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PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the ministry) reconsideration decision dated September 3, 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,
- as a result of these restrictions, 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

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PART E – Summary of Facts

With the consent of both parties, the hearing was conducted as a written hearing, pursuant to section 22(3)(b) of the *Employment and Assistance Act.*

The evidence before the ministry at the time of the reconsideration decision included the Person With Disabilities (PWD) Application comprised of the applicant information dated April 4, 2013, a physician report (PR) and an assessor report (AR) both dated April 4, 2013, and completed by the appellant's family physician of approximately 3 months, as well as the following:

1) Letter dated May 12, 2010 from a physician with a diagnosis for the appellant of postpartum GAD [general anxiety disorder], mild OCD [obsessive compulsive disorder] and MDD [major depressive disorder];
2) One page of a total four page psychiatric consultation dated February 15, 2013;
3) Letter dated August 22, 201 (sic) from the appellant's advocate stating in part that the appellant's family physician who filled out the initial PWD form is on vacation until the end of September and, therefore, an opinion was requested of the appellant's psychiatrist;
4) Report dated August 22, 2013 in which a psychiatrist checked off statements regarding the appellant's conditions and restrictions; and,
5) Request for Reconsideration dated August 12, 2013.

Diagnoses

The appellant has been diagnosed by her general practitioner with OCD, GAD, and major depression.

Physical Impairment

- The general practitioner reported that the appellant has not been prescribed any medications or treatments that interfere with her ability to perform her daily living activities (DLA) and she does not require a prosthesis or aid for her impairment.
- Functional skills reported in the PR indicated that the appellant can walk 4 or more blocks unaided on a flat surface, climb 5 or more steps unaided, she can lift 2 to 7 kg (5 to 15 lbs.) and can remain seated 1 to 2 hours.
- In the AR, the general practitioner assessed the appellant as independent with walking indoors and outdoors, climbing stairs, and standing. The general practitioner assessed the appellant as requiring periodic assistance from another person with lifting and carrying and holding. The general practitioner commented:"need help with heavy lift."
- In the Report dated August 22, 2013, the psychiatrist did not check the statements that the appellant is restricted with lifting and carrying, that the appellant is unable to lift more than 5 lbs. because of chronic fatigue, lack of energy about 4 to 5 days a week. The psychiatrist also did not check the statement that the appellant is restricted with walking by her mental health condition, that she has to be close to her comfort zones (her home, car).

Mental Impairment

- In the PR, the general practitioner commented in the health history: "frequent intrusive obsessive thoughts with compulsions; constant, persistent social anxiety, poor sleep, poor concentration, fear of crowds, anxiety/ fear of getting sick/meat, panic attacks, forgetful."
- The general practitioner reported significant deficits with cognitive and emotional function in the areas of emotional disturbance, impulse control, motor activity and attention or sustained concentration, with the added comment: "repeatedly checking stove, door."
- The general practitioner indicated that the appellant does not have difficulties with communication and, in the assessor report, that she has a good speaking and hearing but poor reading and writing due to

"poor concentration."

- In the AR, the general practitioner assessed major impacts with cognitive and emotional functioning in the areas of emotion, impulse control, attention/concentration, and memory, as well as a moderate impact in executive and a minimal impact to motor activity. The general practitioner assessed no impact in the remaining 7 areas of functioning, including bodily functions, consciousness, insight and judgment, language, psychotic symptoms, other neuropsychological problems, and other emotional or mental problems. The general practitioner commented: "poor memory and difficulty with concentration."
- The general practitioner indicated that the appellant functions independently in all areas 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. The general practitioner assessed good functioning in both her immediate and extended social networks and commented: "limits interaction to close friends due to anxiety."
- In her self-report, the appellant wrote that she is the mother of two young boys and she suffers from OCD, GAD and MDD. She goes through periods of being stable to being completely unstable.
- The appellant wrote that stresses are a trigger for anxiety and she has struggled with holding a job. She is unable to manage taking care of her children and herself and have a fulltime job.
- The appellant wrote that medication, exercise, therapy, groups and counseling are all things that help her manage her daily life.
- The appellant wrote that she needs to take care of her mental and physical health not only for her but for her two children who she is raising, that they need their mom and "need her stable."
- In the Report dated August 22, 2013, the psychiatrist checked the statements that with cognitive function, the appellant has major impacts in executive (has trouble with planning, organizing, judgment), memory (she is not able to learn and recall information), motivation (lack of initiative and interest in DLA), attention/concentration (unable to maintain concentration), and emotional disturbance.
- The psychiatrist checked statements that the appellant has chronic fatigue (4 to 5 days a week, usually has to lie down, related to mental health and lack of energy), sleep interruptions (has to take medication every night), and panic attacks ("at least once a week, last from 20 to 40 minutes, experiencing racing heart, shaking and feeling like she is going crazy, hot and sweaty").
- The psychiatrist also checked statements that the appellant is restricted with communication. She has difficulty interacting with people, she does not have friends- "social isolation and withdrawn." The appellant is restricted with appropriate social interaction- "she requires continuous support and supervision because she is not able to deal with unexpected situations or make good judgment," developing and maintaining relationships- "she is unable due to low self-esteem, OCD, anxiety and depression," and "her mental health condition prevents her from normal personal life; history of abusive relationship for 12 years; poor choice of people."

