

### PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development (the ministry) reconsideration decision dated January 29, 2013 which found that the appellant did not meet three of the five statutory requirements of Section 2 of the Employment and Assistance for Persons with Disabilities Act for designation as a person with disabilities (PWD). The ministry found that the appellant met the age requirement and that his impairment is likely to continue for at least two years. However, the ministry was not satisfied that the evidence establishes that:

- the appellant has a severe physical or mental impairment;
- 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; and,
- 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.

### 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 included the following:

- 1) Oncology Consultation dated June 21, 2002 stating in part that high grade osteosarcoma was diagnosed and metastatic workup is negative;
- 2) Diagnostic Imaging Report dated September 10, 2002 for a CT scan of the appellant's chest stating in part there is no evidence of metastases;
- 3) Diagnostic Imaging Report dated September 11, 2002 for an MRI of the appellant's right femur stating in part that the findings are consistent with a surface lesion such as periosteal osteosarcoma or less likely, malignant transformation within an osteochondroma and the small knee effusion is likely reactive in nature;
- 4) Operative Procedure Report dated October 15, 2002 for high grade osteosarcoma right distal femur;
- 5) Memo dated November 18, 2002 from the BC Cancer Agency stating that appellant was reviewed;
- 6) Admission and Discharge Summary dated November 21, 2002;
- 7) Memo dated December 16, 2002 from the BC Cancer Agency stating the appellant was seen for follow-up;
- 8) Outpatient Clinic Report dated January 8, 2003;
- 9) Memo dated October 17, 2005 from the BC Cancer Agency stating the appellant is back to work and full activities;
- 10) Diagnostic Imaging Report dated October 20, 2008 for chest with no evidence of pulmonary metastases and for the right femur and tibia/fibula with stable appearance and no evidence of recurrent disease;
- 11) Letter dated October 20, 2008 from the BC Cancer Agency to the appellant's physician stating the appellant is doing well with minimal pain;
- 12) Diagnostic Imaging Report dated October 19, 2009 for chest with no evidence of pulmonary metastases and for the right femur and knee with stable appearances and no evidence of recurrence;
- 13) Letter dated October 19, 2009 from the BC Cancer Agency to the appellant's physician stating the appellant was seen and clinically he is doing very well, full extension and flexion are about 95 degrees;
- 14) Letter dated October 18, 2010 from the BC Cancer Agency to the appellant's physician stating the appellant appears to be doing quite well;
- 15) X-Ray Report dated August 3, 2011 for both hands noting joint changes could be related to erosive osteoarthritis or to arthropathy (e.g. Psoriasis related arthropathy or Reiter's disease); the pelvis is unremarkable with no significant abnormality of the hip or sacroiliac joint; there is negligible dextrosciosis of the lumbar spine and mild spondylosis and disc space narrowing due to degenerative disc disease at L3-4 and no other significant abnormality is identified; there is severe multi-compartmental degenerative joint disease of the left knee and total replacement of the right knee joint;
- 16) Medical Imaging Report dated July 6, 2012 stating in part that there is no definitive radiographic evidence of hardware complication with the right knee and, for the left knee, the findings are compatible with severe tricompartmental osteoarthritic change;
- 17) Person With Disabilities (PWD) Application comprised of the applicant information dated July 25, 2012 a physician report and an assessor report both completed by the appellant's family physician of about 19 years and dated October 19, 2012 and October 12, 2012 respectively;
- 18) Ministry file notes for November 30, 2012 through December 28, 2012 stating in part on November 22 that the appellant states he is unable to work due to pending knee replacement surgery and a medical EP was completed; appellant states on December 28 that he is attending school two days per week for 3 hours each, and he is booked January 23, 2013 for knee replacement surgery;
- 19) Undated Medical Report- Employability stating in part that the appellant's primary medical condition is osteoarthritis of the left knee, that he needs his knee replaced;
- 20) Letter dated January 21, 2013 from the appellant's physician agreeing with a number of statements, including that the appellant states that he is only able to walk less than 1 block unaided before he has to stop and take a break, he is unable to climb any stairs without the use of handrails or his cane, and he uses crutches, a walker, a motorized scooter and a cane for all activities of daily living. The appellant states that the following daily living activities (DLA) take him 6 times longer than typical: dressing, bathing, toileting, transfers in/out of bed and on/off chair, laundry, going to and from stores, carrying purchases home and getting in and out of a vehicle, with a comment that "...disability is constant and significantly impairs mobility." The appellant states that he is unable to do the following DLA without the assistance of

