

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development (ministry) reconsideration decision dated September 26, 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 established 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 June 8, 2012, physician report dated May 31, 2012, and assessor report dated June 8, 2012;
- 2) Letter dated August 15, 2012 from the ministry to the appellant denying his request for PWD designation and enclosing a copy of the original decision summary;
- 3) Letter dated September 17, 2012 from the appellant's physician 'To Whom It May Concern' indicating responses to questions as follows: (1) when the impact of his conditions on his daily functioning is considered, does the appellant have a severe impairment? "yes, he suffers from severe depression and anxiety; his depression is worse since his separation; he also has coronary artery disease, hypertension, and Type II diabetes"; (2) does the appellant often take significantly longer than normal to complete most daily living activities (DLA) as a direct result of his limitations? "Yes"; (3) is the appellant's level of activity significantly reduced as a direct result of his impairment? "Yes"; (4) 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"; (5) how often is he significantly restricted in his ability to perform DLA by one or more of his recurring symptoms? "Daily"; (6) overall, do his health limitations significantly restrict his ability to perform a range of DLA continuously or periodically for extended periods? "Yes, personal self care, meal preparation, housework and shopping; done much less often than needed due to severe depression and low energy; he has fatigue; he has significantly impaired executive, memory, mood, motivation, concentration, and ability to interact with others effectively"; (7) as a result of his health restrictions, can you confirm that the appellant needs significant help from others to manage DLA? "Yes, needs help with/ encouragement to do personal self care, meal preparation, housework, and shopping. He needs counseling for emotional support"; (8) do you agree with the assessment prepared by the social worker on June 8, 2012 as set out in the assessor report? "Yes"; and,
- 4) Request for Reconsideration- Reasons.

In his Notice of Appeal, the appellant stated that he disagrees with the ministry's reconsideration decision because he is suffering from bad depression and side effects of a heart problem, diabetic-thyroid-cholesterol-high blood pressure, prostate, and cannot do his personal job due to these reasons; absolutely sick. He is living with a room-mate and he does his personal jobs. In the Request for Reconsideration, the appellant refers to the letter from his doctor dated September 17, 2012 as confirming that he meets the eligibility requirements for the PWD designation. The appellant did not complete the self-report section of the PWD application to describe his disability and how it affects his life and his ability to take care of himself.

The physician who completed the physician report indicated the appellant has been his patient since February 2012? and that he has seen the appellant 2 to 10 times in that period (~3 months). In the physician report, the physician confirmed a diagnosis of depression, anxiety (onset 2004), diabetes (2005), coronary artery disease (~10 years ago), and thyroid disease (2005). In describing the severity of the medical condition relevant to the appellant's impairment, the physician noted "...he has long-term problem with anxiety-depression, feels down, low motivation, hard to focus, poor concentration, poor sleep, gets anxious easily, unable to handle stress, unable to multi-task, feels more anxious when alone, prefers to be around family, mood is worse over past months since separated, hard to start day." The physician indicated that the appellant has been prescribed medications or treatments that interfere with his ability to perform DLA ("feels drowsiness with his psychiatric medications") and he does not require an aid for his impairment. The physician reported that the appellant can walk more than 4 blocks unaided on a flat surface, he can climb 5 or more stairs unaided, he can lift 5 to 15 lbs. and remain seated for less than one hour ("gets restless").

The physician reported that there are no difficulties with communication. The physician indicated significant deficits with cognitive and emotional function in the areas of executive, memory, emotional disturbance, motivation, and attention or sustained concentration ("has symptoms of depression and anxiety"). The physician indicated that the appellant's impairment directly restricts his ability to perform DLA periodically in the areas of personal self care, meal preparation, basic housework, and daily shopping. In an explanation of

"periodic", the physician noted "takes longer to do ADL's on regular basis, sometimes stops meals due to low motivation, low energy; sometimes avoids showering, difficult to keep place clean." The physician reported that the appellant is continuously restricted with social functioning and commented that the appellant "...does not like being in crowds, difficult to make new friendship, low self-esteem" and, regarding the degree of restriction, the appellant "...has restrictions in meal prep, self care, shopping and housework. In terms of assistance required with DLA, the physician commented that "in future, may need meals on wheels or similar, may need assistance with housework and laundry." For additional information relevant to an understanding of the significance of the appellant's medical condition, the physician commented that the appellant has a long history of depression which is worse since he separated, that he has been living on his own for 2 months, he is followed by a mental health team and he is unable to work.

