

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development (the ministry) reconsideration decision dated March 1, 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 her 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) Person With Disabilities (PWD) Application comprised of the applicant information dated November 2, 2012 and the physician report and assessor report both completed by a general practitioner, who has treated the appellant for approximately 6 months and dated November 20, 2012;
- 2) Chart Summary dated November 20, 2012, setting out results of a Radiology Report of September 19, 2012 which states in part that the findings are:
 - at L1-2 no disc protrusion, spinal or foraminal stenosis or facet arthropathy;
 - at L2-3 trivial diffuse bulging;
 - at L3-4 severe disc space loss, indicates advanced degenerative disc disease;
 - at L4-5 severe disc space loss;
 - at L5-S1 mild disc space loss; and,
- 3) Request for Reconsideration- Reasons.

Diagnoses

The appellant has been diagnosed by her general practitioner with degenerative disc disease and asthma.

Physical Impairment

- In the physician report under health history, the general practitioner indicated that the appellant has "...chronic back pain, she has had this for several years. Patient is able to do most things but causes significant pain and takes significantly longer than a normal person. Please see attached CT."
- Functional skills reported in the physician report indicated that the appellant can walk 1 to 2 blocks unaided, she can climb 2 to 5 steps unaided, she can lift 2 to 7 kg. and remain seated less than 1 hour.
- The general practitioner reported that the appellant has not been prescribed medications or treatment that interfere with her ability to perform her daily living activities (DLA), and she does not require any aids for her impairment. In the assessor report, the general practitioner did not indicate that any assistive devices are required.
- The appellant is assessed as independent with walking indoors and walking outdoors and with climbing stairs and standing (with the note: "does cause a lot of discomfort"). The general practitioner did not make an assessment with respect to lifting and with carrying and holding, with no other comments provided.
- In her self-report included with the PWD application, the appellant wrote that her back pain started before she was 35 years of age. At age 40 she opted not to have the back operation because the risks were too great. Over the years since, her back has degenerated even more and it is now in her whole back and neck. At 40 years of age, she stopped working because of her chronic back pain.
- The appellant wrote that now her thoughts are focused on what she needs to do to deal with the constant, chronic pain. Standing for 15 minutes gets very uncomfortable. Walking for 15 minutes causes her hips to ache. Climbing stairs causes numbness in her right hip, leg and lower back. Sitting for 15 minutes at the kitchen table causes back pain.
- The appellant wrote that she often has disturbed sleep because of pain and she often wakes in the morning feeling nauseated from pain in the middle of her upper back. The appellant wrote that she goes through a process in the morning of assessing how much she is able to move and sometimes she is in such discomfort that she has to apply heat for 20 minutes.
- The appellant wrote that throughout the day she experiences tingling in her hands and feet and muscle spasms. She also experiences sharp, shooting pain which occurs randomly.
- In her Request for Reconsideration, the appellant wrote that she has had asthma since birth which translates into a slow pace when walking or climbing stairs. The appellant wrote that the onset of shortness of breath, chest pain and panic is debilitating until the attack is under control. Even though

she takes medications, she usually needs to sleep or rest for 1 to 2 hours following an attack. She has approximately 1 to 2 severe attacks a week.

- The appellant wrote that walking or climbing stairs amplifies the pain from her degenerative disc disease, that it is exhausting and she has to take naps 4 to 5 afternoons a week to keep her energy levels up. She cannot take on unfamiliar activity without suffering even further painful consequences.
- The appellant wrote that cold or damp weather stiffens her joints even more than usual, making any activity virtually impossible. The pain can cause her to be incapacitated for up to 2 hours and can happen several times a day and is unpredictable.
- The appellant wrote that although it is sometimes possible for her to walk 1 to 2 blocks, she cannot do so more than 50% of the time. Also, with climbing 2 to 5 steps, most often she is unable to do so. The appellant wrote that she can only lift 2 kg. and certainly not 3 kg.

