

## PART C – Decision under Appeal

The decision under appeal is the reconsideration decision of the Ministry of Social Development and Social Innovation (the ministry) dated 05 November 2013 denying the appellant designation as a person with disabilities (PWD). The ministry determined that the appellant did not meet all of the required criteria for PWD designation set out in the *Employment and Assistance for Persons with Disabilities Act*, section 2. Specifically, the ministry determined that, while a severe mental, though not a severe physical, impairment had been established, the information provided did not establish that the appellant's impairment in the opinion of a prescribed professional

(i) directly and significantly restricts her ability to perform daily living activities (DLA) either continuously or periodically for extended periods; and,

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

The ministry determined that the appellant satisfied the other 2 criteria: she has reached 18 years of age and her impairment in the opinion of a medical practitioner is likely to continue for at least 2 years.

## 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

At the request of the ministry, and with the consent of the appellant, a ministry trainee attended the teleconference hearing as an observer.

The evidence before the ministry at reconsideration consisted of the following:

1. The appellant's PWD Designation Application. The Application package contained:
  - A Physician Report (PR) dated 29 May 2013 completed by the appellant's general practitioner (GP) who has known the appellant for 4 years and has seen her 2-10 times in the past year.
  - An Assessor Report (AR) of the same date, completed by the same GP.
  - A Self Report (SR) dated 23 May 2013 completed by the appellant.
2. The appellant's Request for Reconsideration, dated 23 October 2013. Attached is a letter from the appellant (reconsideration letter, or "RL"). Also attached is a letter from a specialist in otolaryngology dated 07 August 2013 regarding the appellant's hearing loss.

The appellant filed her Notice of Appeal on 13 November 2013. On 12 December 2013 the appellant's advocate submitted a letter dated 03 December from the appellant's social worker at the Ministry of Children and Family Development. On 13 December 2013 the advocate also submitted a copy of an article from a medical journal on the linkage between physical symptoms and depression.

### Summary of the evidence

In the PR, the GP diagnoses the appellant with mechanical low back pain, fibromyalgia, chronic depression, and severe sensory-neural hearing loss. The panel will first summarize the evidence from the PR and AR relating to the appellant's impairments as it relates to the PWD criteria at issue.

### *Physical impairment*

PR:  
Under health history, the GP comments that the appellant's difficulties have been long-standing; she is in chronic pain, has chronic dysthymia, with limited Rx to treatment, and has limited physical capabilities.

The GP notes the appellant's height and weight are relevant: 5 ft. 5 in. and over 240 lbs.

Regarding functional skills the GP reports that the appellant can walk 1 to 2 blocks unaided, climb 2 to 5 steps, is limited to lifting 5 to 15 lbs. and can remain seated for 1 to 2 hours. The GP indicates that the appellant has sensory difficulties with communication, with hearing loss on the left side.

### *Mental impairment*

PR:  
The GP identifies significant deficits with cognitive and emotional function in the areas of executive, memory, emotional disturbance, motivation, and attention or sustained concentration. (Comment: "long-standing mood disorder.")

AR:

The GP assesses the following impacts on daily functioning:

- Major impact – bodily functions, consciousness, emotion, attention/concentration, motivation and language.
- Moderate impact – executive and memory.
- No impact – impulse control, insight and judgment, motor activity, psychotic symptoms, other neuropsychological problems, and other emotional or mental problems.

The GP comments: "poor sleeps – daytime sedation; struggles."

*Restrictions in the ability to perform DLA and help required*

AR: (The GP's comments in parentheses.)

The GP assesses the appellant's ability to communicate as good for speaking, reading, and writing, and poor for hearing.

As to mobility and physical ability, the GP makes the following assessments:

- Walking indoors – uses an assistive device and takes significantly longer than typical (grab bars etc.).
- Walking outdoors – periodic assistance from another person and takes significantly longer than typical.
- Climbing stairs – periodic assistance from another person and takes significantly longer than typical (railings).
- Standing – (limited).
- Lifting – continuous assistance from another person required or unable and takes significantly longer than typical.
- Carrying and holding – continuous assistance from another person required or unable, uses assistive device, and takes significantly longer than typical (uses a cart).