another person: housekeeping (unable to do any housekeeping due to mobility issues) and carrying (the appellant is able to lift up to 15 lbs. but is unable to carry things due to mobility issues; and, 21) Request for Reconsideration dated January 21, 2013.

### *Diagnoses*

The appellant has been diagnosed by the medical practitioner, his general practitioner of approximately 19 years, with severe osteoarthritis in his left knee with dated of onset estimated at 2007 and past history of osteosarcoma in the right knee in 2002 and the appellant also has "multi-joint arthritic symptoms" in his shoulders, hands, and wrist.

### *Physical Impairment*

- In the physician report, the general practitioner indicated with respect to health history that there is pain, swelling and restricted joint movement of both knees, greater in the left than the right. The appellant has gait restriction and limps (constant). Pain and symptoms are constant and severe, restricting the appellant's ability to stand, sit, walk, lift, unable to kneel. The symptoms have progressed over time and are constant and marked.
- For the degree and course of impairment, the general practitioner wrote that the left knee will be assessed by the original cancer orthopedic surgeon in November 2012 as to possible surgical total knee replacement and opinion as to any further treatment for right knee.
- Functional skills reported in the physician report indicated that the appellant can walk 1 to 2 blocks unaided, he can climb 2 to 5 steps unaided, he can lift 5 to 15 lbs. and can remain seated for 1 to 2 hours.
- The physician reported that the appellant has not been prescribed any medications or treatments that interfere with his ability to perform his daily living activities (DLA) and he does require an aid for his impairment, being a cane 'prn', or as needed, and his right knee was replaced in 2002.
- In the additional comments, the general practitioner wrote that there has been some response with medication but the marked restriction persists. The "prognosis is good for left knee if/when surgery takes place, less certain for outlook or further surgery on right (currently being assessed).
- In the assessor report, the general practitioner indicated that the appellant takes significantly longer than typical with walking indoors, walking outdoors, climbing stairs, standing, lifting, and carrying and holding, with the explanation: "...uses cane at times; pain is constant and marked affecting gait (limping)."
- In his self-report, the appellant stated that his right knee is an artificial joint which was replaced in 2002 and the joint is now completely worn out causing extreme pain and making walking and trying to strengthen the muscle almost impossible. His left knee is also worn out and walking any length is extremely painful. The appellant stated that climbing stairs is painful and time-consuming. He cannot stand for any length of time consistently. He always has to ask for help lifting anything weighing more than 30 lbs. Basic moving around is painful and uncomfortable.

### *Mental Impairment*

- The general practitioner did not diagnose a mental disorder.
- The general practitioner reported the appellant has difficulties with communication and identifies hearing as the cause. In the assessor report, the appellant's ability to communicate is assessed as good in all areas except hearing which is poor.
- The general practitioner reported no significant deficits with cognitive and emotional function.
- In the assessor report, the general practitioner did not complete the section for an applicant with an identified mental impairment or brain injury and did not assess impacts to daily functioning in various areas of cognitive and emotional functioning.

- The general practitioner indicated that the appellant is independent in all areas of social functioning.

