

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development's (the "Ministry") September 13, 2012 reconsideration decision in which the Ministry determined that the Appellant was not eligible for Persons with Disabilities ("PWD") designation because she did not meet all of the requirements for PWD designation set out in section 2(2) of the Employment and Assistance for Persons with Disabilities Act. Specifically the Ministry was not satisfied that the Appellant has a severe mental or physical impairment that in the opinion of a prescribed professional

- (i) directly and significantly restricts her ability to perform daily living activities either continuously or periodically for extended periods; and,
- (ii) as a result of those restrictions she requires help to perform those activities.

The Ministry was satisfied that the Appellant has reached 18 years of age and in the opinion of a medical practitioner her impairment is likely to continue for at least 2 years.

PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Act (EAPWDA) Section 2(2) and 2(3).

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) Section 2.

PART E – Summary of Facts

For its reconsideration decision the Ministry had the following evidence:

1. Appellant's PWD application consisting of: her self-report; a physician's report ("PR") completed on May 27, 2012 by a physician who indicated the Appellant had been her patient since January 2006 and she had seen the Appellant between 2-10 times in the 12 months preceding the report; and, an assessor's report ("AR") completed by the same physician on the same date.
2. Appellant's request for reconsideration with a statement from the Appellant and a number of documents described below.

In her self-report the Appellant wrote that her pain, which is disabling her today, started in 2004 after doing computer work in a cold warehouse. She stated that she developed severe tension and pain in her neck, jaw, face, teeth and back. This in turn triggered a series of ongoing issues related to the condition of Trigeminal Neuralgia with which she was diagnosed at that time. The Appellant wrote that during this period another specialist diagnosed her with fibromyalgia. Since 1995, she stated that she has suffered from generalized anxiety making her pain condition even more challenging to deal with and making her extremely sensitive to most medications. The Appellant stated that in the last seven years she has lost many teeth unnecessarily due to unexplained pain and false diagnoses and the teeth loss only aggravated her jaw/neck pain condition. The Appellant wrote that an MRI showed restricted jaw joint disc movement which could be a major cause of her issues. In 2006, a chiropractic adjustment did not go well and triggered more spasms which completely immobilized her for a year. The Appellant stated that now she suffers constant nerve pain in her gums from all the dental work and extractions. She can no longer tolerate any dental work and still suffers severely from her last two root canals done by specialists. The Appellant also stated that she cannot close her mouth to eat, talk, and laugh without nerve pain in her mouth, face, teeth or jaw. She wrote that there is a new condition called atypical odontalgia, which not many dentists or doctors diagnose, but this is her condition.

As for how her disability affects her life and her ability to care for herself, the Appellant wrote that the constant pain she suffers in her mouth, teeth, gums, neck, jaw and back makes her life miserable. She stated that she is unable to get dental work without being in never ending agony. She wrote that her family, friends, doctors and dentists have difficulty understanding her pain and therefore she does not receive much support. She stated that she struggles to survive mentally, physically and financially. She is forced to stay home because she is all about pain and there is really nothing to enjoy. The Appellant also wrote that she has not left town for a year other than to go the specialists in another towns. She stated that she is sad that she cannot work because her mind is disabled from her pain and discomfort. The Appellant wrote that she is taking care of herself because she is smart and intelligent, but it is not easy. She has missing teeth, giving her a very bad bite that interferes with her sleep, concentration and her nervous system. The Appellant stated that she suffers daily nightmares from all of the dental trauma and all the lack of support from those who brush her off because of her rare condition. The Appellant wrote that she still stays positive with hope that one day it will all settle down even though since 2005, each year has gotten worse.