The GP provides the following assessments on the appellant's ability to perform DLA:

- Personal care – takes significantly longer than typical for dressing, bathing, transfers in/out of bed and transfers on/off chair; independent for grooming, toileting, feeding self and regulating diet.
- Basic housekeeping – takes significantly longer than typical for laundry and basic housekeeping.
- Shopping – uses an assistive device and takes significantly longer than typical for going to and from stores (cart); periodic assistance required from another person and uses assistive device for carrying purchases home (back pain); independent for reading prices and labels, taking appropriate choices, and paying for purchases.
- Meals – takes significantly longer than typical for food preparation and cooking; independent for meal planning and safe storage of food.
- Pay rent and bills – independent in all aspects.
- Medications – periodic assistance from another person required for taking as directed (often forgets); independent for filling/refilling prescriptions and safe handling and storage.
- Transportation – periodic assistance from another person required and takes significantly longer than typical for getting in and out of vehicle; independent for using public transit (cannot stand in bus) and using transit schedules and arranging transportation.

The GP further notes that movements and carrying are limited.

With respect to social functioning, the GP assesses the appellant as independent for making appropriate social decisions, ability to develop and maintain relationships, and interacting appropriately with others. The GP assesses the appellant as requiring continuous support/supervision in the areas of ability to deal appropriately with unexpected demands and the ability to secure assistance from others.

The GP describes the appellant's relationship with her immediate social network as marginal functioning (tends to isolate) and with her extended social network as marginal functioning (tends to isolate/easily overwhelmed).

The GP reports that assistance provided to the appellant by other people is from a community service worker.

The GP reports that the appellant routinely uses a cart as an assistive device. He indicates that the following are not used but are required: a cane, grab bar and raised toilet seat.

#### Self Report

The appellant writes that she suffers from fibromyalgia, chronic fatigue and depression and has bursitis in her hips. She finds it very difficult to do anything like sit, stand or lie down for long periods of time. She constantly has to change her position. Her back is in excruciating pain daily. She is a single mother to a young boy who at an early age was diagnosed with a serious medical condition. She was not permitted to return to work when he was diagnosed. Over the past nine years of staying home with him and having no support system to help her out she has become more and more depressed and filled with anxiety. She no longer has the drive or energy to get up in the morning. She is in pain all the time and tired constantly. She can't go outside and throw a ball around with her son because of the pain it causes. She can't get down on the floor to play with him because of the discomfort this causes, nor is she able to get up off the floor without help.

She goes on to write that an early age it was discovered that she suffers from a hearing impairment. At that time she had a 91% loss of hearing in her left ear. Since this time she has completely lost all hearing in that ear and since giving birth to her son she has been noticing a decrease in hearing in her right ear. This is been proven and monitored by her ENT. She finds it impossible to hear in loud surroundings. She has to struggle to hear while talking on the phone, once noise increases in the background. On a good day she finds it difficult to hear her son talking and she constantly has to ask him, and everyone else, to repeat themselves, sometimes repeatedly.

She concludes by writing that all of these things combined make her daily living difficult and very frustrating. Her hearing alone limits her on what she can do for work and her back and hips limit the amount of time she able to stay in one position. These things combined make life sometimes unbearable for her.

#### Evidence submitted at reconsideration

In her RL, the appellant writes that, as she stated before, she suffers from fibromyalgia, anxiety, stress, depression, and chronic fatigue. She goes on to write:

[Redacted]

"These things alone make it difficult to function on a daily basis. However, those things aside, my biggest disability is my hearing. At [an early age] it was discovered that I had a 91% loss of hearing in my left ear. I have now completely lost all hearing in the left ear. For the past [almost 40] years my right ear has had to take on the role of two ears; this is taking its toll, my right ear and my brain's ability to process noise had begun to deteriorate. I no longer have the ability to hear when there is any kind of noise in the background. My right ear will only take what comes loudest to it, for example if I am on the phone and someone either tries to talk to me or people in my vicinity begin that conversation, I can no longer hear what the person on the other end of the phone is saying. I get extremely frustrated, anxious and stressed when noises get too loud. I asked [name], my ENT, to please give me a way to try and explain the changes that I've noticed in my hearing to my family, friends or strangers. [He] told me the best way to tell people is that as soon as I get around any kind of noise I am classified as being legally deaf. My hearing loss has also impacted my balance and equilibrium. I am unable to walk short distances (due to my back), but if I stumble or trip on uneven sidewalk I do not have the ability to regain my footing and fall straight down.