#### *Daily Living Activities (DLA)*

- In the assessor report, the general practitioner reported that all 5 of the 8 listed tasks of the DLA personal care take significantly longer than typical, namely dressing, bathing, toileting and transfers in/out of bed and on/off chair. The tasks of grooming, feeding self and regulating diet are performed independently.
- The appellant is assessed as independent with laundry and housekeeping, with an explanation by the general practitioner that "...any activity of weight bearing is affected."
- In the assessor report, the appellant is assessed by the general practitioner as taking significantly longer than typical with going to and from stores and carrying purchases home, and is independent with reading prices and labels, making appropriate choices, and paying for purchases. The general practitioner wrote that "...weight bearing activities are affected on a constant basis."
- All listed tasks for the DLA meals, paying rent and bills, and medications are performed independently.
- For managing transportation, the appellant is assessed by the general practitioner as taking significantly longer than typical with getting in and out of a vehicle and using public transit and independent with using transit schedules and arranging transportation.
- For additional comments, the general practitioner wrote that "...weight bearing or activities requiring knee movement or use affected on constant basis (marked/severe)."
- In his self-report, the appellant stated that he has a hard time showering and bathing is out of the question because he cannot climb out of the tub. He has a really hard time getting dressed.

#### *Need for Help*

- The general practitioner reported that the appellant uses a cane to help compensate for his impairment.
- For help required for DLA, the general practitioner indicated in the assessor report that the appellant is "...currently living independently."
- In response to the request to describe if help is required but none is available, the general practitioner wrote "...weight bearing or activities of mobility are the main restrictions."

In his Notice of Appeal, the appellant expressed his disagreement with the reconsideration decision.

Prior to the hearing, the appellant provided an additional letter dated February 14, 2013 from his physician and includes the following:

- The general practitioner agrees that the appellant states that he is only able to walk less than 1 block unaided before he has to stop and take a break, with a comment that he "...uses crutches to walk."
- The general practitioner agrees that the appellant states he is unable to climb any stairs without the use of handrails or his cane, and the physician wrote "...had surgery January 23, 2013 (total left knee prosthesis and removal right patellar button- knee)."
- The general practitioner agrees that the appellant uses crutches for all activities of daily living but disagrees that the appellant uses a walker, a motorized scooter or a cane. He wrote that the appellant "...is mobilizing post-operatively with physio.; may require further surgery right knee."
- The general practitioner agrees that the appellant states that the following DLA take him 6 times longer than typical: dressing, bathing, toileting, transfers in/out of bed and on/off chair, laundry, going to and from stores, carrying purchases home and getting in and out of a vehicle, with a comment that "...any weight bearing mobility is impaired; improvement is expected over time."
- The general practitioner agrees that the appellant states that he is unable to do the following DLA without the assistance of another person: housekeeping (unable to do any housekeeping due to mobility issues) and carrying (the appellant is able to lift up to 15 lbs. but is unable to carry things due to

mobility issues).

At the hearing, the appellant provided the following oral evidence:

- The appellant stated that he had surgery on his left knee on January 23, 2013 and it has been 6 weeks and he still has mobility issues. He is still not walking unaided. He is using assistive devices to do anything at this point. His friend lent him a motorized scooter and that is what he uses to get around in the community. He also still uses his cane rather than crutches because he found the crutches uncomfortable and he could not walk properly with them.
- The appellant stated that he may require further surgery in his right knee. He has an appointment with the orthopedic surgeon in two month's time and the options will be discussed at that time.
- The appellant stated that he has to pre-plan everything, for example how to prepare his dinners, how to get dressed, with his clothes put together in one spot. The appellant stated that it is a "procedure and a half" for him to get dressed. For meals, he eats cans of soup or items that can be heated in the microwave.
- The appellant stated that he takes Tylenol 3 but it barely relieves the pain. It is a slow, cumbersome process for him to even get out the door. He does his laundry but tries to keep it to a minimum. He has some friends that come over to help him with the housekeeping but it is embarrassing to ask for help.
- The appellant stated that he leans on the counter to be able to do the dishes, and he tries to get them done as quickly as possible. He uses the motorized scooter to do his shopping. He can lift items but cannot carry them so he uses the scooter to carry things.
- The appellant stated that for approximately a year and a half his osteoarthritis has become "severely aggressive", but he is grateful that his cancer has not come back.
- The appellant stated that his doctor told him that he foresees the possibility of improvement for his left knee but he is not sure about the right knee. The appellant stated that he has been doing exercises to try to maintain stability in the right knee but it has not been effective.
- The appellant stated that he does not have "normal" functioning in either knee and so far they are not sure what else to do with the right knee.