Mental Impairment

- The general practitioner did not diagnose a mental disorder and reported that the appellant has no difficulties with communication and has a good ability to communicate in all areas.
- In the physician report, the general practitioner indicated that there are no significant deficits in the appellant's cognitive and emotional functioning .
- In the section of the assessor report relating to an assessment of impacts to areas of cognitive and emotional functioning, the general practitioner indicated that there is no impact in each of the listed areas.
- The general practitioner indicated that the appellant independently manages all 5 listed aspects of social functioning, including making appropriate social decisions, developing and maintaining relationships, interacting appropriately with others, dealing appropriately with unexpected demands, and securing assistance from others.

Daily Living Activities (DLA)

- In response to a request in the assessor report to describe the assistance necessary where help is required but none is available, the general practitioner wrote that the appellant needs help with ADL's [activities of daily living].
- In the assessor report, the appellant is assessed as independent with walking indoors and walking outdoors, 1 to 2 blocks unaided without the use of an assistive device.
- The general practitioner reported that most listed tasks of the DLA personal care are performed independently without any noted restriction, while dressing ("does it in pieces with rests in between 15 to 20 minutes"), transfers in/out of bed ("does have difficulty with this") and on/off chair take significantly longer than typical.
- The appellant is assessed as taking significantly longer than typical with laundry ("needs to make several trips as can't carry the load") and with basic housework ("has to take breaks often").
- For shopping, the general practitioner assessed the appellant as independent with all tasks, including going to and from stores, reading prices and labels, making appropriate choices, paying for purchases, and carrying purchases home, with no further explanation provided.
- The general practitioner reported that the appellant takes significantly longer than typical with food preparation and cooking ("needs to do it in sections, etc.- can peel for 5 to 10 minutes then needs to rest"), while being independent with meal planning and safe storage of food.
- All listed tasks for the DLA paying rent and bills and medications are managed independently with no noted restrictions.
- For transportation, the general practitioner indicated that the appellant takes significantly longer than typical and uses an assistive device for getting in and out of a vehicle ("much difficulty with lower vehicles"), while being independent with using public transit and using transit schedules and arranging transportation.

- The general practitioner assessed the appellant as being independent in all areas of social functioning.
- In her self-report, the appellant wrote that standing for food preparation or cooking causes muscle spasms down the right side of her back so she takes frequent breaks and sits down. Standing for 15 minutes causes discomfort. She cannot bend for cleaning and no longer cleans very often. She avoids reaching or lifting above her head at any time because her shoulders get painful. She only takes showers because it is too difficult to get in and out of the tub. The appellant wrote that she no longer carries even a few groceries home from the store as it would take days for her body to recover from the pain.
- In her Request for Reconsideration, the appellant wrote that she takes more time to complete all aspects of daily living. The appellant stated that she requires significant assistance from another person with shopping/carrying/putting away groceries, carrying/lifting items over 2 kg., reaching for any item above her head, preparing food, cleaning bathtub and toilet, vacuuming/mopping/dusting, and any activity that requires twisting, bending, kneeling, or stretching.

Need for Help

- The general practitioner reported that the appellant lives alone and does not use an assistive device.
- The general practitioner indicated that the appellant does not have anyone to help her with DLA.

In her Notice of Appeal, the appellant expressed her intention to dispute the reconsideration decision.

Prior to the hearing, the appellant provided a letter dated March 1, 2013 from the general practitioner who completed the reports for the PWD application and included the following :

- The general practitioner takes the opportunity to highlight some of the things written in her report.
- The general practitioner wrote that, in terms of the appellant's degenerative disc disease, she is severely impaired by this. It affects her daily living and makes things difficult for her to do. She can only sit for 15 to 20 minutes at a time. She can climb 2 to 5 stairs unaided but this will take her a significant amount of time and most of the time she will need help with this.
- The general practitioner wrote that she made a mistake saying that the appellant can carry her groceries home. She is only able to lift 2 kg. at a time and needs help to get her groceries home and cannot do it by herself. "If she does [not] have help, she needs to make several trips to carry her groceries which is difficult with her back pain."

