

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the ministry) reconsideration decision dated December 23, 2013 which found that the appellant did not meet three of the five statutory requirements of Section 2 of the *Employment and Assistance for Persons with Disabilities Act* for designation as a person with disabilities (PWD). The ministry found that the appellant met the age requirement and that his impairment is likely to continue for at least two years. However, the ministry was not satisfied that the evidence establishes that:

- the appellant has a severe physical or mental impairment;
- the appellant's daily living activities (DLA) are, in the opinion of a prescribed professional, directly and significantly restricted either continuously or periodically for extended periods; and,
- 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

PART E – Summary of Facts

The evidence before the ministry at the time of the reconsideration decision included the Person With Disabilities (PWD) Application comprised of the applicant information and self-report dated July 16, 2013, and a physician report (PR) dated July 8, 2013 and an assessor report (AR) dated July 9, 2013 and both completed by a general practitioner who has known the appellant for 22 years.

Also included were the following:

- 1) Medication Review dated July 19, 2012 listing medications;
- 2) Patient Medical Expenses printed November 23, 2013;
- 3) Letter dated November 27, 2013 prepared by the appellant's advocate and signed by the general practitioner who completed the reports for the PWD: and,
- 4) Request for Reconsideration dated November 27, 2013.

Diagnoses

The appellant has been diagnosed by his general practitioner with osteoarthritis in his knees, diabetes, severe obesity, and low back pain/ hip pain.

Physical Impairment

- In the PR, the general practitioner indicated in the health history that the appellant has "...chronic pain in his low back, knees, and hip. It does not impair his abilities with respect to his ADL's [activities of daily living] but markedly limits his employability. His X-Rays confirm OA [osteoarthritis] in his knees and hip. He also has diabetes secondary to his morbid obesity which contributes to his musculoskeletal problems."
- The general practitioner reported that the appellant requires an aid for his impairment, namely "cane for stairs, neoprene knee braces bilaterally."
- Functional skills reported in the PR indicated that the appellant can walk 1 to 2 blocks unaided and climb 5 or more steps (with a note added that the appellant "uses cane"), and he can lift 7 to 16 kg (15 – 35 lbs.) and remain seated for less than 1 hour.
- In the additional comments to the PR, the general practitioner reported that the appellant's "marked obesity contributes to his chronic musculoskeletal pain. Chronic pain in hip, knees and back limit mobility and make him a poor candidate for employment."
- In the AR, the general practitioner summarized the appellant's impairments that impact his ability to manage daily living activities as "...chronic pain in his lumbar spine, as well as OA [osteoarthritis] in his hip and knees. His morbid obesity contributes to his MSK [musculoskeletal] pain. He is limited in both his mobility as well as his standing/sitting tolerance."
- The general practitioner indicated that the appellant routinely uses a cane to help compensate for his impairment.
- In his self-report, the appellant wrote that his walking is affected as well as his ability to grab with his left arm. He is very limited with holding anything and has serious pain. Both his legs are weak. He can walk half a block and has to stop and rest his legs or he will be in pain. He walks with a knee brace on each knee. He is on medication for Type 2 Diabetes and he has high cholesterol and high blood pressure. He does not sleep well due to the pain.
- In the letter from the general practitioner dated November 27, 2013, he agreed with statements made by the appellant, including that he is only able to walk up to one block before he has to stop and take a break, and that he is unable to climb any stairs without the use of a cane. The

general practitioner agrees that the appellant states he is only able to stand for up to 10 minutes before he has to sit down.

- In the letter, the general practitioner disagrees with the statement that the appellant is only able to sit for up to 10 minutes at a time.

Mental Impairment

- The general practitioner reported no significant deficits with cognitive and emotional function and that the appellant does not have difficulties with communication.
- Regarding the appellant's ability to communicate, the general practitioner assessed his speaking, reading, writing and hearing as good.
- In the AR, the general practitioner assessed no impacts to daily functioning in all areas of cognitive and emotional functioning and noted "chronic pain with sleep loss."
- The general practitioner indicated that the appellant is independent 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 appellant is assessed with good functioning in both his immediate and extended social networks, with no further comment provided by the general practitioner.