In the PR the Appellant's doctor described the Appellant's diagnosis as generalized anxiety disorder, somatoform disorders, borderline personality disorder, mild to moderate GERD and fibromyalgia. Regarding the severity of the conditions, the doctor wrote that the Appellant is an extremely anxious person with frequent psychosomatic pains; for example, chronic jaw pain which makes her insist on

multiple teeth extractions thinking they could alleviate her pain. However, the Appellant keeps complaining of facial pain despite normal examinations by different dentists. The doctor wrote that the Appellant complains of general body pain almost all of the time and the chronic pain she suffers makes her feel down and socially isolated. The doctor stated that the Appellant refuses medications because she is unusually phobic about the side effects despite medical advice and explanations.

Regarding the degree of impairment, the doctor wrote that the Appellant's general anxiety disorder is a chronic, mental disease. She is phobic of even taking medications, aggravating her anxiety which is sometimes accompanied by situational depression and social isolation. For functional skills, the doctor indicated that the Appellant can walk 4+ blocks unaided on a flat surface, climb 5+ stairs unaided, has no limitations with lifting or with remaining seated. The doctor also indicated that the Appellant has significant deficits with cognitive and emotional function, specifically with respect to emotional disturbance, motivation, impulse control and attention or sustained concentration. The doctor added the Appellant's anxiety and intermittent depression are due to psychosomatic pain. She has difficulty with impulsive dental extractions insisting that it causes uncontrollable pain. The doctor also wrote "no motivation, social isolation." At the end of the PR the doctor added the following additional comments: "chronic psychosomatic pain, frequent panic attacks, borderline personality with difficulty keeping a job, not motivated because of her depression secondary to the chronic pain, impairs her ability to work."

In the AR, the doctor reported that the Appellant is independent in all aspects of mobility and physical ability. The doctor indicated in aspects of cognitive and emotional functioning that there is a major impact on emotion and impulse control, adding, "insists on extraction of normal teeth". The doctor also indicated moderate impact on bodily functions ("insomnia") and motivation, minimal impact on attention/concentration and executive, and no impact on consciousness, memory, motor activity, language, psychotic symptoms and other neuropsychological problems. The doctor added: "as mentioned before, her anxiety level is very high with episodes of depression that affects her concentration and motivation." With respect to any assistance needed with daily living activities, the doctor reported that the Appellant is independent in all aspects of personal care, basic housekeeping, shopping, meals, paying rent and bills, medications and transportation. The Appellant is independent in all aspects of social functioning, except for her ability to develop and maintain relationships, for which she needs periodic support/supervision. The doctor indicated that the Appellant has marginal functioning in her immediate and extended social network. As for help that the Appellant needs, the doctor wrote "psychotherapy and social support". The doctor also wrote, under assistive devices, that as the Appellant has lost a number of teeth due to unexplained pain, she requires a partial bridge denture. The Appellant uses no assistive animal.

With her request for reconsideration the Appellant submitted:

- A statement describing her disability.
- A Dental treatment plan proposal dated Feb. 13, 2012.
- Letters from dentists and dental specialists from 2004 and 2006.
- Copies of MRI reports from 2005, 2006 and 2012, and a CT scan from 2010.
- Letters from a chiropractor in January 2005, emergency Ambulatory care clinic records from 2006 and from 2010, triage/emergency assessment record from 2005.
- Letters and payment statements from a physiotherapy clinic for November 2007 to May 15, 2007; and from another physiotherapy clinic from January 2005 to August 28, 2012.

- Parts of previous PWD applications from April 2011 and June 2006 with documents the Appellant identified as retrieved from her records.
- Letter dated January 11, 2012 from the Appellant to the Ministry requesting coverage of a sedation fee for extraction.
- Medical Report- Employability dated November 8, 2011 that describes the Appellant's primary medical condition as moderate "GAD" (General Anxiety Disorder).
- A two page list, prepared by the Appellant, of medical professionals, clinics and hospitals she went to from March 2004 to July 2012. That list also included diagnoses starting with Trigeminal neuralgia and atypical facial pain in 2004, disc bulges, various spasms, treatments for severe neck/shoulder/jaw pain, facial pain and unexplained tooth/jaw pain. Scoliosis, fibromyalgia, anxiety and GERD/IBS (irritable bowel syndrome).
- Information from an internet site about atypical odontalgia.
- 2005 Workers Compensation Board's claim decision.