The ministry did not object to the admissibility of the letter from the appellant's physician and the panel admitted the document and the appellant's oral evidence, pursuant to Section 22(4) of the Employment and Assistance Act, as providing more detail of the impact of the appellant's medical conditions and being in support of information that was before the ministry on reconsideration.

At the hearing, the ministry relied on its reconsideration decision. In response to a question, the ministry stated that she could see that the appellant continues to have mobility limitations even though he has undergone the recommended knee surgery.

## PART F – Reasons for Panel Decision

The issue on the appeal is whether the ministry's reconsideration decision, that the appellant is not eligible for designation as a person with disabilities (PWD), was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the circumstances of the appellant. The ministry found that the appellant does not have a severe mental or physical impairment and that his daily living activities (DLA) are not, in the opinion of a prescribed professional, directly and significantly restricted either continuously or periodically for extended periods and that, as a result of those restrictions, it could not be determined that the appellant requires the significant help or supervision of another person, the use of an assistive device, or the services of an assistance animal to perform DLA.

The criteria for being designated as a person with disabilities (PWD) are set out in Section 2 of the EAPWDA as follows:

### Persons with disabilities

2 (1) In this section:

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

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

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

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

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

(b) in the opinion of a prescribed professional

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

(A) continuously, or

(B) periodically for extended periods, and

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

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

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

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

(i) an assistive device,

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

(iii) the services of an assistance animal.

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

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

### Definitions for Act

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

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

(i) prepare own meals;

(ii) manage personal finances;

(iii) shop for personal needs;

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

The 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.

### **Evidentiary Considerations**

The panel finds that the evidence of the appellant's physician contained in the additional letters and that in the original reports filed with the PWD application is markedly different in some respects. For example, in the PWD application dated October 2012, the physician assessed the appellant as able to walk 1 to 2 blocks unaided and to climb 2 to 5 steps unaided and that he uses a cane "at times." Whereas, in the letter dated January 21, 2013, the physician assessed the appellant as only able to walk less than 1 block unaided before he has to stop and take a break, he is unable to climb any stairs without the use of handrails or his cane, and he uses a number of assistive devices (crutches, a walker, a motorized scooter and a cane) for all activities of daily living. The panel finds that the physician has not provided an explanation in the January 21, 2013 letter for the change in his assessment of the appellant's functional skills and use of several assistive devices in the 3 months since completing the reports for the PWD application. In the letter dated February 14, 2013, the general practitioner indicated that the appellant is only able to walk less than 1 block unaided with a comment that he "...uses crutches to walk" and agrees that the appellant states he is unable to climb any stairs without the use of handrails or his cane, and the physician wrote "...had surgery January 23, 2013 (total left knee prosthesis and removal right patellar button-knee)." There is no indication as to whether some of these symptoms are due to the surgery and will subside or if the surgery was not successful and these are more lasting impacts. The general practitioner agrees that the appellant uses crutches for all activities of daily living but disagrees that the appellant uses a walker, a motorized scooter or a cane. The letter dated February 14, 2013 was completed 3 weeks after the surgery to replace the appellant's left knee and the physician's assessment of the use of assistive devices has again changed and he wrote that "improvement is expected over time." Given the conflicting assessments provided immediately prior to and after the appellant's knee surgery, the panel placed more weight on the original assessment by the appellant's physician where it conflicts with the additional letters.