In my original request [her GP] indicated that I could lift 5-15 lbs. I have the ability to lift that, however I am in a mass amount of pain for hours or even days after. I am not able to clean my house or do my dishes anymore because I am not able to stand in a stationary position for long periods of time and bending over in the slightest hurts my back so bad. I have been suffering from depression, high stress and headaches and high anxiety for many years. I find my mood swings becoming increasingly worse. My anxiety levels, on some days, make it difficult for me to leave my house.

My son has a disability of his own, which is added to my anxiety and stress levels. I have not worked for the past [many] years, initially due to my son's disability. Now, because my disabilities have increasingly got worse, I no longer feel that I am employable.

In his letter the specialist in otolaryngology (the ENT specialist) gave the following diagnosis:

"Profound loss left side. She has just the right ear which appears to be functioning very close to normal. Patients with only one hearing ear will have significant difficulty understanding conversation in noise. I discussed this. We will confirm today's audiogram with further [health authority] testing and she will be reviewed thereafter."

#### Information provided on appeal

In her letter, the Ministry of Children and Family Development social worker reviews the appellant's diagnoses and writes that on her worst day she is unable to get out of bed, which means she is unable to get her child to school on time or at all. She goes on to write:

"It is this writer's opinion that if [the appellant] has a disability designation, home support would be in place to address her severe and prolonged physical restrictions, which continue to impede her ability in daily living activities and meeting the needs of her child. A disability designation could assist [the appellant] in these daily living activities, including meeting the basic needs of her child and keeping her home up to community standards. Ongoing assistance would be required weekly to address physical restrictions in performing daily living activities and keeping [her son] in [the appellant's] care."

The article from the medical journal reports that physical symptoms are common in depression, and,

[ ]

in fact, vague aches and pain are often the presenting symptoms of depression. These symptoms include chronic joint pain, limb pain, back pain, gastrointestinal problems, tiredness, sleep disturbances, psychomotor activity changes, and appetite changes. A high percentage of patients with depression who seek treatment in a primary care setting report only physical symptoms, which can make depression very difficult to diagnose. Physical pain and depression have a deeper biological connection than simple cause and effect; the neurotransmitters that influence both pain and mood are serotonin and norepinephrine. Dysregulation of these transmitters is linked to both depression and pain.

At the hearing, the appellant's advocate presented oral argument, drawing on the social worker's letter and the article from the medical journal (see Part F, Reasons for Panel Decision below.) In answer to a question seeking clarification concerning the social worker's letter, the advocate stated that PWD designation is a factor considered by the health authority in assessing whether to provide home support. In the advocate's opinion, if the appellant had PWD designation, the health authority would provide her with one hour per day, five days per week, home care.

The appellant provided the following testimony:

- Because of her medical conditions, she feels she is "facing a living hell."
- She has difficulty concentrating.
- If she has had a bad couple of days and gets behind in cleaning up her house, she becomes overwhelmed and finds it difficult to cope.
- She has trouble sleeping at night – she can't shut off her brain.
- Her short term memory has gone – she might take a pill and a few minutes later cannot remember whether she had taken it.
- Some mornings she cannot get out of bed, so her son is late for school or she keeps him home all day. She has received letters from the school concerning her son's lateness or absences.
- When her back pain is severe, she cannot stand and cook; many times her son will have to make do with a bowl of cereal.
- She suffers from panic attacks.
- The social worker has been to her house many times and knows better than her doctor how difficult it is for her to do housework. The social worker visits her about once every two months.
- Regarding her hearing loss, it is overwhelming for her to think that she is going deaf.