In the Appellant's statement written for her request for reconsideration, she described an earlier application for PWD status and the difficulties she had completing the present one. The Appellant wrote that she did not want to lie about needing services. She needs extra services to get better but not a wheelchair, cane, dog, narcotics and other drugs or someone to do the laundry. She wrote that she does her best to stay independent and cook for herself. She would like to get the proper treatment to alleviate her dental/jaw/facial pain which she described as trigeminal neuralgia symptoms. The Appellant wrote that she has constant jaw, facial, neck, shoulder and teeth pain, and she cries herself to sleep at night from the pain. The Appellant also stated that she can manage mentally.

The Appellant wrote that she has seen doctors and dentists since 2004, and that she is dealing with a combination of medical issues giving her the complications she is dealing with. She feels that her main issues stem from her scoliosis which brings tension and pain towards her neck and jaw. The Appellant indicated that the vicious pain circle is affecting her central nervous system and giving her anxiety, to which she is susceptible because of post-traumatic stress disorder stemming from earlier events in her life. The Appellant also stated that it took her a long time to have the strength and mind power to complete the PWD application. Every day and all day her mind is with her facial pain as much as she tries to focus on other things. The Appellant wrote that she longs to work and be productive. The last two years have been horrible for her and the only time she left the house was to go to a doctor or dentist. She also thinks her financial situation has contributed to her condition worsening because she has not been able to have any physical therapy and dentists doing non-proper treatments because of her limited coverage. The Appellant wrote that she is now in a vicious pain cycle and hopes to get support through the Ministry to lessen her everyday physical pain.

The Appellant stated that she is well known to most of the doctors at local clinics and hospitals. She cannot afford proper specialists. She referred to the records she provided regarding past medical tests and treatments and indicated that all of the earlier diagnoses in the records still stand, including one from a specialist in 2004 who diagnosed her with Trigeminal Neuralgia. The Appellant wrote that her nervous system does not shut down enough to give her sound sleep because of the constant nerve pain. She has some support and a place to live, but work is not possible because she cannot think or focus to do a job right. The pain is constant. The Appellant also wrote that the little time she is conscious she has to take care of herself for the next day. She indicated that she is developing

pain and lumps in her cheeks, and she has difficulty speaking. She believes that she needs a partial denture to even out the pressure on her jaw joints and she would benefit greatly from braces at the front to lessen spasms in her face.

In her notice of appeal, the Appellant wrote that she felt that some information was overlooked and that her physician defends her condition in a letter dated September 28, 2012. At the hearing, the Appellant acknowledged that she typed that letter and it was signed by the same doctor who completed the PR and the AR. The letter contains the following information:

- The Appellant has been a patient since 2006 and that the doctor filled in the Appellant's claim for disability because she believes in the Appellant's pain.
- After reviewing the Appellant's disability application, her list of diagnosis dating back to 2004 when the conditions started, the doctor wanted to add some information about the Appellant's conditions and needs. She was not fully informed about all of the Appellant's diagnoses and all of the specialists the Appellant saw on her own.
- The Appellant struggles daily due to her pain.
- The Appellant manages only because she has an "angel" friend who cares for her regularly. This friend helps the Appellant do her shopping and house maintenance regularly along with a lot of mental support.
- The Appellant needs more time than the average person does to get her days going. Because her sleep is greatly affected, the Appellant spends twelve to fourteen hours of her day in bed.
- For the Appellant, small tasks are challenging and she needs help with shopping, cleaning at home, and even carrying a purse really aggravates the Appellant's neck and shoulder spasms. Wearing glasses also gives the Appellant shooting pain in her face, head and jaw from the frame touching her temples.
- The Appellant has gained more than twenty pounds since the doctor knew her, because she can no longer do physical exercise as she used to and is less active due to exhaustion and lack of sleep.
- The Appellant's back tension is giving her pain down her legs and makes it difficult for her to carry things or stand for longer than 20 minutes at a time.
- The Appellant also has difficulty chewing her food because of sores in her cheeks and tongue.
- The Appellant has difficulty keeping appointments with her and others, or is late. She struggles to be on time because small tasks are painful, challenging and because of her lack of concentration since her mouth is constantly hurting.
- The Appellant suffers from anxiety, which also contributes to avoidance issues related to her panic attacks. The Appellant often needs the accompaniment and assistance of a friend to take her places.
- The Appellant's personal care, daily housekeeping and shopping duties take her much longer than most people and can take her a whole day.
- The Appellant would benefit from seeing a psychologist to deal with her pain and daily living, and from physical therapy to lessen her discomfort.

The Appellant explained that although she wrote the September 2012 letter after meeting with an advocate, she and her doctor discussed the letter during an office visit. The doctor reviewed the list of diagnoses and the medical information the Appellant provided dating from about 2004. The Appellant also said that the doctor reviewed the letter before signing it, made no changes to it and told the

Appellant she agreed with the contents. The Appellant said that the doctor also agreed that she needs help to keep up with everyday living. The Appellant also stated that this doctor knows her from having seen her for years but just did not have all the information from her past medical records, and that is why this doctor's diagnoses and assessment were different. The Appellant stated that she does have anxiety because of her pain, but is not sure which came first – the pain or the anxiety.

The Appellant also explained that her whole day is consumed with taking care of herself and just making it through a day. She said even coming to the hearing was a struggle. The Appellant stated that she does not want disability assistance for the rest of her life. She believes that with disability assistance she can get help for perhaps two years, get out of her current financial difficulties and then no longer need to have PWD designation. The Appellant said she has almost ended up on the street and has to sell her things to survive. As for any help she currently receives, the Appellant referred to an "angel" friend who has helped her for about six years.

The Ministry did not object to the admissibility of the September 28, 2012 letter signed by the Appellant's doctor. The Panel finds that the information in that letter and the Appellant's oral testimony at the hearing relate to information that the Ministry had at reconsideration regarding the Appellant's medical conditions and their effects on her ability to function. Therefore, pursuant to section 22(4) of the Employment and Assistance Act, the Panel admits into evidence that letter and the oral testimony as being in support of the evidence the Ministry had at reconsideration.

At the hearing the Ministry relied on and reaffirmed its reconsideration decision.

PART F – Reasons for Panel Decision

The issue in this appeal is whether the Ministry reasonably determined that that the Appellant was not eligible for PWD designation because she had not met all of the requirements for PWD designation as set out in section 2(2) of the EAPWDA, and specifically that the Appellant does not have a severe mental or physical impairment that in the opinion of a prescribed professional (i) directly and significantly restricts her ability to perform daily living activities either continuously or periodically for extended periods; and, (ii) as a result of those restrictions she requires help to perform those activities.

The eligibility criteria for PWD designation are set out in the following sections of the EAPWDA:
 2 (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.

The "daily living activities" referred to in EAPWDA section 2(2)(b) are defined in the EAPWDR as:

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 Panel will consider each party's position regarding the reasonableness of the Ministry's decision under the applicable PWD criteria at issue in this appeal.

Severe Impairment

In its reconsideration decision, the Ministry reviewed the information from the Appellant's doctor in the PR and the AR, including the medical conditions described in the diagnoses sections of the reports. The Ministry noted that the doctor reported that the Appellant experiences chronic pain which has led to multiple teeth extractions, and makes her feel down and socially isolated. The doctor also wrote that the Appellant refuses medication because of her phobia about side effects, and that the chronic pain and anxiety impair her ability to have a stable job. The Ministry noted that the doctor indicated

that the Appellant's phobia about taking medications aggravates her anxiety, and is accompanied by situational depression and social isolation.