Daily Living Activities (DLA)

- The general practitioner reported that the appellant has not been prescribed medications or treatments that interfere with his ability to perform his daily living activities (DLA)
- The general practitioner indicated in the health history of the PR that the appellant has "...chronic pain in his low back, knees, and hip. It does not impair his abilities with respect to his ADL's but markedly limits his employability."
- In the PR, the general practitioner indicated that the appellant's impairment does not directly restrict his ability to perform DLA. Despite this, the general practitioner reported that the appellant is restricted in all areas of DLA but does not assess the restriction in each area as either periodic or continuous or provide any further comment on the degree of restriction.
- The general practitioner assessed the appellant as independent with walking indoors and outdoors, with climbing stairs and standing, while requiring periodic assistance with lifting and carrying and holding, with a comment added "weakness in left arm and difficulty with grip."
- In the AR, the general practitioner indicated that all tasks of the DLA personal care, shopping, meals, paying rent and bills, medications and transportation are performed independently with no need for assistance.
- For basic housekeeping, the appellant is assessed as independent and he is not assessed for his ability to do laundry, with the general practitioner commenting "capable but does not know how." The general practitioner also commented: "his chronic pain does not limit his ADL's but does limit his employability."
- In his self-report, the appellant wrote that the pain in his and legs and arm limit his ability to walk and to grab and hold.
- In the letter dated November 27, 2013, the general practitioner agreed with the statements by the appellant that, for dressing, his wife helps him with underwear, pants and socks daily due to not being able to pull clothes from feet on to body. The general practitioner also agreed that the appellant is unable to do laundry because he does not know how to do it. The general practitioner agreed that, for basic housekeeping, the appellant is unable to stand to do dishes, or to bend to clean out the bathtub. The general practitioner agreed with the statement that,

for cooking, the appellant relies on his wife or roommates to do cooking as he does not know how to do much cooking other than boiling water.

- The general practitioner disagrees with the statements by the appellant that for going to and from stores the appellant will not even go into a store as he cannot physically make it around the grocery store and his wife does it for him. For food preparation, the general practitioner disagrees that the appellant cannot stand to prepare food.

Need for Help

- In the reports included in the PWD application, the general practitioner reported that the appellant requires a cane as an assistive device.
- The general practitioner reported in the AR that the assistance provided by other people for DLA is "N/A," or not applicable.
- In response to the request to describe the assistance that would be necessary if help is required but none is available, the general practitioner indicated "chronic back, hip and knee pain is a barrier to employment, not ADL's."

In his Notice of Appeal dated January 2, 2014, the appellant expressed his disagreement with the reconsideration decision because the ministry relied on everything that the general practitioner reported. The appellant wrote that he disagrees with the general practitioner because he rarely listened and rarely wrote anything down. He has tried to see new doctors but they have advised that he should stay with his current doctor. The appellant stated that he told the general practitioner that his medical situation has changed in the past 6 to 8 month period. His biggest worry is the lack of sleep he gets every night (2 to 4 hours) because of the muscle spasms in his legs. He now has cramps in both hands and cannot hold anything for any length of time.

At the hearing, the appellant stated that:

- He set out most of the information in his written paragraph submitted on the appeal. He gets cramps in his legs, "charley horses", which make it hard to sleep at night. Since he only gets 2 to 3 hours of sleep per night, he does not feel he could do full day's work.
- He is now getting cramps in both of his hands and cannot hold on to anything for very long. He gets constant chest pains. He also has numbness on the outside of both hands.
- There is a chip in his knee from an accident he had in June 2011 and the chip continues to "float around. A total knee replacement is being considered for his left knee since it continues to swell and is painful. He has talked to an orthopedic surgeon but nothing has been scheduled. In February 2012 he had tried to go back to work and he could not do it.
- The bottom of his feet are peeling and cracking and he has been told it is a result of his diabetes and the medications he takes for his high blood pressure and cholesterol.
- His medical condition has changed in the months since the reports for the PWD application were completed, but the doctor will not listen to him. There have been changes in his ability to walk, sit and climb stairs.
- Although the doctor said he can walk up to 2 blocks, he cannot walk the length of a grocery warehouse, and has to stop and rest.
- He sometimes wears braces on both knees for walking longer distances outdoors. He uses his cane for support for climbing stairs and getting in and out of his vehicle. He tries not to use his cane when walking outdoors. Indoors, he will hold onto things when he needs to steady himself.
- The doctor said he can climb stairs unaided but he has to use his cane and also hang on the

- railing. He needs to rest after climbing 4 or 5 steps if he is carrying something, like groceries.
- He fell down 10 steps yesterday because one of his knees “let go” and he was fortunate that some garbage bags broke his fall. It took him about 40 minutes to compose himself and get back up.
 - He cannot sit for more than 10 minutes and he starts to shake. The doctor said he can lift up to 35 lbs. but he cannot. He can only drive for 10 minutes at the most.

