain in her right arm, MRI C-spine findings disc protrusion/sequestered disc segment severely narrowing right sided C6-7 neural foramina; this causes her to have nerve compression; she will consult with neurosurgeon... for opinion if surgery will be indicated to correct problems; she has significant pain in her right arm...and limited ability to use right arm." The physician indicates that the appellant has been prescribed medication that may interfere with her ability to perform DLA and notes that she has been prescribed Percocet to manage pain. In response to the question whether the impairment is likely to continue for two years or more, the physician indicates "yes" and notes "...if no surgery is done, symptom is likely to continue; it might be surgically corrected if [the neurosurgeon] decides this is option." The physician indicates that the appellant can walk 4 or more blocks unaided on a flat surface, that she can climb 5 or more stairs unaided, that she can do no lifting ("not done with right arm"), and she has no limitation with remaining seated. The physician has not responded to the question whether the impairment directly restricts the appellant's ability to perform daily living activities (DLA) but reports that the appellant is continuously restricted in the areas of personal self care, meal preparation, basic housework, and daily shopping. The physician indicates that the appellant is not restricted with management of medications, mobility inside and outside the home, use of transportation, management of finances and social functioning. Regarding the degree of restriction, the physician notes "...she has limited use of right arm due to severe pain/weakness." With respect to assistance for DLA, the physician notes "...need assistance from family to shop, prepare food, do housework; she needs help with basic self care." The physician indicates that there are no significant deficits with cognitive and emotional functioning.

The appellant's physician also completed the assessor report and indicates that the appellant has a good ability to communicate in all areas. The physician indicates that the appellant is independent in all areas of mobility, with walking indoors and walking outdoors, with climbing stairs and standing, but requires continuous assistance with lifting and carrying and holding. 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 initially reported that the appellant requires periodic assistance from another person with doing laundry and basic housekeeping, but has changed the assessment to continuous assistance, with the note "...since last reviewed, having more trouble with daily activities, need continuous assistance." The physician indicates that the appellant is independent with most of the tasks of shopping, including going to and from stores, reading prices and labels, making appropriate choices, paying for purchases, while requiring continuous assistance from another person with carrying purchases home (changed from previous assessment of periodic assistance required). The physician reports that the appellant is independent with two of the tasks of managing meals, including meal planning, and safe storage of food, but requires continuous assistance with food preparation and cooking ("since previous review, symptoms progressed; need continued help from family with these tasks." The physician indicates that the appellant is independent with all tasks of paying rent and bills (including banking and budgeting), 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 reports that there is a major impact to the appellant's daily functioning in the area of bodily functions (e.g. eating problems, toileting problems, poor hygiene, sleep disturbance), and no impact to the remaining 13 areas of functioning. The physician notes further that "...due to pain she has problems sleeping and functioning." The physician indicates that the appellant is independent in all areas of social functioning, and this section of the report has also been crossed off.

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 that is likely to continue for at least two years, 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 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's impairment is likely to continue for two years or more. The ministry points to the physician report, where the appellant's physician indicates that the appellant's impairment is likely to continue for two years or more if no surgery is done and notes it is possible that it might be surgically corrected if the neurosurgeon decides on the option. The ministry also argues that the neurosurgeon reports that he believes surgery would very likely improve the appellant's arm pain. The ministry argues that at the present time it is unclear if the appellant's impairment will continue for two years or more if it can be corrected in the near future. The appellant argued that the neurosurgeon has reported that surgery would likely improve her arm pain but not that it would completely take away her pain. The panel finds that the evidence of a medical practitioner confirms that the appellant's impairment is likely to continue for two years or more and that it "might" be surgically corrected if the neurosurgeon decides this is an option. The neurosurgeon reports in his letter dated March 30, 2012 that surgery "would be very likely to improve her arm pain" and the panel finds that the neurosurgeon has not reported that the appellant's impairment will be completely corrected but that the pain is likely to be improved. Therefore, the panel finds that the ministry's determination that the evidence does not establish that the appellant's impairment is likely to continue for two years or more, was not reasonable.

The ministry argues that the evidence does not show 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 4 or more blocks unaided, to climb 5 or more steps unaided, with no limitations with remaining seated. The ministry argues that although the physician indicates that the appellant cannot lift with her right arm, the physician does not indicate the appellant's functional ability with her left arm. The ministry argues that although the physician reports that the appellant requires continuous assistance with lifting and carrying and holding, there is no explanation provided to describe this limitation. The ministry points out that it is reported in the EMG/Nerve Conduction Study dated January 25, 2012 that the appellant works as a housecleaner and the physician indicates that the appellant does not require any prostheses or aids for her impairment. The appellant argues that the evidence establishes that she suffers from a severe physical impairment as a result of C6/C7 disc herniation foraminal stenosis. The appellant argues that she has been in severe pain since 2000 and she had surgery on her back and neck in early 2003 but it did not work in alleviating her pain. The appellant argues that her family physician has expressed that she is not to lift any more than 5 lbs. or do repetitive movement with her right arm. The appellant points out that her quality of life has diminished greatly as she cannot maintain work to support her family and she is the only one that feels the pain every day.

