

## 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 February 27, 2014 denying the appellant designation as a person with disabilities (PWD). The ministry determined that the appellant did not meet three of the five criteria required for PWD designation as set out in the *Employment and Assistance for Persons with Disabilities Act* (EAPWDA) section 2. The ministry found that the appellant meets the first two criteria of age (in that she is over 18), and duration in that in the opinion of a medical practitioner, her impairment is likely to continue for two or more years. However, the ministry determined that, based on the information provided, the following criteria set out in section 2(2)(b) of the EAPWDA were **not** met:

- The minister is satisfied that the appellant has a severe mental or physical impairment.
- In the opinion of a prescribed professional, the appellant's impairment significantly restricts her ability to perform daily living activities (DLA) either continuously or periodically for extended periods; and
- As a result of the restrictions, the appellant requires the significant help or supervision of another person to perform the DLA restricted by her impairment.

## 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 reconsideration consisted of the appellant's PWD Designation Application, containing the following three parts:

- The appellant's Self Report signed by the appellant and dated October 4, 2013, but which the appellant chose not to complete;
- The Physician Report (PR) dated August 9, 2013 completed by the appellant's family physician who indicates she has known the appellant for 16 years and had seen her 2-10 times in the previous year; and
- The Assessor Report (AR) dated May 9, 2013 completed by the appellant's family physician.

With her request for reconsideration dated February 17, 2014, the appellant attached a written submission in which she wrote that as a result of a brain tumor and cancer she had as a child, she has a severe visual impairment, as well health issues related to her endocrine system (including headaches and obesity) which impact her daily routines. The appellant wrote that because of her loss of vision, she relies on others for transportation because she can't read the bus stops or sky train stations. The appellant also explained that she is relying on her parents for financial support while she is completing her post-secondary education.

The appellant completed her notice of appeal on March 12, 2014, and on it she wrote that she disagreed with the reconsideration decision because she "meets the five legislative criteria due to severe visual impairment and cortisol deficiency." Attached to her notice of appeal was a copy of the first page of the reconsideration decision with hand-written notes stating "severe visual impairment legally blind" and providing the appellant's CNIB number, as well as the word "yes" beside the ministry's criteria of "directly and significantly restricted daily living activities" and "assistance required with daily living activities as a result of significant restrictions." At the hearing, the appellant's father said that he wrote the notes on this page of the reconsideration decision.

At the hearing, the appellant provided a 3-page questionnaire prepared by her advocate and completed by her physician on April 23, 2014 ("April 2014 questionnaire"). The April questionnaire poses a series of questions pertaining to the appellant's application for PWD designation, and the appellant's physician has written answers elaborating on the information provided in the PR and AR sections of the PWD application. The ministry did not object to the admission of the information contained in the April questionnaire. The panel admits the evidence in the April 2014 questionnaire as written testimony in support of the information and records that were before the minister when the decision being appealed was made, under section 22(4)(b) of the *Employment and Assistance Act*.

The appellant and her father testified at the hearing and the panel admits their oral testimony under section 22(4)(b) of the Act as evidence in support of information that was before the minister when the decision being appealed was made.

The following is a summary of the evidence from the PR, AR, and the April 2014 questionnaire, as well as the testimony of the appellant and her father, as it relates to the PWD criteria at issue.

### Severity of impairment (criteria set out in subs. 2(2) EAPWDA)

The appellant does not assert that she has a severe mental impairment and her physician did not

complete any of the sections of the PR or AR pertaining to applicants for PWD designation who have an identified mental impairment or a brain injury.

The appellant told the panel that she had a brain tumor as a child that affected her pituitary and thyroid glands, as well as her optic nerves, and she is blind in her left eye and has extremely restricted vision in her right eye. The appellant told the panel that she is legally blind and does not have a driver's license and she uses a white cane to assist her with walking and to identify her as a person with a visual impairment. She also uses a magnifier to read, as well as large fonts on her computer. She knows how to read Braille. As a result of her hormonal imbalance, the appellant also suffers from obesity and this affects her ability to walk long distances.