A social worker completed the assessor report and indicated she has seen the appellant once to make the assessment. The social worker indicated that the appellant has a satisfactory ability to communicate with speaking and hearing but poor ability for reading and writing due to poor concentration and memory. The social worker indicated that the appellant is independent with walking indoors and outdoors ("slowly"), climbing stairs ("uses assistive device of handrail") and standing ("10 minutes max"), while requiring periodic assistance from another person with lifting and carrying and holding ("needs help with more than 5 to 10 lbs.") and taking significantly longer than typical with all areas of mobility and physical ability, ("all moving about takes at least 3 times longer"). The social worker indicated that the appellant is independent with all tasks of personal care including dressing, grooming, bathing, toileting, feeding self, regulating diet, with transfers in/out of bed and transfers on/off chair, while taking significantly longer than typical with most tasks. The social worker reported that the appellant requires continuous assistance from another person or he is unable to do laundry and basic housework, and he takes significantly longer than typical with these tasks. For shopping, the social worker indicated that the appellant requires continuous assistance from another person or he is unable to go to and from stores or carry purchases home and he takes significantly longer than typical with these tasks, and he requires periodic assistance from another person with making appropriate choices and is independent with reading prices and labels and paying for purchases, while taking significantly longer than typical with both tasks. In the additional comments, the social worker has noted that "all moving about takes at least 2 to 3 times longer, he requires (and receives) assistance with many household ADL's or they would not get done regularly or adequately."

For meals, the social worker reported that the appellant is independent with safe storage of food but requires periodic assistance from another person with meal planning ("often not done"), food preparation and cooking ("often requires help"). The social worker indicated that the appellant is independent with all tasks of paying rent and bills including banking and budgeting, while taking significantly longer than typical with banking. The social worker reported that the appellant is independent with all tasks of managing medications, while taking significantly longer than typical with filling/refilling prescriptions. The social worker reported that the appellant is independent with managing transportation but uses an assistive device ("needs a seat") for using public transit.

The social worker indicated major impacts to the appellant's cognitive and emotional functioning in the areas of bodily functions, emotion, attention/concentration, executive, memory, and motivation, with no impacts in the remaining 8 areas, with the comment "...chronic pain, sleep problems, depression, anxiety." For social functioning, the social worker indicated that the appellant is independent in making appropriate social decisions and interacting appropriately with others while requiring continuous support/ supervision for developing and maintaining relationships ("depressed, withdrawn and isolated") and periodic support/supervision for dealing appropriately with unexpected demands ("often very stressed") and securing assistance from others. The social worker indicated that the appellant has marginal functioning with both his immediate and extended social networks. For help required, the social worker commented that he needs counseling. For additional information, the social worker noted that the appellant has been living on his own since his wife and family left him due to his depression and now he is even more depressed than ever.

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.

Evidentiary Considerations:

The ministry argues that the assessor report is problematic as the social worker met with the appellant for the first time to complete the report and used the appellant's self-report and the physician report as sources of information. The ministry argues that there were no psychiatric assessments, neurological, radiological, or addiction services medical reports used to substantiate the information. The ministry argues that the assessor report is intended to be completed by a prescribed professional having a history of contact and recent experience with the appellant and is to be based on knowledge of the appellant, observations, clinical data and experience. The ministry argues that since the physician knows the appellant's medical history better than the first-time assessor, it should be given precedence.

The social worker who completed the assessor report indicated that she based her assessment on an office interview with the appellant as well as the physician report, and there were no additional specialist reports considered or provided. The physician who completed the physician report indicated the appellant has been his patient for approximately 3 months and that he has seen the appellant 2 to 10 times in this period. However, in the letter dated September 17, 2012, the appellant's physician specifically endorsed the assessment prepared by the social worker. For these reasons, the panel places equal weight on the evidence of the physician and that of the social worker.

Severity of physical impairment:

The ministry argues that the evidence does not show that the appellant has a severe physical impairment. The ministry argues that the physician indicated that the appellant is able to walk 4 or more blocks and to climb 5 or more stairs unaided, to lift 5 to 15 lbs. and to remain seated for less than 1 hour, and he does not describe a physical impairment under health history. The ministry argues that the social worker reported that the appellant can independently do most aspects of mobility and physical abilities with periodic help to lift/carry/hold albeit all physical tasks take longer to perform. The ministry also argues that no assistive devices are routinely used to help compensate for impairment. The ministry argues that the functional skills limitations are not significantly restricted and are more in keeping with a mild degree of impairment.