The panel finds that the evidence of a medical practitioner confirms a diagnosis of C6/C7 disc herniation foraminal stenosis. The physician adds comments that the appellant "...has significant pain in her right arm...and limited ability to use right arm." The physician report indicates that the appellant has been prescribed medication (Percocet) that may interfere with her ability to perform DLA, and she does not require an aid for her impairment. The appellant stated that she has not taken the Percocet because she prefers not to take medications that may be addictive, that she is smoking marijuana for pain relief, and that she is not using any assistive devices as nothing has been recommended by her physician. The physician indicates that the appellant can walk 4 or more blocks unaided on a flat surface, that she can climb 5 or more stairs unaided, that she can do no lifting ("not done with right arm"), and she has no limitation with remaining seated. The

physician assesses the appellant as independent with walking indoors and walking outdoors, as well as with climbing stairs and standing, while requiring continuous assistance from another person with lifting and carrying and holding, with no further comments provided. The appellant stated that she is right-handed and that her doctor has advised that she should not lift more than 5 lbs. or do any repetitive motions, that she cannot hold or squeeze with her right hand and that she can do some things with her left hand but it still aggravates her neck pain. In the EMG/Nerve Conduction Study Report dated February 16, 2012, the physician reports the appellant experiences no symptoms on the left side. The physician further reports that on physical examination, range of motion of the cervical spine was full, there was no cranial nerve findings, strength was normal in upper and lower extremities and there was no upper extremity muscle atrophy. The electro-physiologic studies showed nerve conduction studies in the right upper extremity were normal, no signs of denervation in C6 to C8 innervated muscles, and neurodiagnostic findings are within normal limits. The clinical impression is that there is no evidence that the appellant has a median neuropathy or some other potential entrapment neuropathy as a cause for the arm symptoms. There is also no definite evidence that she has an active C7 radiculopathy, despite the MRI scan findings which suggest that there is foraminal stenosis at the C6-7 level. The neurosurgeon reports in his letter dated March 30, 2012 that in approximately 2009 the appellant began to experience pain radiating down her right arm, the pain has progressively worsened and she finds it unbearable at times. She does not have persistent weakness or numbness in her right upper extremity; lifting objects with her right upper extremity or having her arm elevated dramatically worsens her pain. The impression is right C7 radiculopathy without neurological deficit and the neurosurgeon believes surgery would very likely improve the appellant's arm pain. In her self-report, the appellant states she feels numbness in her right arm, shoulder, neck and right hand if her right arm is up for longer than 4-5 minutes picking up her young daughter, lifting a milk jug, writing a letter, or washing her car. She rates her pain at 10 on a scale from 1 to 10, with 10 being the highest. The appellant also states that she worked as a chambermaid up until December 2011. Given that the evidence demonstrates that the appellant is independently able to carry out all activities of mobility and physical ability with the exception of lifting and carrying and holding with her right arm, that she is able to lift and carry and hold up to 5 lbs. with her left arm and has maintained physically demanding employment until a few months ago despite her experience of pain, and there is no indication of the use of an assistive device to help compensate for a physical impairment, the panel finds that the ministry reasonably determined that the evidence does not establish a severe physical impairment.

The ministry argues that the evidence does not show that the appellant has a severe mental impairment. The ministry argues that the physician reports that the appellant does not have any significant deficits to cognitive and emotional functioning. The ministry points out that the physician indicates a major impact on cognitive and emotional functioning in the area of bodily functions, however this limitation in and of itself does not provide evidence of a severe mental impairment. The ministry argues that the appellant's physician does not indicate that the appellant requires support or supervision to help manage her social functioning. The appellant did not argue that she has a severe mental impairment but pointed out that she feels she is not being a good provider to her family, it does not make her feel good, and only she knows how much pain she is in and what she has to live with every day. The appellant points out that she also cannot play with her kids, like going swimming with them, and it has affected her quality of life.