At the hearing, the appellant's neighbor stated that:

- She is close neighbours with the appellant and has seen him move about his home while the doctor has not. The doctor says he is independent with walking but she sees the difficulty that the appellant experiences, and being able to do an activity does not necessarily mean that one is “independent.” The appellant needs help to climb stairs and uses his cane. She understands that the appellant fell yesterday trying to climb some stairs.
- Since the appellant tried to go back to work, his condition has become worse. She sees that the appellant is in poor health. He needs to meet with an orthopedic surgeon and have someone advocate on his behalf.
- His chronic back, knee and hip pain is a barrier to his employment and he needs a knee replacement. If he tries to do his daily living activities on his own, he ends up hurting himself more. He also needs supplements.
- She sees that the appellant is also in so much pain all the time. He has his own family and she is supporting her mother and has supported the appellant in this process, but he does not get the help that he needs.
- Her mother also has diabetes and she has seen firsthand the impact of this disease. For example, it takes a person much longer to heal.

The ministry did not object to the admissibility of the evidence provided by the appellant in his Notice of Appeal and the oral testimony of the appellant and his neighbour. The panel admitted the evidence as further detail of the appellant's condition and being information that was before the ministry at reconsideration or 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. At the hearing, the ministry acknowledged that the appellant has a physical impairment that restricts his prospects for employment, and reiterated that employability is not a component of a PWD application.

PART F – Reasons for Panel Decision

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

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

Persons with disabilities

2 (1) In this section:

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

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

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

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

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

(b) in the opinion of a prescribed professional

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

(A) continuously, or

(B) periodically for extended periods, and

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

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

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

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

(i) an assistive device,

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

(iii) the services of an assistance animal.

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

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

Definitions for Act

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

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

(i) prepare own meals;

(ii) manage personal finances;

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

Severe Physical Impairment

The appellant's position is that a severe physical impairment is established by the evidence of the pain due to osteoarthritis in his knees and hip, as well as pain in his lower back and both hands. The appellant argued that his condition has gotten worse in the past 6 to 8 months and this has not been properly reflected in the reports by his doctor.

The ministry's position is that the ministry does not have enough information from the general practitioner to confirm that the appellant has a severe physical impairment. The ministry argued that, in terms of physical functioning, the general practitioner indicated that the appellant can walk 1 to 2 blocks unaided and climb 5 or more steps using a cane, he can lift 15 to 35 lbs. and remain seated for less than 1 hour. The ministry argued that the general practitioner indicated that the appellant can independently walk indoors and outdoors, climb stairs and stand, while noting the requirement for periodic assistance with lifting and carrying and holding as "weakness in left arm and difficulty with grip." The ministry argued that the impacts reported, according to the general practitioner, do not interfere with the appellant's ability to independently manage the majority of his DLA. The ministry argued that the evidence shows the appellant has a moderate degree of physical impairment. At reconsideration, the ministry pointed out that although the general practitioner referred to the impact on the appellant's ability to work as a result of his conditions, employability is not an eligibility criterion for PWD designation.

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 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 medical practitioner, the appellant's general practitioner of 22 years, diagnosed the appellant with osteoarthritis in his knees and hip, diabetes, severe obesity, and low back pain. In his comments regarding the appellant's health history, the general practitioner wrote that the appellant has "...chronic pain in his low back, knees, and hip. It does not impair his abilities with respect to his ADL's but markedly limits his employability. His X-Rays confirm OA [osteoarthritis] in his knees and hip. He also has diabetes secondary to his morbid obesity which contributes to his musculoskeletal problems." Functional skills reported in the PR indicated that the appellant can walk 1 to 2 blocks unaided and climb 5 or more steps with the use of a cane, and he can lift 15 – 35 lbs. and remain seated for less than 1 hour. In the letter dated November 27, 2013, the general practitioner agreed with statement made by the appellant that he is only able to walk up to one block before he has to stop and take a break, and that he is unable to climb any stairs without the use of a cane.

