APPEA

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 27 May 2014 denying the appellant designation as a person with disabilities (PWD). The ministry determined that the appellant did not meet all of the required criteria for PWD designation set out in the *Employment and Assistance for Persons with Disabilities Act*, section 2. Specifically, the ministry determined that the information provided did not establish that the appellant has a severe mental or physical impairment that in the opinion of a prescribed professional

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

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

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

PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Act (EAPWDA) – section 2
Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) – section 2

PART E – Summary of Facts

With the consent of parties, this hearing was conducted in writing pursuant to section 22(3) (b) of the Employment and Assistance Act.

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

1. The appellant's PWD Designation Application dated 09 December 2013. The Application contained:
   - A Physician Report (PR) dated 20 January 2014, completed by the appellant's general practitioner (GP) who has known the appellant for 27 years and has seen him 11 or more times in the past year.
   - An Assessor Report (AR) of the same date completed by the same GP.
   - A Self Report (SR) completed by the appellant.

2. The appellant's Request for Reconsideration, dated 16 May 2014, to which was attached an undated page from a consult report from a specialist physician.

In the PR, the GP diagnoses the appellant's impairment as injury & poisoning – other (onset July 2009), neurological disorders – other (onset July 2009) and anxiety disorders (onset August 2013). The GP indicates that the appellant's impairment is likely to continue for two years or more, stating:

> "It is now approximately 4.5 years since the accident with persisting symptomatology worsening with activity and additional complications of depression, panic attacks and social anxiety disorder."

The panel will first summarize the evidence from the PR, the AR relating to the appellant's impairments as it relates to the PWD criteria at issue.

Severity/health history

Physical impairment

PR:

Under health history, the GP writes:

> "This patient was "involved" in a motor vehicle accident where his R leg was crushed between 2 cars in July of 2009. He sustained injury to the knee and perineal nerve on the R side. The surgical intervention on the knee has subsequently made no difference to symptoms, which have persisted and, if anything, have become rather worse with time despite some initial improvement.
> The problems with pain, cramps and giving way have increased and are exacerbated by being in one position for any length of time. He has sleep difficulties as well as increased pain & frequency of giving way. He has cramps and aches of the R foot and calf as well as numbness in the foot and toes, progressively with activity."

Under addition comments, the GP writes:

> "This patient has been seen by several specialists over time including orthopedic specialists as well as having nerve conduction studies performed which is not demonstrated any perineal nerve injury but he does have some significant arthritis in the medial compartment of the affected knee. He also has some symptoms of complex

regional pain syndrome which often goes hand-in-hand with normal electro[unreadable] results."

The GP indicates that the appellant has not been prescribed medication and/or treatments that interfere with his ability to perform DLA.

The GP indicates that the appellant does not require any prostheses or aids for his impairment.

As to functional skills, the GP reports that the appellant can walk 1 to 2 blocks unaided, can climb 5+ steps, is limited to lifting between 15 to 30 lbs., and he can remain seated for 1 to 2 hours (GP comment: "before symptoms become worse").

AR:
The GP indicates that the appellant's impairment that impacts his ability to manage DLA as "Difficulty with pain, weakness, giving way and numbness in the R leg."

Mental impairment

PR:
Under health history, the GP writes:

> "In addition, over the past year or two he has become progressively depressed with panic episodes and significant symptoms of social anxiety disorder for which he has been referred for psychiatric assessment and treatment with little improvement to date."

Under additional comments, the GP writes:

> "Additionally he has been seen by [name] psychiatrist who has diagnosed social anxiety disorder and agoraphobia with recommendations for cognitive behavioral therapy and, hopefully, participation in group therapy programs. He was seen by [the psychiatrist] on Dec 4/13."

The GP indicates that the appellant has no difficulties with communication.

The GP assesses the appellant with significant deficits with cognitive and emotional function in the areas of emotional disturbance, motivation, impulse control and motor activity, commenting: "He has developed the significant social anxiety disorder with panic episodes, agitation & poor impulse control at times."

AR:
The GP indicates that the appellant's impairment that impacts his ability to manage DLA as "Social anxiety disorder & agoraphobia compounded by depression".

The GP assesses the appellant's ability in speaking, reading, writing and hearing as good.

Ability to perform DLA

AR:

The GP reports that the appellant lives with family.