Prior to the hearing, the appellant also provided a letter dated February 28, 2013 from the ministry to the appellant titled "Cheque Hold Letter" requesting information regarding income received in February. The appellant provided an undated letter from the appellant's support person 'To Whom It May Concern' requesting a repayment plan.

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

- The appellant stated that findings in the Radiology Report show the severity of her degenerative disc disease and should be considered.
- The appellant stated that her doctor has also reported in the March 1, 2013 letter that her degenerative disc disease is severe and the ministry did not have this information when the reconsideration decision was made. The appellant stated that she asked her doctor to provide further information and she wrote the March 1, 2013 letter which the appellant had intended to provide to the ministry on the reconsideration.
- The appellant stated that she spends much of her day managing her pain, that she goes through a process in the morning of analyzing which parts of her body are functioning and which are not and how she will get out of bed. Her sleep is often disturbed by pain and she lacks energy, and she requires energy to consider how she will function during the day. Her degenerative disc disease affects

everything and after she gets up into a sitting position she has one effort after another.

- The appellant stated that standing up out of bed should be an automatic thing but, for her, it is not. She never wakes up without pain. Typically, it takes between 20 minutes to an hour to get out of bed in the morning. She has to take time to stretch and she does exercises that she got from the physiotherapist so she can relax and move. She sometimes uses a heating pad to help get moving.
- The appellant stated that in the last year she has also been experiencing nausea in the morning because of pain in her back. The appellant stated that she also frequently gets sharp, shooting pains that are unpredictable and she has to stop whatever she is doing.
- The appellant stated that she can only do any task, such as getting herself breakfast, for a short duration before she starts getting muscle spasms.
- The appellant stated that she has also adapted some activities, such as showering instead of taking a bath because she cannot get in and out of the tub. When she is preparing a meal, she will have to sit down and take a break.
- The appellant stated that she has really bad days about 50% of the time.
- The appellant stated that she sometimes needs help from another person with climbing stairs.
- The appellant stated that she does not currently use an assistive device such as a cane. In response to a question, the appellant stated that she did not know what assistive device the general practitioner was referring to in the assessor report with respect to getting in and out of a vehicle.
- The appellant stated that she attends a church and that many of the people there have helped her and she looks to them for support. She uses a bar in the shower for safety purposes.

At the hearing, the appellant's sister provided the following oral evidence:

- The sister stated that she assisted the appellant with preparing her Request for Reconsideration and has been with her every step of the way, including when she went for the CT scan and when she received the report.
- The sister stated that the doctor's letter of March 1, 2013 and the Radiology Report together show the severity of the appellant's degenerative disc disease and this condition is getting worse and it will not get better.
- The sister stated that she has seen the appellant decline in health over the years, although the appellant has been sick all her life with asthma.
- The sister has also lived with the appellant for short periods of time. Last year, it became apparent to her that the appellant could not prepare food without having to rest. She could see the appellant's discomfort. The appellant used to be a very lively, active person who used to be a fitness instructor and she "tends to push through" but she cannot push through anymore.

The ministry objected to the admissibility of the March 1, 2013 letter from the general practitioner since it was not available at reconsideration but did not object to the other letters or to the oral evidence on behalf of the appellant. The panel admitted the letter from the general practitioner and the oral evidence, pursuant to Section 22(4) of the Employment and Assistance Act, as providing further detail relating to the appellant's medical conditions and being in support of information and records that were before the ministry on reconsideration. The panel found that the February 28, 2013 letter from the ministry and the undated letter from the appellant's support person do not relate to the issues which are the subject of this appellant and did not admit them.

At the hearing, the ministry relied on its reconsideration decision.