In the PR, the appellant's physician indicated that the appellant suffers from the medical condition of panhypopituitarism for which she needs to take a number of medications to replace the hormones that her body does not produce. The appellant's physician wrote that, as a result of this condition, the appellant is more susceptible to infections and "more susceptible to severe collapse" if she becomes ill. The physician also indicated that the appellant takes longer to do many things because of her blindness/low vision and takes twice as long as the average person to walk anywhere because of her hypothalamic obesity. The physician indicated that the appellant has not been prescribed medication that interferes with her ability to perform DLA. The physician wrote that the appellant has a white cane "to identify herself to others" and uses a magnifier for reading and a binocular for seeing far away. In the relevant section of the AR, the physician identified the impairments that impact the appellant's ability to manage her daily living activities as "extremely low vision, obesity."

In the functional skills assessment in the PR, the appellant's physician indicated that the appellant could walk 4+ blocks unaided on a flat surface "slowly," that she could climb 5+ steps unaided, that there was no limitation on the time she could remain seated, and that her limitations in lifting were unknown, "has not been tested currently not relevant as is a student." In the AR, the physician reported that the appellant is independent with walking indoors and that she takes significantly longer than typical with walking outdoors, noting, "she thinks takes her twice as long to walk to bus as her parents" and takes longer with climbing stairs as she "stops to rest on stairs." The physician assessed the appellant as independent with standing, lifting, carrying and holding. The physician also noted that the appellant had no difficulties with communication, and had no significant deficits with cognitive and emotional function. In the AR, the physician indicated that the appellant's ability to communicate was good when speaking, writing and hearing, noting that "for writing, uses a computer – uses large font." The physician indicated the appellant's ability to communicate by reading was satisfactory, commenting, "L eye no vision, R eye – minimal" and "uses a magnifier to read e.g. food labels, prices at grocery store."

In the April 2014 questionnaire, in response to the question, "When the impact of all of your patient's medical conditions on her daily life is considered, does she have a severe physical impairment? If so, please explain" the physician wrote, "Yes, she has severe physical impairment – as she has extremely low vision." The physician also answered, "yes" to the question, "does it take your patient significantly longer than normal to perform many daily activities – or does she put tasks off – as a direct result of her health related limitations?" In response to the question, "How often is she significantly restricted in performing daily living activities by her impairment?" the physician wrote, "daily." For mobility outside the home, the physician wrote that the appellant "walks with white cane, can walk about 1.5 km then becomes very tired, walks more slowly than most, if tries to keep up with

someone else's pace, becomes tired very quickly. Feels at risk for tripping over obstacles as she probably wouldn't see them. Difficulty [descending] stairs unless there is a marker strip at the edge of each step. Requires frequent rests."

Ability to perform DLA (criteria set out in subs. 2(2)(b) EAPWDA)

Subsection 2(1)(a) of the EAPWDR lists eight activities as daily living activities (DLA) for those applicants with a severe physical impairment. These DLA are also set out in the relevant sections of the PR and AR, with separate tasks listed under each heading. For each of the listed DLA, the evidence is as follows:

(i) prepare own meals

In the AR, the physician indicated that the appellant takes significantly longer than typical to perform 2 of the 4 listed tasks - the tasks of food preparation and cooking - commenting "low vision slows her down," but she could independently perform the tasks of meal planning and safe storage of food. In the April 2014 questionnaire, the physician wrote that the appellant is "able to prepare light meals - breakfast and lunch - but to make a more complex meal takes 2-4 hours as unable to read measures on measuring cups and spoons, or recipes without magnification." The appellant and her father told the panel that the appellant lives in a basement suite in their house and is able to make simple meals, but she takes much longer to cook anything more complex (for example, she cannot crack eggs as she cannot see if eggshells are in the bowl) and her father and mother cook most of the meals since they are also concerned about the danger of the hot stove.