### **Severe Physical Impairment**

The appellant's position is that a severe physical impairment is established by the evidence of his pain as a result of severe osteoarthritis in his knees, which results in restrictions to his mobility and the need to use a cane, a walker and a motorized scooter. The advocate argued that the ministry is not competent to provide a medical opinion that the success rate of knee surgery is high and that the likelihood of improvement is high. The advocate also argued that the ministry, on the one hand, found that the appellant's impairment is likely to continue for two years or more and, on the other hand, states in the decision that the "...duration and impairments reported prior to surgery are likely to improve."

The ministry points out that the appellant's general practitioner reported that the appellant is able to walk 1 to 2 blocks and to climb 5 or more step unaided, to lift 5 to 15 lbs., and to sit for 1 to 2 hours. The ministry argues that although the physician indicated that the appellant has constant progressive knee symptoms with the left

knee more than the right and that the appellant takes significantly longer with all aspects of mobility and physical activity, he also indicated that the prognosis is good for the left knee if/when surgery takes place and that the outlook was less certain for further surgery on the right knee. The ministry argues that the physician reported that the appellant uses a cane "at times." The ministry argues that although the physician indicated in the January 21, 2013 letter that the appellant is not able to climb any stairs without the use of handrails or his cane, a handrail is not considered an assistive device as defined in the legislation. The ministry argues that the appellant's knee surgery was scheduled for January 23, 2013 and, since the success rate of knee surgery is high, the likelihood of improvement is high and the duration and impairments reported prior to surgery are likely to improve.

#### *Panel Decision*

The legislation clearly provides that the determination of severity of impairment is at the discretion of the minister, taking into account all of the evidence including that of the appellant. However, the legislation is also clear that the fundamental basis for the analysis is the evidence from a prescribed professional respecting the nature of the impairment and its impact on daily functioning.

The medical practitioner, the appellant's general practitioner of approximately 19 years, has diagnosed the appellant with severe osteoarthritis in his left knee, past history of osteosarcoma in the right knee, and "multi-joint arthritic symptoms" in his shoulders, hands, and wrist. The general practitioner reported that there is pain, swelling and restricted joint movement of both knees, greater in the left than the right. The pain and symptoms are constant and severe, restricting the appellant's ability to stand, sit, walk, lift, and he is unable to kneel. The symptoms have progressed over time and are constant and marked. There has been some response with medication but the marked restriction persists. The appellant is assessed by the medical practitioner as able to walk 1 to 2 blocks and to climb 5 or more steps unaided, and that he uses a cane 'prn,' or as needed. In the assessor report, the general practitioner indicated that the appellant takes significantly longer than typical with walking indoors, walking outdoors, climbing stairs, standing, lifting, and carrying and holding, with the explanation: "...uses cane at times; pain is constant and marked affecting gait (limping)." For additional comments in the assessor report, the general practitioner wrote that "...weight bearing or activities requiring knee movement or use affected on constant basis (marked/severe)." The general practitioner reported that the "...prognosis is good for left knee if/when surgery takes place, less certain for outlook or further surgery on right (currently being assessed)." The surgery took place in January 2013 and the appellant's physician has not provided a further prognosis for the appellant's knees in the letter dated February 14, 2013, besides stating that he may require further surgery on the right knee and that improvement is expected over time.

Regarding the appellant's other joints, the X-Ray Report dated August 3, 2011 noted joint changes for both hands which could be related to erosive osteoarthritis or to arthropathy, the pelvis is stated to be unremarkable with no significant abnormality of the hip or sacroiliac joint, there is negligible dextroscoliosis of the lumbar spine and mild spondylosis and disc space narrowing due to degenerative disc disease at L3-4 and no other significant abnormality is identified. The general practitioner assessed the appellant as able to lift 5 to 15 lbs. and to remain seated for 1 to 2 hours and the appellant stated he always has to ask for help lifting anything weighing more than 30 lbs. At the hearing, the appellant stated that he uses a scooter for carrying items; however, the panel finds that it has not been confirmed by the medical practitioner that any assistive devices besides a cane are required by the appellant at this time. The panel finds that the ministry reasonably determined that a handrail does not fit the definition of an assistive device as set out in the legislation, as a device designed to enable a person to perform a DLA that the person is unable to perform. The evidence demonstrates that the appellant experiences some restrictions to his mobility as a result of pain in his knees but that he is able to function mostly independently, with occasional use of a cane, and improvement in his weight bearing mobility is expected over time. Therefore, the panel finds that the ministry's determination that the appellant's level of independent physical functioning does not establish that the appellant has a severe physical impairment under section 2(2) of the EAPWDA was not unreasonable.

