

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the ministry) reconsideration decision dated March 27, 2014 which found that the appellant did not meet three of the five statutory requirements of Section 2 of the *Employment and Assistance for Persons with Disabilities Act* for designation as a person with disabilities (PWD). The ministry found that the appellant met the age requirement and that her impairment is likely to continue for at least two years. However, the ministry was not satisfied that the evidence establishes that:

- the appellant has a severe physical or mental impairment;
- the appellant's daily living activities (DLA) are, in the opinion of a prescribed professional, directly and significantly restricted either continuously or periodically for extended periods; and,
- as a result of these restrictions, the appellant requires the significant help or supervision of another person, the use of an assistive device, or the services of an assistance animal to perform DLA.

PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Act (EAPWDA), Section 2

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR), Section 2

PART E – Summary of Facts

The ministry did not attend the hearing. After confirming that the ministry was notified, the hearing proceeded under Section 86(b) of the *Employment and Assistance Regulation*.

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 November 6, 2013, a physician report (PR) and an assessor report (AR) both dated November 6, 2013 and completed by a general practitioner who has known the appellant for 8 years. The evidence also included the following: A Request for Reconsideration dated March 20, 2013 with an attached Form dated March 20, 2014 which has been completed and signed by the appellant's family physician.

Diagnoses

In the PR, the appellant was diagnosed by the medical practitioner with myofascial pain neck/ lumbar/ shoulders/ fibromyalgia, chronic low back and chest wall pain. There was no diagnosis indicated in the PR for a mental disorder.

Physical Impairment

In the PR, the appellant's physician reported that:

- In terms of health history, "all symptoms worse with activities such as bending, twisting, lifting, vacuuming, hair washing, dressing, overhead activities; ROM [range of motion] shoulders decreased." The appellant complained of poor vision and cannot afford an optometry exam.
- The appellant does not require any prosthesis or aid for her impairment.
- In terms of functional skills, the appellant is able to walk less than 1 block unaided on a flat surface, climb 2 to 5 steps unaided, can do no lifting, and remain seated less than 1 hour.
- The appellant is not restricted with mobility inside the home or mobility outside the home.

In the AR, the appellant's physician indicated that:

- The appellant is assessed as independent with walking indoors and outdoors and standing, and no assessment for climbing stairs with the note "no stairs at house." She requires continuous assistance from another person with lifting and carrying and holding, with a note that the appellant "states cannot lift/ carry and needs help all the time."
- In the section of the AR relating to assistance provided through the use of assistive devices, the physician marked a cane and noted that the appellant "uses cane on occasion."

In her self-report, the appellant wrote that:

- She has lots of pain in her neck, back, shoulders and right hip.
- The pain affects everything she does.

In the form dated March 20, 2014, the physician indicated that:

- The appellant "...has pain that affects her neck/ trapezius/ chest/ shoulders, with significant decrease ROM shoulders. She is unable to lift, do any overhead activities, push/ pull without significant pain."

Mental Impairment

In the PR, the appellant's physician reported that:

- The appellant has no difficulties with communication.
- There are significant deficits with the appellant's cognitive and emotional function in the areas

of consciousness, memory, emotional disturbance, motivation, motor activity and attention or sustained concentration. The physician noted that the appellant "complains of poor memory, concentration, motivation, [illegible] with anxiety for a few years. She complains of occasional disorientation/ confusion."

- The appellant is not restricted with social functioning.

In the AR, the physician indicated that:

- The appellant has a good ability to communicate in all areas, including speaking, reading, writing and hearing.
- There are major impacts to the appellant's cognitive and emotional functioning in the areas of emotion and motivation.
- There are moderate impacts in the areas of consciousness, attention/concentration, executive, and memory.
- There are no impacts in the areas of bodily functions, impulse control, insight and judgement, motor activity, language, psychotic symptoms, and other neuropsychological problems. The physician added comments that the appellant "complains of confusion/ disorientation at times only" and "poor mood, motivation, concentration and memory, appetite OK, for a few years."
- The appellant is assessed as independent with all aspects of social functioning, including making appropriate social decisions, developing and maintaining relationships, interacting appropriately with others, dealing appropriately with unexpected demands, and securing assistance from others.
- The appellant has good functioning in both her immediate and extended social networks.