The GP reports that the appellant's ability to communicate is good for speaking, reading, writing and hearing.

Regarding mobility and physical ability, the GP provides the following assessments: independent for walking indoors and standing; periodic assistance required from another person for walking outdoors and climbing stairs; and taking significantly longer than typical for lifting and carrying and holding. The GP comments: "Requires accompaniment or companion in situations where he is going to be on his own mostly in stores or outside for any length of time."

With regard to cognitive and emotional functioning, the GP assesses the appellant's mental impairment as having a major impact on daily functioning in the area of emotion; a moderate impact in the areas of impulse control, insight and judgment, attention/concentration, executive, motivation, motor activity, and other emotional or mental problems; minimal impact in the area of memory; and no impact in the areas of bodily functions consciousness, language and psychotic symptoms or other neuropsychological problems. The GP comments: "Occasional hostility towards caregiver and mother following the lengthy problems he has had with his disability."

The GP assesses the assistance required for managing DLA as follows (the GP's comments in parentheses):

- Personal care – independent in all aspects.
- Basic housekeeping – independent for laundry; periodic assistance from another person required for basic housekeeping (difficulty lifting, pushing, pulling, heavier housework).
- Shopping – independent for reading prices and labels, making appropriate choices, and paying for purchases; periodic assistance from another person required for going to and from stores and carrying purchases home.
- Meals – independent for meal planning and safe storage of food; periodic assistance from another person required for food preparation and cooking (sometimes has difficulty standing for any length of time).
- Pay rent and bills – independent in all aspects.
- Medications – independent in all aspects.
- Transportation – independent for using public transit and using transit schedules and arranging transportation; periodic assistance from another person required for getting in and out of vehicle.

With respect to social functioning the GP assesses the appellant as independent for ability to develop and maintain relationships and to secure assistance from others; periodic assistance from another person required for making appropriate social decisions, interacting appropriately with others (GP comments: "poor impulse control could be a problem here") and dealing appropriately with unexpected demands.

The GP reports that the appellant has very disruptive functioning with his immediate social network (The GP comments: "Anger, agitation & associated depression with panic episodes have caused him to become abusive and quite aggressive at times with major withdrawal from life & interaction with others.") The GP assesses the appellant as having marginal functioning with his extended social networks, referring to the comment above.

Help provided/required

PR:
The GP indicates that the appellant does not require any prostheses or aids for his impairment.

AR:
The GP indicates that help provided for DLA is provided by family and friends, stating that he needs companions for going out shopping and social interaction.
The GP does not indicate that the appellant routinely uses any assistive device; nor does he have an assistance animal.

Self report

In his SR, the appellant writes that his number one problem is his leg, which was crushed between two cars about 4 1/2 years ago and he has had nothing but problems with it since. It constantly aches, at night mostly, keeping him from sleeping properly (up every couple of hours) and it randomly snaps and gives out on a regular basis and cramps up if he sits for long periods of time (no more than an hour), making it very difficult to do any daily activities. Since this is happened to him, he has found it more and more difficult to find work, causing him to become more and more depressed to the point where he feels like a recluse.

He writes that when he does simple things like going to the grocery store he gets an overwhelming feeling like everyone is watching him and judging and he starts to sweat really badly and gets very anxious and usually ends up leaving before he can get to the cashier. The same thing happens when he has to go for an appointment with a specialist or when he tries to go for a job interview. He breaks out in the pouring sweat and gets very nervous and feels like a complete fool for even trying. He sweats so badly that all of his clothes have sweat stains on them. He panics and even gets angry when his friends try to get him to go out, lately and he snaps at his own mother for asking him to help her do the shopping. His friends have helped him to identify that he has a real problem and to see a doctor, so he did and was sent to the psychiatrist who told him he was suffering from social anxiety disorder and something called agoraphobia and that therapy could help him.

In the Request for Reconsideration, the appellant stated that he went to his GP with the ministry's letter denying his request for PWD designation and with a list of "needed information" he had obtained from a phone call with the ministry. The GP was shocked that a good 95% of what the appellant was told was still "needed information" was clearly indicated on the application form. The appellant did notice however that his need for a leg brace (an osteoarthritic unloading brace) was not mentioned. He attached a copy of an undated page of a consult letter from a specialist who recommended this and requested his GP send another letter to the ministry regarding his application.