The Ministry also reviewed the doctor's reports about the Appellant's physical functioning, noting that the Appellant can walk 4+blocks, can climb 5+stairs and has no limitations with lifting or remaining seated. In the AR, the doctor also reported that the Appellant independently manages all mobility and physical functions. Therefore, the Ministry determined that because the Appellant is able to manage the majority of her daily living activities and based on the information from the doctor, there was not enough evidence to establish a severe physical impairment.

The Appellant submitted that she is dealing with a combination of medical issues resulting in the complications she is dealing with. She provided information about her health conditions starting from about 2004, including diagnoses of fibromyalgia, scoliosis, Trigeminal neuralgia, facial pain and GERD/IBS. The Appellant stated that she experiences chronic pain in her mouth, face, teeth, gum, shoulders and back. The Appellant also submitted that there is a new condition called atypical odontalgia, which not many dentists or doctors diagnose, but this is her condition. The Appellant submitted that the constant pain she suffers makes her life miserable. She struggles to cope every day and to survive mentally, physically and financially. She is taking care of herself because she is smart and intelligent, but it is not easy. The Appellant also submitted that her whole day is consumed with taking care of herself and even coming to the hearing was a struggle.

To support of her application the Appellant had her doctor's PR, AR and the letter dated September 28, 2012. The Appellant submitted that in that letter, after a further review of her conditions, the doctor confirmed that the Appellant struggles daily due to her pain. The Appellant takes longer than most people do with personal care, daily housekeeping and shopping. A friend helps with shopping, cleaning, and carrying things. In that letter, there is also information that the Appellant's back tension is giving her pain down her legs, making it difficult for her to carry things or stand for longer than 20 minutes. Physical therapy to lessen the Appellant's discomfort was recommended. The Appellant submitted that her doctor agrees that she needs help with everyday living.

The Panel notes that a good deal of the information provided by the Appellant, including her self-reports, the various medical reports and her oral testimony focused on the Appellant's physical conditions and their effects on her ability to cope. The Appellant emphasized the chronic ongoing pain she suffers, the effects from numerous dental treatments, her inability to sleep, her difficulty with eating and her struggles to take care of herself. The doctor also provided information about the Appellant's physical impairments, although the doctor focused more on the Appellant's mental health issues. With respect to the Appellant's physical health conditions, in the PR, the doctor reported that the Appellant's diagnoses include mild to moderate GERD and fibromyalgia. As for the Appellant's physical functional skills, in the PR, the doctor reported that the Appellant can walk 4+blocks unaided on a flat surface, climb 5+ stairs unaided, and has no limitations with lifting or remaining seated. The doctor did note that the Appellant complained of ongoing chronic pain but she has not been prescribed any medication ("she is extremely phobic of taking medication") and she does not require any aids for her impairment.

In the AR, the doctor reported that the Appellant is independent in all aspects of mobility and physical ability, as well as personal care, basic housekeeping, shopping, meals and transportation. These

daily living activities require some physical functioning. The Panel notes there are some differences in the September 2012 letter about the Appellant's physical functioning and ability to manage some tasks requiring physical ability or mobility. For example, in the letter the Appellant is described as having back tension and pain in her legs making it difficult for her to carry things or stand for longer than 20 minutes at a time. Also in the letter, the Appellant is noted as finding small tasks challenging, and needing help with shopping and cleaning at home. However, the Panel finds that the information in the letter is not that much different from what the doctor reported in the PR and the AR or from what the Appellant submitted in her various statements. Therefore, the Panel finds that based on all of the evidence the Ministry reasonably determined that there was not enough evidence to establish that the Appellant has a severe physical impairment.