(ii) manage personal finances

In the AR, the physician indicated that the appellant could independently perform the 3 listed tasks of paying rent and bills, writing the comment "she is capable but no income, so parents pay all bills." In the April 2014 questionnaire, for the DLA of management of finances, the physician wrote, "takes about 3 times as long to read bank statements unable to use automated teller as can't read the screen prompts, has teller fill in slips for her at the desk, no money so parents pay all the bills - understands all the transactions." The appellant's father explained that he will fill out a cheque for the appellant as she cannot see the information areas on the cheque and he will tell her where to sign. In her request for reconsideration, the appellant also explained that she is relying on her parents for financial support while she is completing her post-secondary education and she would like to be more financially independent.

(iii) shop for personal needs

For the 5 tasks of the DLA of shopping listed in the AR, the physician indicated that the appellant requires periodic assistance from another person to perform the two tasks of reading prices and labels and making appropriate choices, but did not provide any commentary. The physician indicated in the AR that the appellant could independently perform the other 3 listed tasks (going to and from stores, paying for purchases and carrying purchases home). In the April 2014 questionnaire, the physician wrote that for "daily shopping" the appellant "doesn't go by herself - can't read prices or nutrition labels, difficulty picking out an item from a shelf full of similar items. With clothing cannot see size of clothing so needs help picking out what to try on." The evidence of the appellant and her

father at the hearing reiterated the information provided by the physician in the April 2014 questionnaire – the appellant's father said the family will drive the appellant to stores and help her read labels to make sure she has the right size, for example. The appellant and her father also stated that the appellant can shop in stores where she has memorized the location of items but has great difficulty if things have been moved around, and she can read individual labels with her magnifier, but it takes her much longer than typical.

(iv) use public or personal transportation facilities

In the AR, the physician indicated that the appellant could independently perform all of the three listed tasks, adding that she takes significantly longer than typical for the task of using public transit writing, "difficulty locating bus stops (low vision) uses Handidart sometimes." In the April 2014 questionnaire, for use of transportation, the physician wrote, "main transportation is being driven by parents – will sometimes travel by bus but only if she has travelled the route several times with a guide – needs to count the stops as can't see landmarks, can't read the signs at a bus stop that tells her which bus stops there, uses Handidart sometimes but this takes about 3 times as long as the regular bus service." The evidence of the appellant and her father at the hearing affirmed that of the physician in the April 2014 questionnaire. The appellant's father stated that he will drive the appellant to school, for example, and she will take public transit home as she is familiar with the route.

(v) perform housework to maintain the person's place of residence in acceptable sanitary condition

In the AR, the DLA of basic housekeeping encompasses the two tasks of laundry and basic housekeeping, and the appellant's physician indicated that the appellant could independently do her own laundry, but takes significantly longer than typical to perform the task of basic housekeeping writing, "isn't able to see what is clean or dirty." In the April 2014 questionnaire, for the DLA of "basic housework," the physician wrote, "cannot see dust so cannot see if it has accumulated or if she has effectively removed it. Washing dishes – unable to see if done properly. Does her own laundry sometimes – has memorized the settings as she can't read them on the dial." The appellant's father said that the family does all of the appellant's house keeping for her as she can't see whether something is clean or dirty.