In the AR, the general practitioner assessed the appellant as independent with walking indoors and outdoors, with climbing stairs and standing. The appellant requires periodic assistance with lifting and carrying and holding, with a comment added by the general practitioner: "weakness in left arm and difficulty with grip." The appellant wrote in his self-report that his walking is affected as well as his ability to grab with his left arm, that he is very limited with holding anything and has serious pain. Both the general practitioner and the appellant emphasized the weakness in the appellant's left arm and did not describe restrictions to lifting with his right arm. At the hearing, the appellant stated that his condition has gotten worse since the reports were completed for the PWD application and, while the doctor reports that he can lift up to 35 lbs, he cannot. The doctor said he can climb stairs unaided but this is not correct as he has to use his cane and also hang on the railing. He uses his cane for support for climbing stairs and getting in and out of his vehicle, but tries not to use his cane when walking outdoors. He sometimes wears braces on both knees for walking longer distances outdoors. Indoors, he will hold onto things when he needs to steady himself. The appellant stated that he cannot sit for more than 10 minutes and he starts to shake; however, the general practitioner disagreed with this statement in the November 27, 2013 letter prepared by the advocate.

In the additional comments to the PR, the general practitioner reported again that the appellant's "chronic pain in hip, knees and back limit mobility and make him a poor candidate for employment." For an impairment to be a "severe impairment," section 2 of the EAPWDA requires that the ministry must be satisfied that the evidence demonstrates restrictions to a specified degree in certain specified areas of daily functioning. The legislation reads that for PWD designation, the minister must be satisfied that "the person has a severe mental or physical impairment thatdirectly and significantly restricts the person's ability to perform [prescribed] daily living activities and as a result of those restrictions, the person requires help [an assistive device, the significant help or supervision of another person, or the services of an assistance animal to perform those activities.]" As ability to search for, accept or continue in employment is not listed as one of prescribed DLA, the panel finds that the ministry reasonably held that employability is not a factor in assessing eligibility for PWD designation. While the appellant stated that his condition has deteriorated since the reports were prepared for the PWD application, the functional skills as reported by his long-time physician in the additional letter dated November 27, 2013, are consistent with the ranges set out in the original PR. The appellant did not provide further medical reports from the orthopedic surgeon with whom he met or other specialists to support a worsening of his conditions. The panel finds that the ministry reasonably determined that, based on the available evidence, the appellant's current level of physical functioning points to a moderate physical impairment and does not establish that the appellant has a severe physical impairment under section 2(2) of the EAPWDA.

Severe Mental Impairment

The appellant did not take a position regarding a severe mental impairment.

The ministry's position is that there is insufficient evidence to establish that the appellant has a severe mental impairment. The ministry argued that the general practitioner reported no significant deficits to cognitive and emotional functioning and that his impairment has no impact on his cognitive and emotional functioning.

Panel Decision

The general practitioner did not diagnose a mental disorder in the PR. No significant deficits were reported with cognitive and emotional functioning and no impacts were indicated to all areas of daily functioning. The general practitioner added a handwritten comment in the AR that the appellant's chronic pain causes sleep loss. In the PR, the general practitioner reported that the appellant does not have difficulties with communication and, in the AR, that the appellant has a good ability to communicate in all areas. In the AR, the appellant is assessed as independent in all areas of social functioning and with good functioning in both his immediate and extended social networks. Given the absence of a mental disorder diagnosis and no impacts reported to mental or 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 his physical impairment directly and significantly restricts his ability to perform DLA on an ongoing basis to the extent that he requires the significant assistance of another person or the use of a cane and knee braces as assistive devices.

The ministry's position is that there is not enough evidence from the general practitioner to confirm the appellant's impairment directly and significantly restricts his DLA continuously or periodically for extended periods. The ministry argued that the appellant is able to manage the majority of his DLA independently. The ministry pointed out that the general practitioner reported that the appellant chronic pain "does not limit his ADL's but does limit his employability"; however, employability is not a component of a PWD application.