With respect to a mental impairment, the Ministry reviewed the doctor's reports indicating that the Appellant has significant deficits in four aspects of cognitive and emotional functioning. The doctor also reported that the Appellant's anxiety and intermittent depression is due to psychosomatic pain, providing the example of impulsive dental extractions by the Appellant to relieve her pain. The Ministry also considered the doctor's information that the Appellant's chronic psychosomatic pain, frequent panic attacks and borderline personality make it difficult for her to keep a job. The Ministry did point out that whether or not someone is employable is not a criterion for PWD designation. The Ministry also noted the doctor's report that the Appellant's impairments have moderate, minimal or no impact on aspects of cognitive and emotional functioning, except for a major impact in the area of emotion and impulse control. The doctor noted no restrictions in social functioning and reported that the Appellant is independent in all aspects of social functioning, except for periodic assistance needed with developing and maintaining relationships. The Ministry also found that the doctor indicated that the Appellant independently manages all of her daily living activities. Therefore, the Ministry determined that based on the information from the doctor there was not enough evidence to establish a severe mental impairment.

The Appellant's position is that, since 1995 she has suffered from generalized anxiety, which has made her pain condition even more challenging to deal with and makes her extremely sensitive to most medications. The Appellant submitted that she is not sure which came first – the pain or the anxiety. The Appellant also described how her sleep, concentration and nervous system are affected by her conditions. The Appellant argued that her conditions make it difficult for her to cope every day and she referred to her doctor's reports to support her position. She submitted that the doctor described her as an extremely anxious person and stated that her anxiety contributes to avoidance issues related to her panic attacks. The Appellant also submitted that she needs to be accompanied and helped by a friend, and that she would benefit from seeing a psychologist.

The Panel notes that the doctor provided more information about the Appellant's mental impairments than her physical impairments. In the PR, the doctor diagnosed the Appellant with generalized anxiety disorder, somatoform disorders and borderline personality disorder. The doctor also stated that the Appellant's general anxiety disorder is a chronic, mental disease. The doctor wrote that the Appellant is phobic about taking medications, thus aggravating her anxiety, which is sometimes accompanied by situational depression and social isolation. In the PR, the doctor also reported that the Appellant has significant deficits with cognitive and emotional function, specifically in the areas of emotional disturbance, motivation, impulse control and attention or sustained concentration. The doctor also wrote that the Appellant is socially isolated, has frequent panic attacks and is not

motivated because of her depression secondary to the chronic pain. In the September 2012 letter, the Appellant is described as suffering from anxiety, lack of concentration, having avoidance issues related to panic attacks and as having difficulty keeping appointments. The doctor did indicate that the Appellant would benefit from psychotherapy or from seeing a psychologist, but there is no evidence that the Appellant has been able to see a mental health professional. In the AR, the doctor indicated impacts ranging from no impact in six aspects of cognitive and emotional functioning to major impact on emotion and impulse control. The doctor added that the Appellant's anxiety level is very high with episodes of depression that affect her concentration and motivation. However, even though the doctor described these mental health conditions, in the AR she also reported that the Appellant can independently manage daily living activities, such as personal care, medications, paying rent and bills, and medications. The Appellant is also independent in all aspects of social functioning except for her ability to develop and maintain relationships. In other words, the Appellant is predominantly independent in her daily functioning. The Panel also notes that the information in the September 2012 letter is generally consistent with the information the doctor provided in the PR and in the AR. Therefore, the Panel finds that based on all of the evidence the Ministry reasonably determined that the Appellant does not have a severe mental impairment.

Restrictions to Daily Living Activities

The Ministry noted that the doctor did not indicate that the Appellant is restricted in her ability to manage daily living activities. Also, the doctor did not report that the Appellant has been prescribed any medications and/or treatments that interfere with her ability to perform her daily living activities although the doctor did report that the Appellant is extremely phobic about taking medications. The Ministry determined that overall it did not have enough evidence from the doctor to establish that the Appellant's mental or physical impairments significantly restrict her ability to manage her daily living activities, continuously or periodically for extended periods.