(vi) move about indoors and outdoors

In the AR, the DLA of "move about indoors and outdoors" is addressed in the section "mobility and physical ability" (as opposed the section listing the other seven DLA). The appellant's physician assessed the appellant as taking significantly longer than typical for two of the six listed aspects of mobility and physical ability: walking outdoors and climbing stairs. For walking outdoors, the physician wrote, "she thinks takes her twice as long to walk to bus as her parents" and for climbing stairs wrote, "stops to rest on stairs." The physician indicated in the AR that the appellant could independently perform the other four listed aspects of mobility and physical ability (walking indoors, standing, lifting and carrying and holding). In the April 2014 questionnaire, the physician wrote the following commentary with regard to the appellant's restrictions with "mobility outside the home," "walks with a white cane, can walk about 1.5 km then becomes very tired, walks more slowly than most, if tries to keep up with someone else's pace becomes tired very quickly. Feels at risk for tripping over obstacles as she probably wouldn't see them. Difficulty descending stairs unless there is a marker strip at the edge of each step. Requires frequent rests." The appellant's physician did not address

the appellant's mobility inside the home in the April 2014 questionnaire. At the hearing, the appellant stated that she always has her white cane with her and her standard cane is "secondary." She has greater difficulty walking outside in areas where the ground is uneven since she would have to feel with her feet and it could potentially be dangerous. She occasionally takes her dogs out for walks and finds it challenging to manage her cane and the dogs. The dogs are pets – they are not assistance animals – but she hopes to get an assistance animal in the future.

(vii) perform personal hygiene and self care

In the AR, the physician indicated that the appellant could independently perform 7 of the 8 tasks listed under the DLA of personal self care with no commentary. Beside the task of "regulate diet", the appellant's physician wrote, "is very overweight" and did not indicate if the appellant requires assistance or takes significantly longer than typical. In the April 2014 questionnaire, the physician wrote that for the appellant's "personal care routines", the appellant "takes 45 minutes – 60 minutes to get dressed in the morning, brush teeth and perform other elements of personal care." The appellant told the panel she is able to dress and clean herself, but that it takes her longer because her vision is limited.

(viii) manage personal medication

In the AR, the physician indicated that the appellant could independently perform all three of the listed tasks. In the April 2014 questionnaire, for the DLA of management of medications, the physician wrote, "unable to read the labels without special magnifying device. Administers her own medications – does it by memory – knows the medications by shape and size – gets help with filling prescriptions." The appellant's father told the panel that the appellant takes all of her medications – she knows when she is supposed to take them and what they are – but that when she is getting a new medication, the family will help her with it.

Assistance required/provided (criteria set out in subs. 2(2)(b)(ii) EAPWDA)

In the section of the AR describing the assistance provided for the appellant, the physician indicated that the appellant receives help from her family. The physician check marked that the appellant uses a cane, as well as a computer, binoculars and a magnifier, but did not provide additional commentary.

In the April 2014 questionnaire, the physician wrote that the appellant requires the following assistive devices (with commentary): white cane "more so others will exhibit caution around her," electronic magnifier, screen magnifier, computer programmes for visually impaired people, binoculars for distance vision, (mobile) telephone which has speech recognition and electronic assistance, applications in the phone for changing the font size." The physician also confirmed by writing "yes" that "as a result of her health restrictions ... [the appellant] requires significant help with daily living activities – either by taking much longer than typical to complete routine tasks or needing other people and assistive devices for ongoing support and help."

## 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 the information provided did not establish that the appellant has a severe mental and/or physical impairment or demonstrate that her impairments in the opinion of a prescribed professional directly and significantly restricts her ability to perform daily living activities either continuously or periodically for extended periods, and, as a result of those restrictions she requires help to perform those activities.

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.

### Severity of physical impairment

The appellant asserts that she has a severe physical impairment, which is her extremely limited vision, pointing to the fact that she is legally blind and registered with the CNIB. The appellant told the panel she always carries her cane and cannot walk outdoors without it. She requires magnification to read anything, whether it is a form, or a label, or a bus stop, and she must use very large font or Braille. The appellant also argues that the information provided by her physician in the April 2014 questionnaire, "she has a severe physical impairment as she has extremely low vision" is evidence that her physical impairment – her low vision – is severe and she meets this criterion under the legislation.