In the consult letter, the specialist states that the appellant has documented osteoarthritis involving primarily the medial compartment, but also the patelofemoral joint. He is developing a varus deformity to his knee. His MRI shows no mechanical problems, meaning that the arthroscopy at this stage will make no difference. To manage his osteoarthritis, the specialist suggests weight loss and using soft sole shoes, adjusting his activities to what his knee will allow. The specialist also suggests a

medication regime and states that the appellant would be a candidate for an osteoarthritic uploading brace.

In his Notice of Appeal, dated 3 June 2014, the appellant submitted a letter from his GP dated 15 May 2014, and wrote that he disagrees with the reconsideration decision because the ministry did not receive the letter from his GP with the further information requested. It was faxed to the local ministry office. He retrieved the letter from the office and is attaching it to this Notice of Appeal in the hope that the ministry will finally help him.

In his15 May 2014 letter, the GP writes:

> "[The Appellant] tells me that following a discussion with an individual at [the ministry] he was informed that there was insufficient information in some areas of the form, despite the fact that on going over the information that has been requested, much of it is actually there. [The appellant's] mother apparently obtained a list of extra question although, as noted, some of them had already been answered. I will annotate them and go through them in the order presented."

The GP goes on to provide the following:

- How long can the appellant stand and sit at a time? – Approximately one hour before positional changes are required as a result of dysaethesia and numbness in the limbs.
- Level of activity and function – relatively minor activities such as mowing the lawn, pushing, pulling, weightlifting and sustained activity produce symptoms which may last for days.
- Somatic symptoms as a result of stress – esophageal reflex, nausea along with epigastric pain arise as a result of anxiety and stresses.
- Degree that agoraphobia affects function – he is unable to mix outdoors with the general public or in-store settings or at other gatherings, malls, etc., as he develops anxiety, panic attacks, profuse sweating and tachycardia, preferring to stay at home; a combination of agoraphobia and social anxiety disorder.
- Mental challenges – a psychiatrist has diagnosed agoraphobia, anxiety and depression.
- Sleep disturbance – decreased sleep quality with difficulty getting to sleep and early-morning awakening.
- Knee brace – a specialist recommended an osteoarthritic unloading brace to alleviate the pain.
- Low back pain – the appellant was diagnosed with degenerative discs and facet joint disease in the lumbar spine in 2003 with progressive problems as a result of low back pain and intermittent sciatica since then.

In a letter dated 2 July 2014, the ministry stated that it accepts the additional information submitted by the GP in the letter dated 15 May 2014 in regard to the appellant's PWD designation application. The ministry noted that the information was to be submitted to the Reconsideration Section and was directed to the wrong location – the local ministry office. The reconsideration decision therefore was completed without the inclusion of this letter. The ministry does not object to the new information.

The ministry did not object to the admissibility of the GP's 15 May 2014 letter. With the exception noted below, the panel finds that the letter from the appellant's GP is in support of the information and records before the ministry at reconsideration, as it corroborates information provided in the original PWD Designation Application. Accordingly, the panel admits this evidence under section 22(4) of the *Employment and Assistance Act*. The panel does not admit as evidence the GP's diagnosis of degenerative disc disease or facet joint disease, as these diagnoses were not before the ministry at

reconsideration. The panel notes that even if the panel had admitted this diagnosis as evidence, the GP has not identified any specific impacts on physical functioning arising from these conditions.

APPEAL

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 he 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 or physical impairment that in the opinion of a prescribed professional

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

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

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

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

2 (1) In this section:

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

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

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

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

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

(b) in the opinion of a prescribed professional

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

(A) continuously, or

(B) periodically for extended periods, and

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

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

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

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

(i) an assistive device,

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

(iii) the services of an assistance animal.

The following section of the EAPWDR applies to this appeal:

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

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

(i) prepare own meals;

(ii) manage personal finances;

(iii) shop for personal needs;

(iv) use public or personal transportation facilities;

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

(vi) move about indoors and outdoors;

(vii) perform personal hygiene and self care;

(viii) manage personal medication, and
(b) in relation to a person who has a severe mental impairment, includes the following activities:
(i) make decisions about personal activities, care or finances;
(ii) relate to, communicate or interact with others effectively.

The panel will consider each party's position regarding the reasonableness of the ministry's decision under the applicable PWD criteria at issue in this appeal.