PART F – Reasons for Panel Decision

The issue on the appeal is whether the ministry's decision, that the appellant is not eligible for designation as a person with disabilities (PWD) as she does not meet all the criteria in Section 2 of the EAPWDA, 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 her daily living activities (DLA) are not, in the opinion of a prescribed professional, directly and significantly restricted either continuously or periodically for extended periods and that, as a result of those restrictions, it could not be determined that the appellant requires the significant help or supervision of another person, the use of an assistive device, or the services of an assistance animal to perform DLA.

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

Persons with disabilities

2 (1) In this section:

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

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

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

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

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

(b) in the opinion of a prescribed professional

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

(A) continuously, or

(B) periodically for extended periods, and

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

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

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

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

(i) an assistive device,

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

(iii) the services of an assistance animal.

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

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

Definitions for Act

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

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

(i) prepare own meals;

(ii) manage personal finances;

(iii) shop for personal needs;

- (iv) use public or personal transportation facilities;
 - (v) perform housework to maintain the person's place of residence in acceptable sanitary condition;
 - (vi) move about indoors and outdoors;
 - (vii) perform personal hygiene and self care;
 - (viii) manage personal medication, and
- (b) in relation to a person who has a severe mental impairment, includes the following activities:
- (i) make decisions about personal activities, care or finances;
 - (ii) relate to, communicate or interact with others effectively.
- (2) For the purposes of the Act, "prescribed professional" means a person who is authorized under an enactment to practice the profession of
- (a) medical practitioner,
 - (b) registered psychologist,
 - (c) registered nurse or registered psychiatric nurse,
 - (d) occupational therapist,
 - (e) physical therapist,
 - (f) social worker,
 - (g) chiropractor, or
 - (h) nurse practitioner.

The panel considered each party's position regarding the reasonableness of the ministry's decision under the applicable PWD criteria at issue in this appeal.

Severe Physical Impairment

The appellant's position is that a severe physical impairment is established by the evidence of the pain in her back and neck from her degenerative disc disease and the attacks of shortness of breath from her asthma. The appellant argued that the evidence from her doctor in the PWD application and the letter dated March 1, 2013, together with the Radiology Report and her evidence, establishes that she has a severe physical impairment.

The ministry's position is that while it is recognized that the appellant has limitations as a result of her degenerative disc disease, the ministry is not satisfied that the information provided is evidence of a severe physical impairment. The ministry argued that the general practitioner reported that she is able to do most things but experiences significant pain or takes longer than a normal person. The general practitioner indicated that the appellant is able to walk 1 to 2 blocks unaided and to climb 2 to 5 steps unaided, to lift 5 to 15 lbs., to sit for less than 1 hour, and that she does not use any assistive devices. The ministry argued that in terms of mobility and physical ability the general practitioner reported that the appellant is independent in all areas and has not indicated any limitations when it comes to lifting and carrying and holding.

Panel Decision

The diagnosis of a medical condition is not itself determinative of a severe impairment. To assess the severity of an impairment one must consider the nature of the impairment and its impact on the appellant's daily functioning as evidenced by functional skill limitations and the restrictions to DLA. The ministry describes this approach well when it defines the word "impairment" in the physician report as being "a loss or abnormality of psychological, anatomical or physiological structure or function causing a restriction in the ability to function independently, effectively, appropriately or for a reasonable duration." This definition is not set out in

legislation and is not binding on the panel, but in the panel's view it quite appropriately describes the legislative intent.

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 medical practitioner or prescribed professional respecting the nature of the impairment and its impact on daily functioning.