In its reconsideration decision, the ministry noted the information provided by the appellant's physician in the functional skills section of the PR and in the section of the AR addressing the appellant's mobility and physical ability. The ministry found that although the appellant's impairments "are significantly challenging", the appellant's physician does not indicate through her ability to manage her physical and motor functions that the appellant has a severe physical impairment. The ministry further found that, as the physician did not indicate that the appellant requires periodic or continuous assistance from another person to manage her mobility and physical functions and as the appellant is able to manage the majority of her DLA independently, evidence of a severe physical impairment has not been provided by the appellant's physician.

The ministry found that evidence of a severe mental impairment was not provided, and the panel notes that the appellant does not assert that she has a severe mental impairment for the purposes of PWD designation.

### Analysis and decision

The legislation provides that the minister may designate a person as a PWD if the minister is satisfied that the person has a severe mental or physical impairment that in the opinion of a medical practitioner is likely to continue for at least 2 years (subs. 2(2)(a) of the EAPWDA). The appellant's physician confirmed in the PR section of the PWD application that the appellant has blindness/low vision, panhypopituitarism and hypothalamic obesity. The appellant asserts that her medical conditions – in particular, her blindness/low vision - amount to a severe physical impairment.

In the PWD application form, the ministry has provided a definition of "impairment" which, although it is not set out in the applicable legislation, offers guidance in considering the existence and severity of an applicant's impairment. The ministry states, "impairment" is a "loss or abnormality of psychological, anatomical or physiological structure or functioning causing a restriction in the ability to function independently, effectively, appropriately or for a reasonable duration." To determine the severity of an impairment, there is both a cause – the impairment itself – and an effect – the degree to which it restricts the ability to function independently, effectively, appropriately or for a reasonable duration. The legislation provides that the determination of the severity of an impairment is at the discretion of the minister, taking into account all of the evidence, including that of the appellant.



However, the starting point must be the medical evidence - the information set out in the PR section of the PWD application, together with the additional medical information of the April 2014 questionnaire.

In the PR and AR completed in August and May 2013 respectively, there are several references by the appellant's physician to the restrictions to physical functioning that the appellant's blindness/low vision causes and for which the appellant requires the use of an assistive device. The physician reported that the appellant cannot read without the use of a magnifier, requires a binocular (or monocular) to see far away, and a white cane to identify herself. In the April 2014 questionnaire, the appellant's physician confirms that the appellant has extremely low vision. The physician notes that the appellant walks with a white cane, that she feels at risk for tripping over obstacles as she wouldn't see them, and has difficulty on stairs unless there is a marker strip at the edge. While the physician indicated in the PR that the appellant can walk 4 or more blocks and climb 5 or more steps unaided, the information in the April 2014 questionnaire clarifies that these physical skills are not performed "unaided" or without the use of an assistive device. Given the physician's assessment regarding lifting, i.e. "not relevant as [the appellant] is a student," the panel finds that there may have been some confusion by the physician in completing this section of the PWD application.

The panel finds that the ministry's determination that the evidence does not indicate a severe impairment is not reasonably supported. The information provided by the appellant's physician in the PR and AR and elaborated upon in the April 2014 questionnaire sets out that the appellant's low vision/blindness is severe both in terms of the extent of her vision loss (blind in one eye and "minimal vision" in the other) and the restrictions to her independent functioning. Specifically, the evidence indicates that she is unable to perform some key activities without a number of assistive devices and adaptations such as a white cane, magnifiers, large font and Braille.

*Direct and significant restrictions in the ability to perform DLA.*

In her submissions, the appellant argues that her impairments restrict her ability to perform her DLA. She says that it takes her significantly longer than typical to perform the DLA of meal preparation, personal self care, and mobility outside the home, and transportation. She also says that she requires continuous assistance with DLA of housework, and with the tasks of reading prices and labels while shopping. The appellant argued that the information provided by her physician in the April 2014 questionnaire expands on the information in the PR and AR and provides a more detailed description of how her impairment restricts her ability to perform DLA.