Severity of impairment

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

In the discussion below concerning the severity of the appellant's impairments, the panel has drawn upon the ministry's definition of "impairment" as provided in the PR. This definition consists of "cause" and "impact" components: "impairment is a loss or abnormality of psychological, anatomical or physiological structure or function [the cause] causing a restriction in the ability to function independently, effectively, appropriately or for a reasonable duration [impact]." The cause is usually set out as a disease, condition, syndrome, injury or even a symptom (e.g. pain or shortness of breath). A severe impairment requires the identified cause to have a significant impact on daily functioning.

The legislation requires that for PWD designation, the minister must be "satisfied" that the person has a severe mental or physical impairment. For the minister to be "satisfied" that the person's impairment is severe, the panel considers it reasonable for the ministry to expect that the information provided presents a clear and complete picture of the nature and extent of the impacts of the person's medical conditions on daily functioning.

Physical impairment

In the reconsideration decision, the ministry reviewed the information provided in the PR regarding physical functioning (able to walk 1-2 blocks unaided, etc.) and noted that the appellant is independently able to do most aspects of mobility and physical abilities listed in the AR, with periodic help required to walk outdoors and climb stairs and that no assistive devices are routinely used to help compensate for the appellant's physical impairment. The ministry states that the GP's comment suggests that the appellant requires accompaniment in situations where he is going to be on his own walking indoors or outside for any length of time but that it is unclear if this is related to the physical factor or his social anxiety disorder. Noting that remedial measures including weight loss and medication had been recommended by a specialist, the position of the ministry is that the functional skill limitations are not significantly restrictive and are more in keeping with a mild to moderate degree of physical impairment and the ministry is not satisfied that the information provided is evidence of a severe physical impairment.

The appellant's position is that the evidence provided, including that in the GP's letter of 15th May

2014 that relatively minor activities such as mowing the lawn, pushing, pulling, weight lifting and sustained activity produce symptoms which may last for days and that he requires the use of an osteoarthritic uploading brace to alleviate the pain, demonstrates that he is physically impaired.

Panel findings

The evidence provided by the GP regarding the nature and degree of the restrictions to physical functioning arising from the appellant's knee injury and resulting pain is that he is independent in many aspects of DLA requiring physical effort. In the AR, the GP assesses him as independent for walking indoors and standing, all aspects of personal care, laundry, paying rent and bills and using public transit. The GP has assessed the appellant requiring periodic assistance from another person in a number of areas requiring physical effort, such as basic housekeeping, going to and from stores, carrying purchases home, food preparation, and cooking and getting in and out of a vehicle, but no information is provided as to how often such assistance is required, to what extent and under what circumstances. As the ministry noted, it is unclear whether the GP's assessment that the appellant requires periodic assistance from another person for walking outdoors, with the comment that he requires accompaniment when he is going to be on his own, mostly in stores or outside for any length of time, relates to his physical impairment or his social anxiety disorder, as no reason is given for this requirement or what the role is of the companion in these situations. Similarly, the GP makes reference in both the PR and AR of the appellant's knee "giving way," without explaining what the consequences are (e.g. falling?), and the frequency and circumstances of such events. No mention is made in the information provided by the GP of any remedial measures, such as medication, that have been trialed and found to help or proved ineffective. An osteoarthritic uploading knee brace has been recommended for the appellant; however, no information has been provided as to how this might be expected to improve his physical functioning or if it has yet been trialed.

On the basis of the available information, and considering the evidence that the appellant is able to walk 1-2 blocks unaided, climb 5+ steps and lift 15 to 35 lbs., the panel finds that the ministry was reasonable in determining that a severe physical impairment had not been established.

Mental impairment.

In the reconsideration decision the ministry notes that the GP reports the development of a significant social anxiety disorder with panic episodes, agitation and poor impulse control at times. Several deficits to cognitive and emotional functioning are reported in the areas of emotional disturbance, motivation, impulse control and motor activity. Communication is good with no difficulty noted. Periodic support/supervision in 3 of 5 aspects of social functioning is reported with the comment "poor impulse control could be a problem here." Impacts on daily functioning are mostly moderate with one major impact on emotion. The ministry states that while it would appear from the psychiatric recommendations that therapy is in order to remediate the social anxiety disorder, the ministry concludes that overall the information in the narrative is not supportive of a severe mental health condition that significantly limits the appellant's ability to function either continuously or periodically for extended periods. The ministry is therefore not satisfied that the information provided is evidence of a severe mental impairment.