The medical practitioner, the appellant's general practitioner of approximately 6 months, has diagnosed the appellant with degenerative disc disease and asthma. The general practitioner described the appellant's medical condition as "... chronic back pain, she has had this for several years. Patient is able to do most things but causes significant pain and takes significantly longer than a normal person. Please see attached CT." The results of a Radiology Report of September 19, 2012 includes findings of severe disc space loss which indicates advanced degenerative disc disease at L3-4 as well as at L4-5. Despite these findings, the general practitioner assessed the appellant in the PWD application as independent with walking indoors and walking outdoors and with climbing stairs and standing (with the note for standing: "does cause a lot of discomfort"). No assessment or comments were provided by the general practitioner with respect to lifting and with carrying and holding. The general practitioner further assessed the appellant as able to walk 1 to 2 blocks unaided, climb 2 to 5 steps unaided, lift 2 to 7 kg. and remain seated less than 1 hour. In her self-report, the appellant stated that standing for 15 minutes gets very uncomfortable, walking for 15 minutes causes her hips to ache, climbing stairs causes numbness in her right hip, leg and lower back and sitting for 15 minutes at the kitchen table causes back pain. In her Request for Reconsideration, the appellant wrote that although it is sometimes possible for her to walk 1 to 2 blocks, she cannot do so more than 50% of the time. Also, with climbing 2 to 5 steps, most often she is unable to do so. The appellant wrote that she can only lift 2 kg. and certainly not 3 kg. The appellant also wrote in her Request for Reconsideration that she has asthma which translates into a slow pace when walking or climbing stairs and the onset of shortness of breath, chest pain and panic is debilitating until the attack is under control. Even though she takes medications, she usually needs to sleep or rest for 1 to 2 hours following an attack and she has approximately 1 to 2 severe attacks a week.

The general practitioner had an opportunity to review the appellant's Request for Reconsideration which was attached to her letter dated March 1, 2013, and the general practitioner wrote that she wished to highlight parts of her earlier reports. In terms of the appellant's degenerative disc disease the general practitioner wrote that the appellant is severely impaired by this as it affects her daily living and "...makes things difficult for her to do." The general practitioner did not refer to the appellant's asthma in her letter. Rather, she clarified that the appellant can only sit for 15 to 20 minutes at a time, that she can climb 2 to 5 stairs unaided but this will take her a significant amount of time and most of the time she will need help with this, and she is only able to lift 2 kg. at a time. The general practitioner did not modify her assessment that the appellant can walk 1 to 2 blocks unaided. The general practitioner reported in the PWD application that the appellant does not use any assistive devices and she has not been prescribed medications or treatment that interfere with her ability to perform her DLA. The appellant confirmed that she does not use a cane for mobility but she uses a bar in the shower for safety purposes. The panel finds that the evidence demonstrates that the appellant is "able to do most things" independently without the use of an assistive device or the requirement for assistance from another person, although it causes pain and takes her longer. The panel finds that the ministry's determination that the evidence does not establish that the appellant has a severe physical impairment as required under Section 2(2) of the EAPWDA was reasonable.

Severe Mental Impairment

The appellant did not advance a position that she has a severe mental impairment.

The ministry's position is that there is no mental health diagnosis and therefore no evidence of a severe mental

impairment.

Panel Decision

The panel finds that that medical practitioner did not diagnose a mental disorder. There are no significant deficits identified in the appellant's cognitive and emotional functioning. The general practitioner indicated that the appellant has a good ability to communicate in all areas and she independently manages all 5 listed aspects of social functioning. 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 her physical impairments directly and significantly restrict her ability to perform DLA and she requires the assistance of another person or it takes her significantly longer than typical to perform many DLA.

The ministry's position is that the evidence of the prescribed professionals establishes that the appellant independently manages 20 out of 28 aspects of DLA. The ministry argued that for those aspects of DLA that the general practitioner indicated take significantly longer than typical, there is no indication with most aspects of how much longer it takes. The ministry argued that although the general practitioner commented that the appellant needs help with her ADL's, she does not indicate in her assessment of the appellant's ability to manage her DLA if she requires periodic or continuous assistance with the exception of with getting in and out of a vehicle. The ministry argued that although a Radiology Report is provided, it is up to the general practitioner to determine if the results of this report are reflected in the PWD application.