The panel finds that the evidence of a medical practitioner does not confirm a diagnosis of a mental disorder. The physician indicates in the physician report that there are no significant deficits with cognitive and emotional function and, in the assessor report, that there is a major impact to the appellant's daily functioning in the area of bodily functions, with the added comment that "...due to pain, she has problems sleeping and functioning." The panel finds that the physician has clarified that the impact to cognitive and emotional functioning with difficulty sleeping is as a result of the appellant's physical pain and not as a result of an identified mental impairment or brain injury. The physician indicates that the appellant is not restricted in social functioning and is independent in all areas of social functioning. Therefore, 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 indicates that the appellant is not restricted in her ability to manage the majority of her DLA. The ministry argues that although the physician indicates that the appellant is continuously restricted in her ability to manage her personal care, meal preparation, basic housework and shopping, the physician also indicates in the assessor report that the appellant can independently manage the majority of her DLA which includes personal care and most aspects of shopping although the appellant requires continuous assistance with carrying purchases home. The ministry points out that the physician reports that some DLA require continuous assistance due to pain in the appellant's right arm but it is unclear why the appellant requires this level of assistance as the EMG/Nerve Conduction Study reported that the appellant works as a house cleaner. The ministry acknowledges that at the present time the appellant's impairment impacts her ability to manage DLA but argues that no evidence has been provided to determine if this is a temporary situation that could be improved with surgery or other medical interventions or if it is a long term situation where her impairment significantly restricts her ability to manage DLA. The appellant argues that her family physician, with whom she is in regular contact, is more aware of her restrictions than the specialists who have only met with her once for short appointments. The appellant clarified that the EMG/Nerve Conduction Study reported on an examination that occurred on December 20, 2011 and she was laid off from her employment as a house cleaner around that time. The appellant argues that her family physician has updated her assessment and that it shows that her ability to perform DLA is directly and significantly restricted continuously in a number of areas.

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. In terms of preparing her own meals, the physician indicates in the physician report that the appellant is restricted on a continuous basis and regarding the degree of restriction notes "...she has limited use of right arm due to severe pain/weakness." In the assessor report, the physician indicates that the appellant requires continuous assistance with food preparation and cooking ("need continued help from family with these tasks") and is independent with meal planning and safe storage of food. For managing personal finances, the physician reports that the appellant is not restricted and is independent with performing all tasks. In terms of shopping for her personal needs, the physician indicates in the physician report that the appellant is restricted on a continuous basis and, in the assessor report, that the appellant is independent with most tasks but requires continuous assistance from another person with carrying purchases home, with the note that "...due to pain right arm and weakness need continued help with tasks, shopping, carrying and lifting items." The appellant states that she cannot carry her own groceries in from the car, even though it is not very far.

For use of public or personal transportation facilities, the physician indicates in the physician report that the appellant is not restricted and, in the assessor report, that the appellant is independently able to perform all tasks, including getting in and out of a vehicle, using public transit and using transit schedules and arranging transportation. In the EMG/Nerve Conduction Study Report dated February 16, 2012, the physician reports that the appellant's symptoms are not associated with neck position and that they seem to occur when the appellant is driving and with repetitive activities. With respect to performing housework to maintain the appellant's place of residence in an acceptable sanitary condition, the physician indicates in the physician report that the appellant is restricted on a continuous basis and, in the revised assessor report, that she requires continuous assistance with laundry and basic housekeeping. In her Notice of Appeal, the appellant states that with housekeeping she will often have to have friends come over to help. In her self-report included in the PWD application, the appellant states that sweeping, mopping and vacuuming are difficult chores as her right shoulder and arm go intensely tingly and numb. She states that making a bed is now a two-person effort as she cannot lift the mattress and washing the laundry can be very trying sometimes and folding the laundry and putting it away is frustrating and painful.

For moving about indoors and outdoors, the physician reports that the appellant is not restricted and is

independent in these areas. Regarding performing personal hygiene and self care, the physician indicates in the physician report that the appellant is restricted on a continuous basis and, in the assessor report that she is independent with all tasks, including dressing, grooming, bathing, toileting, feeding self, regulating diet, transfers in/out of bed and on/off of chair. In her Notice of Appeal, the appellant states that she is having extreme difficulty washing her hair/body and dressing. With respect to managing her personal medications, the physician indicates in the physician report that the appellant is not restricted and, in the assessor report, that the appellant is independent with all tasks, including filling/refilling prescriptions, taking as directed, and safe handling and storage.

Looking at evidence overall, the panel finds that the appellant's physician, as a prescribed professional, indicates that the appellant is continuously restricted and also requires continuous assistance in the areas of basic housekeeping, 1 out of 5 tasks of shopping and 2 out of 4 tasks of managing meals. The panel finds that the ministry reasonably concluded that although the appellant has some limitations as a result of her medical condition, she is still able to independently manage the majority of her DLA, or 23 out of a total 28 applicable tasks. 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 with family, friends or caregiver, that help is provided by family and that no assistive devices are required. 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.

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.