Panel Decision

The evidence of the appellant's general practitioner provided by way of handwritten notes in both the PR and AR is that the appellant's chronic pain does not impair his abilities with respect to his activities of daily living, but markedly limits his employability. While the general practitioner checked "yes" with respect to restrictions in each DLA as set out in the PR, including social functioning, he does not assess the restriction in each area as either periodic or continuous or provide any further comment on the degree of restriction. The general practitioner also checked "no" to indicate that the appellant's impairment does not restrict his ability to perform DLA. In the AR, the general practitioner indicated that all tasks of the DLA personal care, shopping, meals, paying rent and bills, medications, transportation, and social functioning are performed independently with no need for assistance. Given the inconsistency between the one checklist in the PR and the other information, the panel has placed more weight on the general practitioner's handwritten comments and the evidence consistent with these notes. The panel finds that, in making these notes, the general practitioner has taken the

time to turn his mind to the issue and to describe the appellant's impairment in more detail and this evidence is, therefore, more reliable.

In the AR, the appellant is assessed as independent with basic housekeeping and, while there is no assessment provided for the appellant's ability to do laundry, the general practitioner added a handwritten comment: "capable but does not know how." The general practitioner also commented: "his chronic pain does not limit his ADL's but does limit his employability." The panel notes that there must be a causal connection between the impairment and the resulting restriction to a DLA, and finds that a lack of knowledge of how to perform a task, while possibly connected to a mental disorder or brain injury, has not been related to the appellant's physical impairment.

In the letter dated November 27, 2013, the general practitioner agreed with the statements by the appellant that, for dressing, his wife helps him with underwear, pants and socks daily due to not being able to pull clothes from feet on to body. For basic housekeeping, the general practitioner agreed that the appellant is unable to stand to do dishes, or to bend to clean out the bathtub. The general practitioner agreed that the appellant relies on his wife or roommates to do cooking as he does not know how to do much cooking other than boiling water. As previously discussed, the panel finds that this lack of knowledge regarding cooking has not been connected to the appellant's physical impairment. The general practitioner disagreed with the statements by the appellant that for going to and from stores the appellant will not even go into a store as he cannot physically make it around the grocery store and his wife does it for him. The general practitioner also disagreed with the statement that, for food preparation, the appellant cannot stand to prepare food.

For those DLA which relate to a mental impairment, there is no evidence to suggest that the appellant is restricted in making decision about personal activities, care or finances, or relating to, communicating or interacting with others effectively. The appellant is assessed by the general practitioner as having no difficulty with communication. In the AR, the general practitioner assessed the appellant as independent in all areas of social functioning, including making appropriate social decisions, developing and maintaining relationships, and interacting appropriately with others. The evidence of the general practitioner also demonstrates that the appellant is independent with the "mental" tasks of managing his finances and medication as well as reading prices and labels and making appropriate choices when shopping.

In the AR, the general practitioner assessed the appellant as independent with walking indoors and outdoors. However, in the letter dated November 27, 2013, the general practitioner agreed that the appellant is only able to walk up to one block before he has to stop and take a break. The appellant stated that he sometimes uses his knee braces for walking longer distances outdoors. The general practitioner has not provided further detail regarding the degree of restriction to the appellant's ability to move about indoors and outdoors, but emphasized his opinion that the appellant's back, hip and knee pain is a barrier to employment and not to ADLs. The panel also finds that the ministry reasonably concluded that, for the remaining applicable DLA, the evidence shows that the appellant performs a majority of his DLA independently, including almost all of the tasks of DLA as listed in the AR. Therefore, the panel finds that the ministry reasonably concluded that there is not enough evidence from the prescribed professional to establish that the appellant's impairment significantly restricts his ability to manage his 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 he requires the significant assistance of another person or an assistive device to perform DLA.

The ministry's position is that because it has not been established that DLA are significantly restricted, it cannot be determined that significant help is required. The ministry acknowledged that a cane is required as an assistive device.

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 general practitioner, as a prescribed professional, is that the assistance provided by other people with DLA is "N/A" or not applicable. In response to the request to describe the assistance required by the appellant with DLA, the general practitioner indicated that his pain is not a barrier to his ADL's, and that a cane is used as an assistive device. 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.