Daily Living Activities (DLA)

In the PR, the physician indicated that:

- The appellant has not been prescribed any medication and/or treatment that interfere with her daily living activities.
- The appellant is not restricted in performing a majority of her DLA, including personal self care, meal preparation, management of medications, mobility inside and outside the home, and social functioning.
- The appellant is continuously restricted in performing the basic housework, daily shopping and management of finances DLA, and it is unknown whether the appellant is restricted with use of transportation.
- In response to a question about assistance need with DLA, the physician wrote that the appellant "needs family help with housework/ finance such as bills, taxes, shopping. Needs help vacuuming, carrying, washing/cleaning house; needs help carrying groceries."

In the AR, the physician reported that:

- The appellant is independent with moving about indoors and outdoors.
- The appellant is independent in 6 out of 8 tasks of the DLA personal care, including grooming, toileting, feeding self, regulating diet, transfers in/out of bed and transfers on/off chair. The appellant requires periodic assistance from another person with dressing, described by the physician as "need help putting pants on at times", and with bathing, with the note "pain shoulder- need help with bathing."
- The appellant is independent with doing her laundry and requires continuous assistance from another person with basic housekeeping, with the comment added that "need help with housework due to pain [illegible]."

- The appellant is independent in performing 4 of 5 tasks of the DLA shopping, including going to and from stores, reading prices and labels, making appropriate choices, and paying for purchases. The appellant requires continuous assistance with carrying purchases home.
- The appellant is independent with 3 out of 4 tasks of the DLA meals, including meal planning, food preparation, and safe storage of food. The appellant requires periodic assistance with cooking, with no explanation or description provided.
- The appellant is independent with 2 of 3 tasks of the DLA paying rent and bills, including budgeting and paying rent and bills. She requires periodic assistance from another person with banking and the physician notes "needs assistance."
- The appellant is independent in performing all 3 tasks of managing her medications: filling/refilling prescriptions, taking as directed and safe handling and storage.
- The appellant is independent with using transit schedules and arranging transportation and requires periodic assistance with getting in and out of a vehicle. There is no assessment for using public transit as the physician notes that the appellant "doesn't use public transit."

In her self-report, the appellant wrote that:

- Her pain affects everything she does such as going to the toilet, getting dressed, making her bed, doing dishes, vacuuming, and bathing. It also affects activities such as golfing, fishing, bingo, and holding her grandchildren.

In the form dated March 20, 2014, the physician indicated that:

- The appellant has a severe mental or physical impairment that directly and significantly restricts her ability to perform DLA continuously or periodically for extended periods.
- The DLA that are restricted continuously are basic housework and daily shopping.
- The appellant "...is unable to lift, do any overhead activities, push/ pull without significant pain. She has had to stop ...school due to her symptoms. She will have difficulty lifting groceries."

Need for Help

The physician reported in the AR that the help required for DLA is provided by the appellant's family. In the section of the report indicating assistance provided through the use of assistive devices, the physician indicated that the appellant uses a cane "on occasions."

In the form dated March 20, 2014, the physician indicated that, in his opinion, the appellant requires help to perform the activities in which she is restricted.

In her Notice of Appeal dated March 10, 2014, the appellant expressed her disagreement with the ministry's reconsideration decision and wrote that she meets all the criteria in the legislation for PWD benefits as supported by her doctor.

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

- 1) Written submission on behalf of the appellant with excerpts from the decision in *Hudson v. EAAT*, 2009 BCSC 1461; and,
- 2) Note dated April 23, 2014 from the physician who completed the reports with the PWD application. The physician wrote that he confirms that the appellant has osteoarthritis and degenerative disc in her neck.

At the hearing, the appellant stated:

- She has a hard time with everything: with washing her hair, with getting dressed, vacuuming, and making beds. She cannot pick up her grandchildren.
- She cannot drive because she cannot see properly. She also cannot turn to make a shoulder check. She has never taken public transit and would not know how to take it.
- She has to get someone to wash her hair because of the pain in her shoulders and neck which makes it so she cannot lift up her arms.
- The lack of sleep due to pain makes it worse and she becomes very emotional. She wakes up 6 or 8 times each night because of the pain.
- She has no way to get her medications because she cannot afford to pick them up at the pharmacy. Her daughter supplies her with Tylenol #3 and Advil. Her doctor had given her some sample medications for the pain and for sleeping but they ran out.
- The pain is in her hip, knee, right shoulder and her neck. Sometimes her hands become numb or "go to sleep" and it is hard to move them.
- She has a problem with her bladder which leads to incontinence and her doctor has asked her to take some tests to find the problem.
- All her activities are limited and they are becoming limited more and more every day.
- She lives with a friend who helps her do everything throughout the day. He is retired so he is available to help her.
- She cannot open a can or twist or turn to open a jar. She needs help to get dressed.
- Her friend prepares the meals and does everything around the house. If it were not for him, she would be in the hospital. He does all the shopping, the cooking, and the laundry. She will sit and fold the laundry.
- She can only stand for 10 minutes and sit for 10 minutes and then she has to walk. She cannot climb stairs very well. She climbs 4 stairs and then needs to rest.
- She uses a cane "on and off" both in the house and outside.
- Her doctor told her to walk 30 minutes every day but she has a bad knee and she can only walk for 10 minutes and then she needs to stop and rest. She has had an operation on her knee twice and if she overdoes her activity it "hurts so badly and gets swollen."
- Her neck is sore all the time. She applies a heat pack which helps sometimes. She had an injection of cortisone in her back and 2 in her shoulders.
- With her fibromyalgia, she "feels bruised all over." She took a course for specialized occupational training and she cannot do the work due to the pain in her shoulder and neck.
- Her doctor thinks she is depressed. He gave her some questionnaires to complete but she could not understand his handwriting and did not know what to do. He gave her this information quite a long time ago but she has not done anything with it. The doctor will not give her pain killers because he is afraid she "will try to kill herself."
- Her condition has gotten much worse than the time that the reports for the PWD application were prepared.

Admissibility of New Information

In the physician's note, new information was provided regarding the appellant's impairment. This information provides additional detail with respect to the pain in the appellant's neck, referred to in the original PWD application. The appellant also provided further detail of the impact of her conditions in her oral testimony. The panel admitted the physician's note and the appellant's oral testimony as new information in support of information and records that were before the ministry at the time of reconsideration, in accordance with Section 22(4) of the *Employment and Assistance Act*.

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 her daily living activities (DLA) are not, in the opinion of a prescribed professional, directly and significantly restricted either continuously or periodically for extended periods and that, as a result of those restrictions, it could not be determined that the appellant requires the significant help or supervision of another person, the use of an assistive device, or the services of an assistance animal to perform DLA.

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

Persons with disabilities

2 (1) In this section:

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

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

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

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

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

(b) in the opinion of a prescribed professional

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

(A) continuously, or

(B) periodically for extended periods, and

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

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

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

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

(i) an assistive device,

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

(iii) the services of an assistance animal.

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

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

Definitions for Act

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

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

(i) prepare own meals;

(ii) manage personal finances;

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

Severe Physical Impairment

The appellant's position is that a severe physical impairment is established by the evidence of her constant pain due to myofascial pain neck/ lumbar/ shoulders/ fibromyalgia, chronic low back and chest wall pain. In the written submission, the advocate argued that the functional skill limitations indicated by the doctor in the PR suggest a significant deficit and imply that some DLA would require assistance or the appellant would be unable to do things.

The ministry's position is that there is not enough information from the general practitioner to confirm that the appellant has a severe physical impairment. The ministry argued that, in terms of functional assessment, the general practitioner indicated that the appellant can walk less than 1 block and climb 2 to 5 stairs, she can remain seated for less than 1 hour and she cannot lift. The ministry argued that no assistive devices are routinely used to help compensate for impairment (a cane is used on occasion). The ministry argued that the appellant is independently able to do most aspects of mobility and physical abilities with continuous help to lift/ carry/ hold.

Panel Decision

A diagnosis of a serious medical condition does not in itself determine PWD eligibility or establish a severe impairment. An "impairment" is a medical condition that results in restrictions to a person's ability to function independently or effectively.

To assess the severity of an impairment one must consider the nature of the impairment and the extent of its impact on daily functioning as evidenced by functional skill limitations and the degree to which performing DLA is restricted. In making its determination the ministry must consider all the relevant evidence, including that of the appellant. However, the legislation is clear that the fundamental basis for the analysis is the evidence from a prescribed professional – in this case, the appellant's physician.

The medical practitioner, a physician who has known the appellant for a period of 8 years, diagnosed the appellant with myofascial pain neck/ lumbar/ shoulders/ fibromyalgia, chronic low back and chest wall pain. In the Note dated April 23, 2014, the same physician wrote that he confirms that the appellant has osteoarthritis and degenerative disc in her neck. There were no further reports provided to indicate the progress of the condition or the degree of degeneration. In terms of functional skills, the appellant is able to walk less than 1 block unaided on a flat surface, climb 2 to 5 steps unaided, can do no lifting, and remain seated less than 1 hour. However, the physician also reported in the PR that the appellant is not restricted with mobility inside the home or mobility outside

the home and she does not require any prosthesis or aid for her impairment. In the section of the AR relating to assistance provided through the use of assistive devices, the physician marked a cane and noted that the appellant "uses cane on occasion." At the hearing, the appellant stated that she uses a cane "on and off" both inside and outdoors. The appellant stated that her doctor told her to walk 30 minutes each day but she finds that her knee starts to get sore and she has to rest after walking 10 minutes.