**Severe Mental Impairment**

The appellant did not argue that he has a severe mental impairment.

The ministry's position is that there is no mental health diagnosis and, therefore, no mental impairment.

***Panel Decision***

The general practitioner has not diagnosed a mental disorder. The medical practitioner did not report significant deficits with cognitive and emotional function, and the appellant is assessed as independent in all areas of social functioning. Therefore, the panel finds that the ministry reasonably determined that a severe mental impairment was not established under section 2(2) of the EAPWDA.

**Restrictions in the ability to perform DLA**

The appellant's position is that his physical impairment directly and significantly restricts his ability to perform DLA to the point that he requires the use of a cane, a walker and a motorized scooter as assistive devices or the continuous assistance of another person in tasks of his DLA.

The ministry's position is that while the evidence of the prescribed professional is that the appellant has certain limitations as a result of his pre-surgery medical conditions, the information does not establish that an impairment will continue to significantly restrict DLA continuously or periodically for extended periods.

***Panel Decision***

The evidence of a prescribed professional, the appellant's general practitioner, in his original assessment is that the appellant takes significantly longer mobilizing indoors and outdoors but that he can independently manage distances of 1 to 2 blocks. The majority of the listed tasks for all other DLA are managed independently, including laundry, all tasks associated with meal preparation, paying rent and bills, medications, and all aspects of social functioning. The only restrictions to DLA identified are that some aspects of some DLA, including personal care, shopping, and transportation, take significantly longer. While the general practitioner indicated in the February 14, 2013 letter that the appellant is unable to perform housekeeping or carrying without the assistance of another person, the panel has placed less weight on this evidence as it has been made 3 weeks following surgery and differs from the original assessment that the appellant is independent with laundry and basic housekeeping and is independent but takes longer with carrying and holding. The appellant stated that he does his laundry but tries to keep it to a minimum and that his friends help with the housekeeping but he is reluctant to ask for help. The panel finds that the ministry's conclusion that the noted restrictions in the appellant's ability to perform some aspects of some DLA do not constitute a direct and significant restriction of the appellant's ability to perform DLA in the opinion of a prescribed professional, thereby not satisfying the legislative criterion of section 2(2)(b)(i) of the EAPWDA, was not unreasonable.

**Help to perform DLA**

The appellant's position is that he requires the use of a cane, a walker and a motorized scooter as assistive devices and the significant assistance of his friends to perform DLA.

The ministry's position is that because it has not been established that DLA are significantly restricted, it cannot be determined that significant help is required. The ministry acknowledged that the physician indicated in the January 21, 2013 letter that crutches, a walker, a motorized scooter and a cane are used on a daily basis.

*Panel Decision*

Section 2(2)(b)(ii) of the EAPWDA requires that, as a result of direct and significant restrictions in the ability to perform DLA, a person requires help to perform those activities. Help is defined in subsection (3) as the requirement for an assistive device, the significant help or supervision of another person, or the services of an assistance animal in order to perform a DLA.

While the panel finds that the evidence of the prescribed professional establishes that the appellant uses a cane at times as an assistive device, the panel also finds that the physician reported that the appellant is "currently living independently" and, as direct and significant restrictions in the appellant's ability to perform DLA have not been established, it cannot be determined that the appellant requires help to perform DLA as a result of those restrictions.

**Conclusion**

Having reviewed and considered all of the evidence and relevant legislation, the panel finds that the ministry's reconsideration decision which determined that the appellant was not eligible for PWD designation was reasonably supported by the evidence, and therefore confirms the decision.