Daily Living Activities (DLA)

- In the AR, the general practitioner indicated that all tasks of the DLA personal care, basic housekeeping, and management of finances and medications are performed independently with no need for assistance.
- The appellant is assessed as requiring periodic assistance from another person with two of 5 tasks of shopping, namely going to and from stores, with a comment by the general practitioner "social phobia" and carrying purchases home, with a comment "need help with heavy lifts."
- The general practitioner reported that the appellant requires periodic assistance with two of four tasks of meals, namely cooking (note: "problem handling meat") and safe storage of food ("obsession with health and germs.")
- The appellant is assessed as requiring periodic assistance with using public transit while being independent with getting in and out of a vehicle and using transit schedules and arranging transportation.

- In the Report dated August 22, 2013, the psychiatrist checked the statements that the appellant requires significant help from her family for personal care- " she requires somebody to motivate her; during depression stage she neglects these activities for weeks.
- For meal preparation and cooking- "she can prepare very simple food; lack of energy and motivation; OCD; requires assistance.
- With basic housework and laundry- "because of depression, lack of motivation and energy, and OCD, she gets continuous assistance from her family."
- The psychiatrist checked the statement that for shopping- "she gets continuous assistance from her family with shopping due to her mental health problem."
- With public transportation- "unable to use public transit; does not like to be a passenger in somebody's vehicle; requires assistance."
- The psychiatrist checked the following statements: "support to maintain social networks", and "support for completing tasks such as completing forms, writing a letter due to lack of concentration" and "her condition and symptoms vary from day to day and as a result her need for assistance varies from day to day; however, overall can be considered a significant need for assistance with her DLA."

Need for Help

- In the reports included in the PWD application, the general practitioner indicated that the appellant does not require an aid for her impairment, or any assistive device.
- The general practitioner indicated in the AR that the help required for DLA is provided by family.
- In the Report dated August 22, 2013, the psychiatrist checked the statement that what the appellant is restricted in performing, her family provides her assistance.

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

Prior to the hearing, the appellant provided the following additional documents:

1) Written submission by an advocate dated October 1, 2013, including additional information that even if some of the records state that the level of the appellant's functioning is improved since 2010, the mental health service will not keep/re-open a file for a stable, healthy person. The advocate stated that the appellant is still under the mental health service care having her regular appointments with the case manager and the psychiatrist additional to daily medication;
2) Exhibit "A"- Report dated September 12, 2013 in which the appellant's family physician checked off statements regarding the appellant's conditions and restrictions, which is the identical Report to that completed by the psychiatrist dated August 22, 2013;
3) Exhibit "B"- information from the appellant's mental health file from the period April 13, 2010 to December 28, 2012. The most recent dated December 28, 2012 entitled 'The Burns Anxiety Inventory' provides a list of questions and answers with a handwritten score of 64 with a note "extreme anxiety or panic" with no other information provided about the scoring. The next most recent document is one page of a four page Psychiatric Consultation dated March 23, 2012 which includes some history and further presenting data that "at present she reports that her interest and hedonic ability is relatively okay. She reports her concentration levels to be quite low. Her energy levels are only fair but she has been sleeping and eating well. She denies suicidal thoughts, intent or plans. She finds her anxiety to be a concern as she feels that her anxiety levels can fluctuate."

The ministry did not raise an objection to the admissibility of the additional evidence. The panel admitted the appellant's evidence as further detail of her condition and being in support of the information and records before the ministry on reconsideration, pursuant to section 22(4) of the *Employment and Assistance Act*.

The ministry relied on its reconsideration decision.

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PART F – Reasons for Panel Decision

The issue on the appeal is whether the ministry's reconsideration decision, which found 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 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.