In the AR, the physician reported that the appellant is independent with walking indoors and outdoors and standing, and no assessment for climbing stairs with the note "no stairs at house." At the hearing, the appellant stated that she does not climb stairs very well, that she needs to rest after climbing 4 stairs. She requires continuous assistance from another person with lifting and carrying and holding, with a note that the appellant "states cannot lift/ carry and needs help all the time." The appellant stated at the hearing that her condition has deteriorated and become much worse than the time that the reports were completed for her PWD application.

Given an opportunity to provide further comment and updated information in the form dated March 20, 2014, the physician indicated that the appellant "...has pain that affects her neck/ trapezius/ chest/ shoulders, with significant decrease ROM shoulders. She is unable to lift, do any overhead activities, push/ pull without significant pain. She has had to stop ...school due to her symptoms. She will have difficulty lifting groceries." The appellant stated at the hearing that she cannot afford the pain medications that have been prescribed to her, and it is therefore unknown whether these medications may alleviate some of the pain symptoms experienced by the appellant.

The panel finds that the ministry reasonably concluded that the evidence of the appellant's physician, who has known the appellant for 8 years, together with the appellant's testimony at the hearing including that her doctor is encouraging her to walk and she can walk for up to 10 minutes, demonstrates that the appellant remains largely independent with her mobility and physical abilities, except with lifting and carrying/holding. The panel, therefore, finds that the ministry reasonably determined that there is not sufficient evidence to establish that the appellant has a severe physical impairment under section 2(2) of the EAPWDA.

Severe Mental Impairment

The appellant did not maintain a position that she has a severe mental impairment, although she stated at the hearing that her doctor believes she may be depressed and he will not prescribe pain medication because he is afraid she may commit suicide.

The ministry's position is that the physician did not report a mental health diagnosis and does not provide sufficient evidence to confirm a severe mental impairment. The ministry argued that the appellant is assessed as having a good ability to communicate in all areas with no restriction to social functioning. The ministry argued that although the physician reported the appellant has significant deficits with her cognitive and emotional function in several areas, the impacts on daily functioning are mostly moderate with two major impacts on emotion and motivation, and a number of aspects with no impact at all.

Panel Decision

The general practitioner did not diagnose a mental health condition in the PR and reported that the appellant is not restricted in her social functioning. The appellant is assessed as having a good

ability to communicate in all areas. The physician reported significant deficits with the appellant's cognitive and emotional function in the areas of consciousness, memory, emotional disturbance, motivation, motor activity and attention or sustained concentration. The physician noted that the appellant "complains of poor memory, concentration, motivation, [illegible] with anxiety for a few years. She complains of occasional disorientation/ confusion." Despite identifying deficits in these areas, the impact to daily functioning is assessed by the physician as major in the two areas of emotion and motivation, moderate in consciousness, attention/concentration, executive, and memory, and no impact in the remaining 7 areas of functioning. The appellant is assessed as independent with all aspects of social functioning and she has good functioning in both her immediate and extended social networks. Given the absence of a mental disorder diagnosis, the largely moderate impacts to mental functioning, and no impact to communication 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 her physical impairment directly and significantly restricts her ability to perform DLA on an ongoing basis to the extent that she requires the significant assistance of another person and the use of a cane as an assistive device. The advocate provided excerpts from the court decision in *Hudson* which states that there must be evidence from a prescribed professional indicating a direct and significant restriction on at least two DLA, but there is no statutory requirement that more than two DLA be restricted in order to meet the PWD eligibility requirements.

The ministry's position is that the appellant can independently manage the majority of her DLA and, for those tasks where periodic assistance is required, the physician has not explained the extent of the periodic assistance required to indicate restrictions for extended periods of time.

Panel Decision

Section 2(2)(b) of the EAPWDA requires that a prescribed professional provide an opinion that an applicant's severe impairment directly and significantly restricts DLA, continuously or periodically for extended periods. In this case, the appellant's physician is the prescribed professional. DLA are defined in section 2(1) of the EAPWDR and are also listed in the PR and, with additional details, in the AR. Therefore, a prescribed professional completing these forms has the opportunity to indicate which, if any, DLA are significantly restricted by the appellant's impairments either continuously or periodically for extended periods.