The Appellant indicated at the hearing that she recognized that her doctor's opinion needs to be considered for this part of the PWD designation requirements. She submitted that in the September 2012 letter, signed by her doctor, there is information about her "angel" friend who cares for her regularly. This friend helps with shopping, housekeeping, and taking her to appointments and other places. The Appellant also stated that the doctor noted that she would benefit from seeing a psychologist to help her deal with daily living and from physical therapy. The Appellant submitted that she needs more time than the average person to get her days going. Personal care, daily housekeeping and shopping take her much longer than most people and can take a whole day. The Appellant submitted that her doctor agrees that she needs help with everyday living.

To satisfy the requirements of section 2(2)(b) of the EAPWDA, the Appellant must provide the opinion of a prescribed professional confirming that her severe impairments directly and significantly restrict her daily living activities. In this case, the doctor who completed the PR and the AR is the prescribed professional. The Panel notes that the Ministry did consider the doctor's reports in its reconsideration decision and it specifically found that the doctor reported that the Appellant can independently manage all but one aspect of her daily living activities. In fact in the AR, the only activity not noted as being independently managed is the Appellant's ability to develop and maintain relationships. For that, the doctor indicated that periodic assistance is needed but did not explain the type of assistance needed or how often. The only other reference to any help needed is the doctor's note about psychotherapy and a social network.

In the letter dated September 28, 2012, the Appellant is described as having challenges with small tasks and needing help with shopping and cleaning. The Appellant described her "angel" friend to her doctor. This friend cares for her regularly, and helps with shopping, with house maintenance, with taking her places and with a lot of mental support. Although there is more information in the September 2012 letter than in the PR and AR about the effects of the Appellant's impairment on daily living activities, there are no details about the extent of the help required; that is, is it continuous, is it periodic, and if the later for what periods of time. Also, the help described in the letter refers to only a few aspects of daily living. Therefore, the Panel finds, based on all of the evidence, that the Ministry reasonably determined that the Appellant manages almost all daily living activities independently and therefore in the opinion of a prescribed professional the Appellant's impairments do not directly and significantly restrict her ability to perform daily living activities, either continuously or periodically for extended periods.

Help with Daily Living Activities

The Ministry decided that because it determined that the Appellant's daily living activities are not significantly restricted by a severe impairment, it could not determine that significant help is required from other persons. The Ministry noted that the doctor reported that the Appellant does not need an assistive device and she does not need the services of an assistance animal.

The Appellant referred to help she receives from her "angel" friend who has regularly helped her for about 6 years with shopping, house maintenance, going places and a lot of mental support. Also, in the AR the doctor indicated that the Appellant needs psychotherapy and social support. In the September 2012 letter, the Appellant is described as benefiting from a psychologist to deal with her pain and daily living, and from physical therapy to lessen her discomfort. The Appellant also submitted that her doctor agrees that she needs help with everyday living.

The Panel notes that section 2(2)(b)(ii) of the EAPWDA also requires the opinion of a prescribed professional, in this case the Appellant's doctor. In the AR, the doctor only suggested psychotherapy and social support for needed help, but she provided no other details. The doctor also provided no details about the periodic help required for the one aspect of social functioning. The doctor reported that no assistance devices or assistance animal is needed or used. Therefore, based on all of the evidence and the applicable enactments, and given the Panel's finding above that the Ministry's determination that the Appellant's daily living activities are not directly and significantly restricted was reasonable, the Panel finds that the Ministry's determination that the Appellant does not meet the requirements of section 2(2)(b)(ii) of the EAPWDA was also reasonable.

The Panel finds that the Ministry's reconsideration decision was reasonably supported by the evidence and was a reasonable application of the applicable enactments in the Appellant's circumstances. Therefore, the Panel confirms that decision.