Evidentiary Considerations

The ministry pointed out in the reconsideration decision that there is a discrepancy in the information provided by the appellant's family physician in the PWD application and that provided by the psychiatrist in the Report dated August 22, 2013. The ministry argued that the psychiatrist's name and association with the appellant is unknown to the ministry. The appellant's advocate argued that in both professional medical opinions, by the family doctor and the psychiatrist, the appellant clearly suffers from a severe mental health impairment, and the psychiatrist report provides more details of her impairment. The advocate explained in the letter dated August 22, 201 (sic) that the appellant's family physician was on vacation until the end of September and, therefore, an opinion was requested of the appellant's psychiatrist. The advocate argued that there is no requirement to keep the ministry informed about the doctor taking care of ministry clients, the doctor does not need to be "known" by the ministry to support his patient, and the psychiatrist provided a medical number even if the ministry was unable to decipher the name. The advocate argued that it is unreasonable for the ministry not to accept the medical information provided by the medical professionals at face value.

Panel decision

The panel finds that the information from the family physician set out in the PR and the AR on April 4, 2013 varies from that provided by the psychiatrist's agreement to statements set out in the Report dated August 22, 2013, primarily with respect to restrictions to DLA. Whereas the general practitioner assessed the appellant in the AR as having no restrictions to the DLA basic housekeeping and no need for assistance, for example, the psychiatrist checked a statement that, "because of depression, lack of motivation and energy and OCD", the appellant gets continuous assistance from her family. In the letter, the advocate explained the reason that the psychiatrist was consulted for an opinion, namely that the family physician was on vacation, but there is no explanation for the change in assessment from the time of the PWD application to the time of the Report, which was 4 months later. The panel agrees with the advocate that the medical number provided by the psychiatrist allows the ministry to verify qualification as a medical practitioner through registration with the College of Physicians and Surgeons, although it is also helpful to an evaluation of the weight to be given to the evidence to know how long the appellant has been a patient and how often she has been seen by the psychiatrist in the last year.

The new information provided by the appellant's family physician in the Report dated September 12, 2013 is identical to that provided by the psychiatrist and, therefore, it also differs from the information in the PWD application. Again, there is no explanation offered by the general practitioner for the difference in the opinion, whether resulting from a deterioration in the appellant's condition or an error made in the initial assessment. The general practitioner notes in the AR that he used other information sources to conduct his assessment, including "other charts, notes and records for mental health," and the panel finds that the general practitioner was informed by at least some of the appellant's mental health history at the time of completing the PWD application. The panel notes as well that whereas the general practitioner made several handwritten comments in the PWD application, there was no information in either the general practitioner's or the psychiatrist's own words in the subsequent Reports, which consisted solely of check marks applied to prepared statements. The panel finds that, with respect to an assessment of restrictions to the appellant's DLA, the ministry was reasonable in placing more weight on the initial assessment in the PWD application.

Severe Physical Impairment

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

The ministry's position is that, in terms of physical functioning, the general practitioner does not indicate a physically disabling medical condition. The ministry argued that the appellant's general practitioner reported that the appellant is able to walk 4 or more blocks and to climb 5 or more steps unaided, to lift 5 to 15 lbs. and to sit for 1 to 2 hours and the reason for the limitations is not explained. The ministry argued that the general practitioner assessed most aspects of the appellant's mobility and physical abilities as independent, with periodic help required to lift/carry/hold. The ministry argued that no assistive devices are routinely used to help compensate for impairment and functional skills are not significantly restricted.

Panel Decision
The medical practitioner, the appellant's general practitioner of about 3 months, did not diagnose the appellant with a physical health condition distinct from the anxiety and mood disorders set out. In the PR, the general practitioner reported that the appellant can walk 4 or more blocks unaided on a flat surface, climb 5 or more steps unaided, lift 2 to 7 kg (5 to 15 lbs.) and remain seated 1 to 2 hours. The general practitioner reported that the appellant does not require a prosthesis or aid for her impairment. In the AR, the general practitioner indicated the appellant is independent with all mobility and physical ability except for her need for periodic assistance from another person with lifting and carrying and holding, with the comment: "need help with heavy lift." In the Reports dated August 22, 2013 and September 12, 2013, neither the psychiatrist nor the general practitioner checked the statements that the appellant is restricted with lifting and carrying, that the appellant is unable to lift more than 5 lbs. because of chronic fatigue, lack of energy about 4 to 5 days a week. The panel finds that the ministry reasonably concluded that the cause for the limitation to the appellant's lifting and carrying and holding and her ability to remain seated is not clear from the evidence provided. The panel finds that the ministry reasonably determined 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.