In the appellant's circumstances, her physician reported in the PR that the appellant is not restricted in performing a majority of her DLA, including personal self care, meal preparation, management of medications, mobility inside and outside the home, and social functioning. In the AR, the physician reported that the appellant is independent in 6 out of 8 tasks of the DLA personal care, and requires periodic assistance from another person with dressing, described by the physician as "need help putting pants on at times", and with bathing, with the note "pain shoulder- need help with bathing." At the hearing, the appellant stated that she cannot lift her arms up and she needs to get someone to help her wash her hair. The appellant is independent with 3 out of 4 tasks of the DLA meals and requires periodic assistance with cooking, with no explanation or description provided. The appellant is independent in performing all 3 tasks of managing her medications: filling/refilling prescriptions, taking as directed and safe handling and storage. The physician reported in the AR that the appellant is independent with moving about indoors and outdoors.

In the PR, the physician indicated that it is unknown whether the appellant's use of transportation is restricted. In the AR, the physician reported that the appellant is independent with using transit schedules and arranging transportation and requires periodic assistance with getting in and out of a vehicle. There is no assessment for using public transit as the physician notes that the appellant "doesn't use public transit." At the hearing the appellant stated that she has never taken public transit and would not know how to use it.

In the PR, continuous restrictions are indicated with the DLA basic housework, daily shopping and management of finances. The physician commented that the appellant "needs family help with housework/ finance such as bills, taxes, shopping. Needs help vacuuming, carrying, washing/ cleaning house; needs help carrying groceries." In the AR, the physician reported that the appellant is independent with doing her laundry and requires continuous assistance from another person with basic housekeeping, with the comment added that "need help with housework due to pain [illegible]." For shopping, the appellant is assessed in the AR as independent in performing 4 of 5 tasks of the DLA shopping, including going to and from stores, reading prices and labels, making appropriate choices, and paying for purchases and requiring continuous assistance with carrying purchases home. In the AR the appellant is assessed by the physician as independent with 2 of 3 tasks of the DLA paying rent and bills, including budgeting and paying rent and bills and requiring periodic assistance from another person with banking and the physician notes "needs assistance."

The appellant stated at the hearing that her friend who lives with her helps her throughout the day since she needs help to do everything, including getting dressed. The appellant stated that her friend prepares the meals and does everything around the house. If it were not for him, she would be in the hospital. He does all the shopping, the cooking, and the laundry. She will sit and fold the laundry. The appellant stated that her condition has deteriorated since the time that the PWD application reports were completed. However, given an opportunity to update the information provided, the physician indicated in the form dated March 20, 2014, that the appellant's DLA that are restricted continuously are basic housework and daily shopping. The physician wrote that the appellant "...is unable to lift, do any overhead activities, push/ pull without significant pain. She has had to stop ...school due to her symptoms. She will have difficulty lifting groceries."

The court held in *Hudson* that there must be evidence from a prescribed professional indicating a direct and significant restriction on at least two DLA, and the panel finds that section 2 of the EAPWDA stipulates that the ministry must be satisfied in each case that the opinion of a prescribed professional establishes direct and significant restrictions to the person's overall ability to perform DLA. The physician reported that only some of the tasks of the housework and shopping DLA are continuously restricted, in particular those tasks requiring lifting or overhead activities.

For those tasks of other DLA that require periodic assistance (dressing, bathing, cooking, banking, getting in/out of vehicle) there is no narrative to explain how often the assistance is needed or for how long; therefore, the panel finds that the ministry reasonably concluded that it cannot be determined that the appellant is restricted periodically for extended periods of time. Overall, 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 her ability to manage DLA either continuously or periodically for extended periods, thereby not satisfying the legislative criterion of section 2(2)(b)(i) of the EAPWDA.

Help to perform DLA

The appellant's position is that she requires the significant assistance of another person 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 stated that the appellant uses a cane as an assistive device "on occasion."

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 physician, as a prescribed professional, is that the help required with DLA is provided by the appellant's family. In the form dated March 20, 2014, the physician indicated that, in his opinion, the appellant requires help to perform the activities in which she is restricted. The physician reported that the appellant requires the use of a cane as an assistive device "on occasions." At the hearing, the appellant stated that her friend who lives with her helps her with all of her DLA, including preparing the meals, shopping, cooking, and the laundry. The appellant stated that if it were not for her friend's assistance she would likely be in the hospital. While the panel finds that the evidence of the prescribed professional establishes that the appellant obtains some assistance from 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 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.