The appellant argues that he has a severe physical impairment as a result of diabetes, coronary artery disease and thyroid disease. In his Notice of Appeal, the appellant stated that he disagrees with the ministry's reconsideration decision because he is suffering from the side effects of a heart problem, diabetic-thyroid-cholesterol- high blood pressure, and prostate problems, and cannot do his personal job due to these reasons; that he is absolutely sick .

In considering the information provided regarding the severity of the appellant's impairments, the panel has drawn upon the ministry's definition of "impairment," as set out in the physician report. This definition consists of "cause" and "impact" components as follows: "impairment is a loss or abnormality of psychological, anatomical or physiological structure or function [the cause] causing a restriction in the ability to function independently, effectively, appropriately or for a reasonable duration [impact]." The cause is usually set out as a disease, condition, and syndrome or even by a symptom (e.g. pain). A severe impairment requires the identified cause to have a severe impact. The assessment of severity is therefore based on the impact on daily functioning, in such areas as functional skill limitations, cognitive and emotional deficits, restrictions on the ability to manage DLA and assistance required.

The panel finds that the evidence of a medical practitioner confirms a diagnosis of diabetes diagnosed in 2005, coronary artery disease with date of onset of approximately 10 years ago and thyroid disease since 2005, as set out in the physician report. In describing the severity of the medical condition relevant to the appellant's impairment, the comments provided by the physician did not relate to the appellant's physical conditions. In the physician report, the physician indicated that the appellant has been prescribed medications for his psychiatric condition that interfere with his ability to perform DLA, but he does not require an aid for his impairment. The physician reported that the appellant can walk 4 or more blocks unaided on a flat surface, he can climb 5 or more stairs unaided, and he can lift 5 to 15 lbs.; he can remain seated for less than 1 hour because he "gets restless," which relates more to the appellant's mental rather than his physical condition. In the assessor report, the social worker indicated that the appellant is independent with walking indoors and outdoors ("slowly"), climbing stairs ("uses assistive device of handrail") and standing ("10 minutes max"), while requiring periodic assistance from another person with lifting and carrying and holding ("needs help with more than 5 to 10 lbs.") and taking significantly longer than typical with all areas of mobility and physical ability ("all moving about takes at least 3 times longer"). The panel finds that a handrail for climbing stairs is not an assistive device according to the definition in the legislation and the evidence demonstrates that the appellant is independent with mobility while taking 3 times longer than typical, and that he needs help with lifting and carrying and holding for weights in excess of 5 to 10 lbs. The panel finds that the ministry reasonably concluded that the appellant's functional skills are not significantly restricted and are more in keeping with a mild degree of impairment. Therefore, the panel finds that the ministry's determination that the evidence does not establish a severe physical impairment was reasonable.

Severity of mental impairment:

The ministry argues that the evidence does not show that the appellant has a severe mental impairment. The ministry points out that the physician reports several deficits to cognitive and emotional functioning in executive, memory, emotional disturbance, motivation, and attention/concentration. The ministry points out that there are no difficulties with communication although the social worker notes that poor concentration and memory have an impact on the appellant's reading and writing. The ministry points out that the social worker reports 6 major impacts on daily functioning with the comment "chronic pain, sleep problems, depression and anxiety" and argues that this section is meant to be completed for those with a mental impairment or brain injury and that impacts related to physical factors are not relevant. The ministry points out that there are a number of aspects with no impact at all. The ministry argues that while the appellant has a history of mood disorder, this has been exacerbated by a marital separation two months before the physician completed his report and this indicates a worsening of mood related to life circumstances.

The appellant's position is that he has a severe mental impairment as a result of depression- anxiety. In his Notice of Appeal, the appellant argues that he disagrees with the ministry's reconsideration decision because he is suffering from bad depression and that he is absolutely sick.

The panel finds that the evidence of a medical practitioner confirms a diagnosis of depression and anxiety. In describing the severity of the medical condition relevant to the appellant's impairment, the physician noted "...he has long-term problem with anxiety-depression, feels down, low motivation, hard to focus, poor concentration, poor sleep, gets anxious easily, unable to handle stress, unable to multi-task, feels more anxious when alone, prefers to be around family, mood is worse over past months since separated, hard to start day." The physician indicated that the appellant has been prescribed medications that interfere with his ability to perform DLA ("feels drowsiness with his psychiatric medications"). The physician reported that there is no difficulty with communication while the social worker indicated that the appellant has a satisfactory ability to communicate with speaking and hearing but poor ability for reading and writing due to poor concentration and memory. The physician indicated significant deficits with cognitive and emotional function in the areas of executive, memory, emotional disturbance, motivation, and attention or sustained concentration ("has symptoms of depression and anxiety"). The social worker indicated major impacts to the appellant's cognitive and emotional functioning in the areas of bodily functions, emotion, attention/concentration, executive, memory, and motivation, with no impacts in the remaining 8 areas, with the comment "chronic pain, sleep

problems, depression, anxiety." The ministry points out that impacts related to physical impacts ("chronic pain") are not relevant, and the panel finds that it is questionable whether the impact in the area of bodily function has been caused by a mental condition.