In the reconsideration decision, the ministry noted that the appellant's physician indicated in the AR that the appellant can independently manage the majority of tasks of her DLA, in particular, personal care, laundry, going to and from stores, paying for purchases and carrying purchases home. The ministry noted that the appellant's physician indicated she required periodic assistance reading prices and labels and making appropriate choices shopping, and that she takes significantly longer than typical to manage basic housekeeping, food preparation and cooking. The ministry determined that based on all available information provided by the appellant and her physician, there was not enough evidence to establish that the appellant's impairment directly and significantly restricts her DLA continuously or periodically for extended periods.

*Analysis and decision*

Subsection 2(2)(b) of the EAPWDA requires that a prescribed professional confirm that the appellant's impairments directly and significantly restrict her ability to perform her DLA continuously or periodically for extended periods. The panel notes that although a prescribed professional may indicate that, because of a restriction, an individual requires assistance either continuously or periodically for extended periods, this does not necessarily meet the legislative test of being a "direct and significant restriction" to the person's ability to perform DLA.

For the DLA of meals, the physician indicated in the AR that the appellant takes significantly longer than typical to perform 2 of the 4 listed tasks (she can perform the other 2 tasks independently) and in the April 2014 questionnaire, the physician elaborated on this information by indicating that to make a more complex meal, it would take the appellant 2-4 hours, given her restricted vision. The appellant's physician does not expressly indicate that the appellant requires continuous or periodic assistance to perform the DLA of meal preparation – only that it takes the appellant longer to perform this DLA. Further, in the April 2014 questionnaire, the physician reports that the appellant is "able to prepare light meals – breakfast and lunch" and does not indicate that she requires extra time or any assistance to prepare these simpler meals.

The evidence of the appellant's physician in both the AR and the April 2014 questionnaire is that the appellant can independently perform the DLA of managing her finances, although it takes her "about 3 times longer" to read bank statements because of her limited vision. While both the appellant and her physician referred to a lack of income as a reason that her parents pay all her bills, the panel finds that the physician has reported that the appellant is capable of managing her finances and a lack of resources is not a physical impairment.

For the DLA of shopping, the physician indicated in the AR that the appellant requires periodic assistance from another person to perform the two tasks of reading prices and labels and making appropriate choices, but did not provide any commentary. The information provided by the physician in the April 2014 questionnaire is that the appellant doesn't go shopping by herself because she can't read prices or labels and the physician provided commentary regarding the appellant's difficulties in choosing among similar items and reading size labels on clothing to elaborate on the information in the AR.

In the AR, the physician indicated that the appellant could independently perform the tasks of the DLA of transportation and in the April 2014 questionnaire, the physician wrote, "main transportation is being driven by parents – will sometimes travel by bus but only if she has travelled the route several times with a guide – needs to count the stops as can't see landmarks, can't read the signs at a bus stop that tells her which bus stops there, uses Handidart sometimes but this takes about 3 times as long as the regular bus service." The appellant's evidence at the hearing was that she can take public transit, but often her family drives her where she has to go because it is more convenient and will take much less time than if she took transit. While her ability to read bus stop signs is very limited, the appellant will take transit once she is familiar with the route.

The evidence of the appellant's physician in both the AR and the April 2014 questionnaire is that the appellant requires continuous assistance to perform the task of basic housekeeping, but that she can independently do her own laundry.

The evidence of the appellant's physician in the AR and the April 2014 questionnaire is that the appellant takes significantly longer to perform the DLA of mobility outdoors, although she is able to independently move about indoors.

In the AR, the physician indicated that the appellant could independently perform her DLA of self care and in the April 2014 questionnaire, the physician elaborated on this by writing that it takes 45-60 minutes longer for the appellant to perform her personal self care routine.

For the DLA of medications, the evidence of the appellant's physician in both the AR and in the April 2014 questionnaire is that the appellant can independently manager her medications, but requires the assistance of a magnifier to read labels.