The ministry stood by its position at reconsideration.

#### Admissibility of evidence

The ministry had no objections to the admissibility of the information provided after reconsideration and at the hearing, noting however that the journal article was only general in scope. The panel finds that the new information provided by the appellant's advocate before the hearing and by the appellant at the hearing is in support of the information before the ministry at the time of the reconsideration, clarifying the nature of the appellant's impairment as diagnosed by the GP, the impact on her daily functioning and her need for assistance. The panel notes that the GP has diagnosed the appellant with pain and depression, the linkages between which the journal article addresses in general terms. The panel therefore admits the appellant's testimony pursuant to Section 22(4)(b) of the *Employment and Assistance Act*.

PART F – Reasons for Panel Decision

The issue in this appeal is whether the ministry reasonably determined that the appellant is ineligible for PWD designation because she did not meet all the requirements in section 2 of the EAPWDA. Specifically the ministry determined that, while a severe mental impairment had been established, a severe physical impairment had not, and the information provided did not establish that the appellant's impairment in the opinion of a prescribed professional

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

The ministry determined that she met the 2 other criteria in *EAPWDA* section 2(2) set out below.

The following section of the *EAPWDA* applies to this appeal:

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.

The following section of the *EAPWDR* applies to this appeal:

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.

### **Severity of impairment**

#### ***Physical impairment***

In the reconsideration decision, the ministry reviewed the information provided by the GP regarding the appellant's mobility and physical abilities (can walk 1 to 2 blocks unaided, etc.), requiring continuous assistance with lifting and carrying and holding ("uses a cart"), and requiring periodic assistance with walking outdoors and climbing stairs. The ministry noted that no further information is provided to explain the frequency or the duration of the assistance that she requires to manage these areas of mobility and physical ability. The ministry also noted that while the GP indicates that the appellant takes significantly longer to manage most of her mobility and physical ability, no information is provided to explain how much longer it takes. The ministry also noted that the GP indicates that the appellant has sensory difficulties, with "hearing loss – left side," and that her ability to hear is poor and her ability to speak read and write is rated as good. The position of the ministry is that while the information indicates that the appellant has some difficulty managing her physical functioning, the ministry is not satisfied that the information provided is evidence of a severe physical impairment.

The position of the appellant, as advanced by her advocate at the hearing, begins with the ministry's finding that she has a severe mental impairment – depression. The medical journal article clearly explains that there is a high correlation between depression and pain, as both come to the brain through the same neurological pathways. As a severe mental impairment, depression, has been established, and she has been diagnosed with the pain-related physical conditions, mechanical low back pain and fibromyalgia, it follows that the appellant also has a severe physical impairment. The GP has described her condition as "long-standing," i.e. persistent, chronic, or in other words "severe." The advocate also points to the GP's evidence that the appellant routinely uses a cart and needs, though at this time cannot afford, to use a cane, grab bars and raised toilet seat because of her physical and mobility difficulties. Moreover, her reliance on only one ear for hearing makes it difficult for her to make sense of what someone is saying to her if there is any background noise. All this is sufficient evidence to establish a severe physical impairment.

#### ***Panel findings***

For PWD designation, the legislation requires that a severe mental or physical impairment be established. The determination of the severity of impairment is at the discretion of the minister, taking into account all the evidence, including that of the applicant. However, the starting point must be medical evidence, with the legislation requiring that a medical practitioner (in this case, the appellant's GP) identify the impairment and confirm that impairment will continue for at least two years.



In the discussion below concerning the information provided regarding the severity of the appellant's impairment, the panel has drawn upon the ministry's definition of "impairment." This definition consists of "cause" and "impact" components: "impairment is a loss or abnormality of psychological, anatomical or physiological structure or function [the cause] causing a restriction in the ability to function independently, effectively, appropriately or for a reasonable duration [impact]." This definition is not set out in legislation and is not binding on the panel, but in the panel's view it reasonably describes the legislative intent. The cause is usually set out as a disease, condition, syndrome, injury or even a symptom (e.g. pain or shortness of breath). A severe impairment requires the identified cause to have a significant impact on daily functioning.