The physician reported that the appellant is continuously restricted with social functioning and commented that the appellant "...does not like being in crowds, difficult to make new friendship, low self-esteem." For additional information relevant to an understanding of the significance of the appellant's medical condition, the physician commented that the appellant has a long history of depression which is worse since he separated, that he has been living on his own for 2 months, he is followed by a mental health team and he is unable to work. In the letter dated September 17, 2012, the physician indicated that when the impact of the appellant's conditions on his daily functioning is considered, the appellant has a severe impairment as he suffers from severe depression and anxiety and his depression is worse since his separation. In assessing the appellant's social functioning, the social worker indicated that the appellant is independent in making appropriate social decisions and interacting appropriately with others while requiring continuous support/ supervision for developing and maintaining relationships ("depressed, withdrawn and isolated") and periodic support/ supervision for dealing appropriately with unexpected demands ("often very stressed") and securing assistance from others. The social worker indicated that the appellant has marginal functioning with both his immediate and extended social networks. For additional information, the social worker noted that the appellant has been living on his own since his wife and family left him due to his depression and now he is "even more depressed than ever." The panel refers to the definition of impairment above and its cause and impact components, and notes that a severe impairment requires a severe impact to be demonstrated. While the social worker has identified six major impacts on cognitive and emotional functioning, no descriptions or examples are provided that would give the ministry a clear picture of how, how often, or for how long, or under what circumstances these impacts manifest in daily living. The panel finds that the ministry reasonably determined that a life circumstance has also recently exacerbated the appellant's mood, and that this is a variable impact, subject to change. The panel finds that the ministry's decision, which concluded that the evidence does not establish a severe mental impairment, was reasonable.

Whether ability to perform DLA is directly and significantly restricted:

The ministry argues that the evidence does not establish that the appellant's DLA are, in the opinion of a prescribed professional, directly and significantly restricted either continuously or periodically for extended periods. The ministry points out that the physician reports periodic restrictions to personal self care, meal preparation, basic housekeeping and daily shopping, described as "takes longer to do ADL's on regular basis, sometimes skips meals due to low motivation and low energy- sometimes avoids showering, difficult to keep place clean" and continuous restriction to social functioning. The ministry argues that the narrative does not demonstrate a significant degree of restriction to these tasks. The ministry argues that while the tasks take longer, exactly how much longer is not described. The ministry argues that the social worker reports that social functioning is independent in 2 out of 5 aspects and support is required to develop and maintain relationships and to deal appropriately with unexpected demands and to secure assistance from others but since the appellant currently receives help from another person, he is able to secure assistance from others. The ministry argues that while it appears that the appellant's mood somewhat restricts his motivation to perform certain tasks, the physician stated that these restrictions are mostly periodic and the narrative provided does not establish that the appellant is unable to perform these tasks.

The appellant's position is that the evidence of the physician and the social worker, as prescribed professionals, establishes that he is directly and significantly restricted in his ability to perform his DLA either continuously or periodically for extended periods. In his Notice of Appeal, the appellant stated that he disagrees with the ministry's reconsideration decision because he is suffering from bad depression and side effects of a heart problem, diabetic-thyroid-cholesterol- high blood pressure, prostate, and he cannot do his personal job due to these reasons; absolutely sick. He is living with a room-mate and he does his personal jobs.

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. In terms of preparing his own meals, the physician indicated in the physician report that the appellant is restricted on a periodic basis with a comment regarding periodic that the appellant "...sometimes skips meals due to low motivation, low energy." In the letter dated September 17, 2012, the physician commented that meal preparation is done much less often than needed due to the appellant's severe depression and low energy. In the assessor report, the social worker indicated that the appellant is independent with safe storage of food but requires periodic assistance from another person with meal planning ("often not done"), food preparation and cooking ("often requires help"). For managing personal finances, the physician reported that the appellant is not restricted and, in the assessor report, the social worker indicated that the appellant is independent with all tasks of paying rent and bills including banking and budgeting, while taking significantly longer than typical with banking.