Severe Mental Impairment

The appellant argued that a severe mental impairment is established by the general practitioner's diagnosis of OCD, GAD and major depression and the evidence that these conditions are affecting the appellant's day-to-day functioning significantly. The advocate argued that the dictionary definition of "significant" is "having or likely to have a major effect" and the information in the PR and AR that the appellant has significant deficits in her cognitive and emotional functioning must be accepted by the ministry as confirming the severity of the appellant's impairment. The advocate argued that it is the doctor's opinions that should be paramount when determining severity of the person's medical conditions, restrictions associated with the conditions, and the effects on DLA as the doctors see the person, know the person, and are the medical professionals. The appellant argued that even if some of the records state that the level of the appellant's functioning is improved since 2010, the mental health service will not keep/re-open a file for a stable, healthy person.

The ministry's position is that a severe mental impairment has not been established by the information provided. The ministry argued that the general practitioner reported four major impacts to cognitive and emotional functioning in the areas of emotion, impulse control, attention/concentration, and memory, with 10 aspects of functioning having little or no impact on daily functioning. The ministry argued that it is significant that the general practitioner assessed all aspects of social functioning as being performed independently without the need for support or supervision from another person. The ministry pointed out that there is a discrepancy in the information provided in the PWD application and that from the psychiatrist. The ministry argued that the appellant's anxiety would likely be heightened by situational stressors, such as having recently fled an abusive relationship. The ministry argued that the evidence shows that the appellant is able to make decisions about personal activities, care and finances and is able to relate to, communicate and interact with other effectively.

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 ability to manage his DLA as evidenced by functional skill limitations, the restrictions to DLA, and the degree of independence in performing 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 prescribed professional respecting the nature of the impairment and its impact on daily functioning.

The general practitioner diagnosed the appellant with OCD, GAD, and major depression and commented in the PR: "frequent intrusive obsessive thoughts with compulsions; constant, persistent social anxiety, poor sleep, poor concentration, fear of crowds, anxiety/ fear of getting sick/meat, panic attacks, forgetful." Significant deficits with cognitive and emotional functioning were reported by the general practitioner in the areas of emotional disturbance, impulse control, motor activity and attention or sustained concentration, with the added comment: "repeatedly checking stove, door." In the AR, the general practitioner assessed major impacts with cognitive and emotional functioning in the areas of emotion, impulse control, attention/ concentration, and memory, as well as a moderate impact in executive. The general practitioner assessed no impact in the remaining 7 areas of functioning and commented, and thereby emphasized, "poor memory and difficulty with concentration."

In the Reports dated August 22, 2013 and September 12, 2013, the psychiatrist and the general practitioner both checked the statements that with cognitive function, the appellant has major impacts in executive (has trouble with planning, organizing, judgment), memory (she is not able to learn and recall information), motivation (lack of initiative and interest in DLA), attention/concentration (unable to maintain concentration), and emotional disturbance. The assessments have changed from that in the AR from moderate impact for executive function to a major impact, and from no assessment for motivation to a major impact to daily functioning in this area. The psychiatrist and general practitioner checked statements in the Reports that the appellant has chronic fatigue (4 to 5 days a week, usually has to lie down, related to mental health and lack of energy), sleep interruptions (has to take medication every night), and panic attacks ("at least once a week, last from 20 to 40 minutes, experiencing racing heart, shaking and feeling like she is going crazy, hot and sweaty").

Looking at one of the most current documents from the appellant's mental health file, being one page of a four page Psychiatric Consultation dated March 23, 2012, at that time the appellant "...finds her anxiety to be a concern as she feels that her anxiety levels can fluctuate." In her self-report of April 4, 2013, the appellant wrote that she is the mother of two young boys and she goes through periods of being stable to being completely unstable. The appellant wrote that stresses are a trigger for anxiety and she is unable to manage taking care of her children and herself and have a fulltime job. The appellant wrote that she needs to take care of her mental and physical health not only for herself, but also for her two children who she is raising, that they "need their mom" and "need her stable."

For social functioning, the general practitioner indicated in the AR that the appellant functions independently in all areas, including making appropriate social decisions, developing and maintaining relationships, interacting appropriately with others, dealing appropriately with unexpected demands, and securing assistance from others. In the additional Reports, the psychiatrist and general practitioner checked statements that show a change in the assessment of the appellant's social functioning. These statements include that the appellant has difficulty interacting with people, she does not have friends ("social isolation and withdrawn"), she is

restricted with appropriate social interaction ("she requires continuous support and supervision because she is not able to deal with unexpected situations or make good judgment"), developing and maintaining relationships ("she is unable due to low self-esteem, OCD, anxiety and depression"), and "her mental health condition prevents her from normal personal life; history of abusive relationship for 12 years; poor choice of people." However, in the AR, the general practitioner assessed good functioning in both the appellant's immediate and extended social networks and wrote: "limits interaction to close friends due to anxiety." As previously discussed, no explanation is provided by either the psychiatrist or the general practitioner for the change in assessment in the Reports and, given the evidence in the appellant's self-report and her mental health file that her anxiety levels fluctuate, the panel finds that there may be situational stressors that have temporarily heightened the appellant's anxiety, as suggested by the ministry, but there is insufficient evidence of the how often and for how long these exacerbations occur.