While the article from the medical journal describes linkages between pain and depression over a large sample, and therefore may provide some guidance to medical practitioners in treating patients with these two conditions, the appellant's GP has not provided any evidence of the extent of correlation that may apply in the appellant's circumstances. The panel must rely on the evidence specific to the appellant in assessing the reasonableness of the ministry's determination regarding this criterion.

The GP has diagnosed the appellant's physical impairments as fibromyalgia and mechanical low back pain. The impact on her physical and mobility functioning is that she is able to walk 1 to 2 blocks unaided, climb 2 to 5 steps and lift 5 to 15 pounds (though in terms of lifting the appellant states that if she lifts that amount she is in a great deal of pain for hours or days afterwards). The GP assesses the appellant as "limited" in her ability to stand, without providing any parameters regarding this limitation. The GP also indicates that for most of her mobility and physical ability functions she takes significantly longer than typical, but provides no information to describe how much longer. The GP also indicates that the appellant routinely uses a cart for carrying and holding and indicates in the AR that, though not used now, she requires the use of a cane, grab bars and a raised toilet seat. However, no explanation is provided as to how the absence of these devices has restricted her daily functioning, or how using them would improve her daily functioning.

In terms of impact of the appellant's physical medical conditions on her ability to perform DLA, the panel notes that the GP has assessed the appellant as taking significantly longer than typical for many tasks, but has not provided any description or explanation for these assessments (see below).

In her RL, the appellant states that it is sometimes difficult for her to leave her house, and in her letter the social worker states that on the appellant's worst day she is unable to get out of bed. However, both the appellant and the social worker attribute these difficulties to depression and anxiety and not to her physical medical conditions.

The GP also diagnosed the appellant with left side hearing loss and the appellant stated that this makes it difficult for her to hold a conversation if there is any background noise. However, no information has been provided as to how the hearing loss has an impact on those DLA requiring personal interaction, such as shopping for personal needs or managing personal finances.

Based on the foregoing, without a clearer picture of how the appellant's physical medical conditions restrict her ability to function independently or effectively, the panel finds that the ministry was reasonable in determining that a severe physical impairment had not been established.

[Redacted]

**Significant restrictions in the ability to perform DLA.**

In the reconsideration decision, the ministry noted that a severe mental impairment has been established. However the ministry is not satisfied that the appellant's impairment directly and significantly restricts DLA either continuously or periodically for extended periods. The ministry reviewed the information provided regarding assistance required to perform DLA, including those related to social functioning. The ministry noted that no information is provided to explain the frequency or the degree of assistance or support/supervision she requires to manage these activities. The position of the ministry is that, as the majority of DLA are performed independently or require little help from others, the information from the prescribed professional does not establish that impairment significantly restricts DLA either continuously or periodically for extended periods.

The position of the appellant, as presented by her advocate at the hearing, is that the social worker, a prescribed professional, has stated that in her opinion, if the appellant has PWD designation, home support would be in place to address her severe and prolonged physical restrictions, which continue to impede her ability in daily functioning activities and meeting the needs of her child. Ongoing assistance would be required weekly to address physical restrictions in performing DLA and keep her son in the appellant's care. The advocate submitted that this evidence from a prescribed professional amply demonstrates that the appellant is so restricted in her ability to manage household-related DLA that she requires ongoing home support. This level of help required clearly demonstrates significant and continuous restrictions in her ability to perform DLA, and therefore this criterion has been met. The advocate also argued that the appellant is in a "Catch-22" situation: she requires assistance not available to her because of lack of PWD designation, but the ministry takes into account only the help she currently receives – i.e. none. This is unfair and "punitive."