In terms of shopping for his personal needs, the physician indicated that the appellant is periodically restricted with a comment that the appellant "takes longer to do ADL's on a regular basis." In the assessor report, the social worker indicated that the appellant requires continuous assistance from another person or he is unable to go to and from stores or carry purchases home and he takes significantly longer than typical with performing these tasks. There is no explanation provided as to what these mutually exclusive assessments mean. The social worker indicated the appellant requires periodic assistance from another person with making appropriate choices and is independent with reading prices and labels and paying for purchases, while taking significantly longer than typical with both tasks. In the additional comments, the social worker has noted that "all moving about takes at least 2 to 3 times longer, he requires (and receives) assistance with many household ADL's or they would not get done regularly or adequately."

For use of public or personal transportation facilities, the physician indicated that the appellant is not restricted and the social worker reported that the appellant is independent with managing transportation but uses an assistive device ("needs a seat") for using public transit. The panel finds that a seat on public transit is not an assistive device according to the definition as set out in the legislation of a device designed to enable a person to perform a DLA that, because of a severe mental or physical impairment, the person is unable to perform. With respect to performing housework to maintain the appellant's place of residence in an acceptable sanitary condition, the physician indicated that the appellant is restricted on a periodic basis and, in the letter dated September 17, 2012, that housework is done much less often than needed due to severe depression and low energy. The social worker reported that that the appellant requires continuous assistance from another person or he is unable to do laundry and basic housework, and he also takes significantly longer than typical with performing these tasks. Again, there is no explanation provided as to what these mutually exclusive assessments mean.

For moving about indoors and outdoors, the physician indicated that the appellant is not restricted with mobility inside the home and with mobility outside the home, and the social worker reported that the appellant is independent with walking indoors and outdoors ("slowly"). Regarding performing personal hygiene and self care, the physician indicated that the appellant is restricted on a periodic basis, with the additional comment that he "some days avoids showering." In the letter date September 17, 2012, the physician commented that personal self care is done much less often than needed due to severe depression and low energy. The social worker indicated in the assessor report that the appellant is independent with all tasks of personal care including dressing, grooming, bathing, toileting, feeding self, regulating diet, with transfers in/out of bed and transfers on/off chair, while taking significantly longer than typical with most tasks. With respect to managing his personal medications, the physician reported that the appellant is not restricted with this DLA and the social worker reported that the appellant is independent with all tasks of managing medications, while taking significantly longer than typical with filling/refilling prescriptions.

For making decisions about personal activities, care or finances, the social worker reported that the appellant is independent in making appropriate social decisions. In the letter dated September 17, 2012, the physician

agreed with the statement that the appellant's ability to make appropriate decisions in a timely manner is significantly restricted by his mental impairment. For relating to, communicating or interacting with others effectively, the social worker indicated in the assessor report that the appellant is independent with interacting appropriately with others. In the letter dated September 17, 2012, the physician agreed with the statement that the appellant's ability to interact with other people is significantly restricted by his mental impairment. In the physician report, in his comment relating to continuous restrictions to social functioning, the physician noted that the appellant "does not like being in crowds", that it is "difficult to make new friendship" and that he has "low self esteem."

The social worker indicated that the appellant is restricted with 11 of a total of 33 tasks of DLA and these restrictions are continuous with the DLA of housekeeping and 2 of 5 tasks of the DLA of shopping and 1 of 5 aspects of social functioning. However, where there is also an assessment that the appellant takes significantly longer than typical to perform the tasks, there is no explanation as to what these mutually exclusive assessments mean. The panel finds that the ministry reasonably determined that for the remaining periodic restrictions with tasks of DLA, the narrative provided does not establish that the restriction is significant or for an extended period of time as the frequency is defined as "sometimes" or "some days." or "some help" or "often requires help." The panel finds that it is reasonable for the ministry to expect more details to substantiate that restrictions in managing DLA are significant and for extended periods of time, as required by the legislation, and the panel finds that sufficient detail has not been provided. 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.

Whether help to perform DLA is required:

The ministry's position is that since it has not been established that DLA are significantly restricted, it cannot be determined that significant help is required from other persons. The ministry points out that the physician did not indicate that the appellant requires the use of an assistive device. The appellant's position is that he requires the significant help or supervision of another person in order to perform his directly and significantly restricted DLA. In his Notice of Appeal, the appellant stated that he disagrees with the ministry's reconsideration decision because he is living with a room-mate and his roommate does his personal jobs.

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 notes the information from the physician and the appellant that he lives with a roommate and he receives assistance from the roommate. The physician indicated that the appellant does not currently use an assistive device. As it has not been established that the ability to perform DLA is 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.

Conclusion:

The panel finds that the ministry's reconsideration decision was reasonably supported by the evidence and confirms the decision.