The panel agrees with the appellant that the information provided by her physician in the April 2014 questionnaire elaborates on the previous answers of the physician in the PR and AR, offering detailed explanation with regard to how the appellant's visual impairment restricts her daily living activities. The physician reported in the April 2014 questionnaire that the appellant's visual impairment restricts her in performing her DLA "daily."

However, the panel notes that while the information provided by the appellant's physician indicates that the appellant takes significantly longer to perform some of her DLA, the only tasks of DLA for which the physician specifically indicates the appellant's impairment restricts her continuously or periodically for extended periods are the *tasks* of the DLA in subsection 2(1)(a)(iii) of the EAPWDR (shop for personal needs) and the DLA in subsection 2(1)(a)(v) (perform housework to maintain the person's place of residence in an acceptable sanitary condition). Further, the physician reported that while the appellant is restricted in some of the tasks under each of these DLA, she is not restricted in all of the tasks and is able to perform some of the tasks independently. Independence in some of the tasks was also confirmed in the appellant's oral evidence.

With respect to shopping, the physician reports in the AR that only two of the tasks under this DLA, reading prices and labels and making appropriate choices, are restricted and the physician's evidence in the April 2014 questionnaire is that these restrictions are continuous as she "can't read prices" or "see the size of clothing." However, she is independent in going to and from stores, paying for purchases and carrying purchases home. While the physician indicated in the AR that the appellant requires a cane for outdoor mobility, which would impact her ability to go to and from the store, and in the April 2014 questionnaire, that the appellant "doesn't go by herself" shopping, the panel finds that the ministry reasonably concluded that there is not sufficient detail provided by the physician regarding the degree of restriction in these other tasks of the shopping DLA.

With regard to performing housework, the physician reports restrictions in the task of basic housekeeping and this is reaffirmed in the April 2014 questionnaire as the appellant is unable to see dust or tell whether dishes are cleaned properly. However, for the task of doing laundry, the physician reports that the appellant is independent and the appellant confirmed that she can do laundry as she has memorized the settings on the machine.

The evidence indicates that while the appellant is restricted in some of the tasks that comprise her DLA, she is largely independent in most tasks. The panel therefore finds that the ministry reasonably

concluded that the appellant's physician did not provide evidence to establish that the appellant's impairment directly and significantly restricts her ability to perform her DLA continuously or periodically for extended periods of time, as required by subsection 2(2)(b) of the EAPWDA.

### Help with DLA

In her submissions, the appellant repeated the information provided by her physician in the PR and AR and the April 2014 questionnaire that she requires a white cane for her outdoor mobility, as well as a magnifier and binocular or monocular for reading, and that she requires help from her family, namely her parents and her brother.

In its reconsideration, the ministry noted that her physician reported that the appellant uses a cane, computer, binoculars and a magnifier. However, the ministry found that as it "has been established that [DLA] are not significantly restricted ... it cannot be determined that significant help is required from other people. [The appellant] does not require the services of an assistance animal."

The legislation requires in subs. 2(2)(b)(ii) that in the opinion of a prescribed professional, as a result of the appellant's restrictions, the appellant requires help to perform DLA and subs. 2(3)(b) provides that a person requires help in relation to a DLA if, in order to perform it, the person requires an assistive device, the significant help or supervision of another person, or the services of an assistance animal. The panel notes that the legislation is not limited to help from another person – it encompasses the use of an assistive device, such as the appellant's cane and magnifiers.

While the panel finds that the evidence of the prescribed professional establishes that the appellant obtains assistance from assistive devices and her family, the panel also finds that the ministry reasonably determined that, as direct and significant restrictions in the appellant's ability to perform DLA have not been established, it cannot be determined that the appellant requires help to perform DLA as a result of those restrictions, as defined by section 2(3)(b) 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 is reasonably supported by the evidence. The panel therefore confirms the ministry's decision.