Panel Decision

In the March 1, 2013 letter, the prescribed profession, the appellant's general practitioner, wrote that the appellant is severely impaired by her degenerative disc disease as it affects her daily living and "...makes things difficult for her to do." However, the evidence of the general practitioner in the PWD application is that the appellant is independent with walking indoors and with walking outdoors. The general practitioner reported that most listed tasks of the DLA personal care are performed independently without any noted restriction, while dressing ("...15 to 20 minutes"), transfers in/out of bed and on/off chair take significantly longer than typical. The general practitioner indicated that dressing takes the appellant "15 to 20 minutes" but does not report how much longer than typical this is. The appellant stated at the hearing she uses a grab bar in the shower as an assistive device, but this has not been confirmed in the opinion of the prescribed professional. The appellant is assessed as taking significantly longer than typical with laundry and with basic housework, with no comment provided by the general practitioner regarding how much longer than typical it takes the appellant. For shopping, the general practitioner assessed the appellant as independent with all tasks. In the March 1, 2013 letter, the general practitioner wrote that she made a mistake in her report by indicating that the appellant can carry her groceries home as she is only able to lift 2 kg. at a time and needs help to get her groceries home, that she cannot do it by herself.

The general practitioner indicated in the assessor report that the appellant takes significantly longer than typical with food preparation and cooking ("...can peel for 5 to 10 minutes then needs to rest"), while being independent with meal planning and safe storage of food. The general practitioner did not comment regarding how much longer than typical food preparation and cooking take the appellant. All listed tasks for the DLA paying rent and bills and medications are managed independently with no noted restrictions. For transportation, the general practitioner indicated that the appellant takes significantly longer than typical and uses an assistive device for getting in and out of a vehicle, while being independent with using public transit and using transit schedules and arranging transportation. The assistive device used for getting in and out of a vehicle is not specified by the general practitioner and, at the hearing, the appellant stated that she did not

know what assistive device the general practitioner was referring to. The general practitioner assessed the appellant as being independent in all areas of social functioning. In her Request for Reconsideration, the appellant wrote that she takes more time to complete all aspects of daily living, that she requires significant assistance from another person with shopping, for carrying and putting away groceries, preparing food, cleaning bathtub and toilet, vacuuming/ mopping/ dusting, and any activity that requires twisting, bending, kneeling, or stretching. The general practitioner had an opportunity to review the appellant's Request for Reconsideration prior to preparing her March 1, 2013 letter, and only clarified her assessment with respect to the appellant's ability to carry purchases home when shopping. The panel finds that the ministry reasonably determined that the general practitioner assessed the appellant as requiring assistance with one aspect of DLA and that for those aspects that take the appellant longer than typical, there is no indication how much longer than typical it takes her. The panel concludes that the noted restrictions in the appellant's ability to perform some aspects of some DLA were reasonably viewed by the ministry as not constituting 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.

Help to perform DLA

The appellant's position is that she requires the significant assistance of another person to perform DLA and the use of a grab bar as an assistive device.

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 from other persons, and no assistance animal or assistive devices are required.

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 or the significant help or supervision of another person or the services of an assistance animal in order to perform a DLA.

The general practitioner indicated that the appellant lives alone, that she does not have anyone to help her and that she uses an unspecified assistive device for getting in and out of a vehicle. At the hearing, the appellant stated that she is not aware of the assistive device to which the general practitioner referred but she does use a bar in the shower for safety purposes; however, the requirement for use of a grab bar was not confirmed by the prescribed professional, as required by the legislation. The appellant also stated that she has met people at a church who have helped her and she looks to them for support. While the panel finds that the evidence of the prescribed professional in her March 1, 2013 letter establishes that the appellant requires assistance with one aspect of DLA, the panel also finds that the ministry reasonably determined that, 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.