The general practitioner indicated in the AR that the appellant independently manages all of the listed "mental" tasks of daily living, including making appropriate social decisions, making appropriate choices and paying for purchases when shopping, managing her medications, and conducting her banking and budgeting. Given the evidence from the general practitioner and the appellant that she is independently managing her daily functioning to care for herself and two young children, as long as she is not working full-time, and the lack of evidence regarding the frequency and duration of exacerbations to anxiety levels, the panel finds that the ministry reasonably determined that the information provided did not establish a severe mental impairment under section 2(2) of the EAPWDA.

Restrictions in the ability to perform DLA

The appellant's position is that her mental impairment directly and significantly restricts her ability to perform DLA on an ongoing basis to the extent that she requires the significant assistance of another person. The advocate argued that the appellant's need for assistance is identified as "continuous", "periodic" or "significant" by the doctors on both the initial application and the check-list submitted for the reconsideration.

The ministry's position is that many DLA are performed independently with periodic help needed from another person to go to/from stores, to carry purchases home, with cooking and safe storage of food and use of public transit; however, there is no indication of the frequency or duration of periodic assistance. The ministry argued that the contents of the August 22, 2013 Report reiterates much of the information found in the original application and, as these restrictions vary from day to day, the information from the prescribed professionals does not establish that the impairment significantly restricts DLA either continuously or periodically for extended periods.

Panel Decision
The evidence of the appellant's general practitioner is that the appellant is not restricted in several DLA, with no need for assistance with personal care, basic housekeeping, management of finances and medications. In the AR, the general practitioner assessed the appellant as independent with walking indoors and outdoors and, in the PR, that the appellant can walk 4 or more blocks unaided. In the new Reports, the general practitioner and the psychiatrist did not check the statement that the appellant is restricted with walking by her mental health condition, that she has to be close to her comfort zones (her home, car). The appellant is assessed as requiring periodic assistance from another person with two of 5 tasks of shopping, two of four tasks of meals, and with one of three tasks of managing transportation. The comments provided by the general practitioner in the AR do not provide detail of how often and for how long the periodic assistance is required with these tasks in order for the ministry to determine that the periodic assistance is required for extended periods of time.

In the Reports from the general practitioner and the psychiatrist, statements are checked that the appellant "requires assistance" for meal preparation and cooking, that "she can prepare very simple food; lack of energy and motivation; OCD" and with public transportation she is "unable to use public transit; does not like to be a

passenger in somebody's vehicle." The extent of the assistance is not specified and although the general practitioner and psychiatrist checked the statement that "her condition and symptoms vary from day to day and as a result her need for assistance varies from day to day" but "overall can be considered a significant need for assistance with her DLA," the panel finds that the ministry reasonably exercised its discretion to conclude that there is insufficient information provided to establish that the periodic assistance is required for extended periods of time.

In the Reports, the psychiatrist and the general practitioner also checked statements that the appellant requires significant help from her family for personal care, that " she requires somebody to motivate her, during depression stage she neglects these activities for weeks", that she gets continuous assistance from her family for basic housekeeping and laundry and "she gets continuous assistance from her family with shopping due to her mental health problem." As previously discussed, the panel ascribed less weight to the assessment for these DLA as it is markedly different than that provided in the PWD application, with no explanation provided for the discrepancy.

For those DLA which relate to a mental impairment, the appellant is assessed in the AR as independent with making appropriate social decisions and with communicating with others, as well as with interacting appropriately and securing assistance from others. Additionally, the appellant is assessed as having good functioning in her immediate social network and in her extended social network, although she limits her interaction to close friends due to anxiety. The panel finds that the ministry reasonably concluded that there is not enough evidence from the prescribed professionals to establish that the appellant's impairment significantly restricts her ability to manage her DLA either continuously or periodically for extended periods, 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.

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.

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.

The evidence of the prescribed professionals establishes that the appellant receives assistance required for DLA from her family. The panel 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, as defined by section 2(3)(b) of the EAPWDA.

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.