*Panel findings*

The panel notes that, according to the legislation, the direct and significant restriction in the ability to perform DLA must be a result of a severe impairment, a criterion which has been established in this appeal. This DLA criterion must also be considered in terms of the preceding legislative language of section 2 of the *EAPWDA*, which provides that the minister may designate a person as a person with disabilities "if the minister is satisfied that" the criteria are met, including this one. In exercising the discretion conferred by the legislation, it is reasonable that the minister would expect that the opinion of a prescribed professional be substantiated by information from the prescribed professional that would satisfy the minister that there are direct and significant restrictions in the ability to perform DLA, either continuously or periodically for extended periods, by presenting a clear and complete picture of the nature and extent of these restrictions.

While the panel can consider the information provided by the social worker that the appellant requires ongoing weekly home support, the panel cannot accept the proposition implied by the social worker and advanced by the advocate that eligibility for benefits from another agency based on PWD designation should be somehow a factor in determining PWD designation itself: the ministry and the panel can consider only the legislative criteria. The panel notes that while the social worker has submitted an opinion that the appellant's ability to manage her DLA is restricted to the point where ongoing weekly home support is required, she has not substantiated this opinion with any description

as to what areas of DLA are restricted and to what extent. Nor has she provided any information as to what would be involved with weekly home support in terms of duration, frequency and what type of tasks the home support worker would carry out.

The panel will summarize the evidence provided by the GP in the AR regarding restrictions in the appellant's ability to perform DLA as follows:

- Move about indoors and outdoors – she is able to walk 1 to 2 blocks unaided, climb 2 to 5 steps and lift 5 to 15 pounds; the GP assesses the appellant as “limited” in her ability to stand, without providing any parameters regarding this limitation.
- Perform personal hygiene and self care, perform housework to maintain the person's place of residence in acceptable sanitary condition, prepare own meals, and manage personal finances – independent except for several aspects where taking significantly longer than typical is indicated but how much longer not described.
- Shop for personal needs – independent for reading prices and labels, making appropriate choices and paying for purchases; periodic assistance from another person is indicated but not described and uses an assistive device (backpack) for carrying purchases home; uses an assistive device (cart) and taking significantly longer than typical indicated but how much longer not described for going to and from stores.
- Manage personal medication – independent for filling/refilling prescriptions and safe handling and storage; periodic assistance from another person indicated but not described for taking as directed (often forgets)
- Use public or personal transportation facilities – independent for using public transit (cannot stand in bus), and using transit schedules and arranging transportation; periodic assistance from another person indicated but not described and taking longer than typical but how much longer not described for getting in and out of the vehicle.

With regard to the DLA applicable to a person with a severe mental impairment as set out in section 2(1)(b) of the EAPWDR – make decisions about personal activities, care or finances, and relate to, communicate or interact with others effectively – the GP reports that the appellant requires continuous support/supervision to be able to deal appropriately with unexpected demands and to be able to secure assistance from others. However no information is provided to describe the degree or duration of the support/supervision required. As to her hearing loss and her ability to relate to, communicate or interact with others effectively, hearing loss is considered a physical impairment and therefore cannot directly restrict this DLA, restrictions to which must result from a mental impairment.

While the panel acknowledges that the evidence shows the appellant is restricted in her ability to manage some tasks of DLA, given the lack of explanatory and descriptive information that would provide a clearer picture of the nature and extent of these restrictions, together with the evidence of no restrictions for the remaining tasks, the panel finds that the ministry was reasonable in determining that the information provided did not establish that this criterion had been met.

### Help with DLA

The position of the ministry is that as it has not been established that DLA are significantly restricted, it cannot be determined that significant help is required from other persons.

The appellant's position is that the evidence from the GP and the social worker clearly shows that the appellant requires help to manage her DLA. Indeed the social worker recommends ongoing weekly home support.

*Panel findings*

The panel notes that the legislation requires that in the opinion of a prescribed professional the need for help must arise from direct and significant restrictions in the ability to perform DLA that are either continuous or periodic for extended periods. The panel finds that the ministry reasonably determined that since it has not been established that DLA are directly and significantly restricted, it cannot be determined that help is required as provided under section 2(2)(b)(ii) of the EAPWDA.

**Conclusion**

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