The position of the appellant is that he has been diagnosed with agoraphobia, anxiety and depression. As the GP reported in his 15 May 2014 letter, these mental health conditions result in him

being not able to mix outdoors with the general public or in store settings or at other gatherings, malls, etc. as he develops anxiety, panic attacks, profuse sweating and tachycardia, preferring to stay at home. He submits that this is sufficient evidence to establish a severe mental impairment.

Panel findings

The appellant has been diagnosed with agoraphobia, anxiety and depression, The diagnosis and treatment of a medical condition is not in itself determinative of a severe impairment: as noted above, the severity of impairment must be assessed in terms of impact of the medical condition on daily functioning, including ability to perform DLA. The evidence suggests that the main impact is in restrictions in the social functioning DLA of ability to relate to, communicate or interact appropriately with others. In particular, the appellant's GP in his 15 May 2014 letter, states that the appellant is "unable to mix outdoors with the general public or in store settings.... prefers to stay at home." The panel notes however that no mention of such a significant restriction in social functioning is made in the PR or AR, and the GP in his letter made no reference to how his condition may have deteriorated to this extent since the original application, which was completed 4 months earlier in January 2014. Further, in the PR the GP indicates no difficulties with the appellant's ability to communicate and in the AR rates his abilities as "good" in all aspects of communications. The panel also notes that in the original AR, no mention was made of a social functioning restriction in the DLA of shopping, where the appellant is assessed as independent for reading prices and labels, making appropriate choices, and paying for purchases, indicating to the panel that he has good mental functioning when in-store, while requiring unspecified periodic assistance for going to and from stores and carrying purchases home, presumably because of physical factors. It is unclear to the panel whether the appellant's social functioning challenges described by the GP in his recent letter are episodic/occasional, or either continuous or periodic for an (unknown) extended period of time.

As the ministry noted, the GP has assessed a major impact of the appellant's mental impairment on daily functioning in the area of emotion. While the GP assesses moderate impacts in 7 other areas, including other emotional or mental problems, the only comment relates to "occasional hostility around caregiver or mother". No impact is reported for bodily functions, despite the appellant's reference in his SR and in the GP's letter to "profuse sweating". While the GP indicates support/supervision is required on a periodic basis in 3 of 5 areas of the social functioning DLA of ability to make decisions about personal activities, care or finances, no description of the degree and duration of such support/supervision is provided. Given the information available, the panel finds that the ministry was reasonable in determining that a severe mental impairment had not been established.

Significant restrictions in the ability to perform DLA.

The ministry, in its reconsideration decision, reviewed the GP's assessments of the appellant's ability to perform DLA. The ministry noted that the appellant was seen by a psychiatrist on 4 December 2013 with recommendations for cognitive behavioral therapy and participation in group therapy programs. As the application was completed on 20 January 2014, it is too early to comment progress on resolution of anxiety. The ministry concluded that as the majority of DLA are performed independently or require little help from others, the information from the appellant's prescribed professional – his GP – does not establish that impairment significantly restricts DLA either continuously or periodically for extended periods.

The position of the appellant is that the evidence clearly shows that his physical and mental impairments directly and significantly restrict his ability to perform DLA on an ongoing basis.
Panel findings

The panel notes that, according to the legislation, the direct and significant restriction in the ability to perform DLA must be a result of a severe impairment, a criterion which has not been established in this appeal. This DLA criterion must also be considered in terms of the preceding legislative language of section 2 of the *EAPWDA*, which provides that the minister may designate a person as a person with disabilities "if the minister is satisfied that" the criteria are met, including this one. In exercising the discretion conferred by the legislation, it is reasonable that the minister would expect that the opinion of a prescribed professional be substantiated by information from the prescribed professional that would satisfy the minister that there are direct and significant restrictions in the ability to perform DLA, either continuously or periodically for extended periods, by presenting a clear and complete picture of the nature and extent of these restrictions.

In terms of restrictions to DLA as a result of his physical impairment, the GP has assessed the appellant as requiring periodic assistance from another person in some aspects of the following DLA: moving about indoors and outdoors, basic housekeeping and shopping, and meals and transportation. However, the GP has not described the nature and extent of such help required, or how often and under what circumstances. Similarly, in terms of restrictions as a result of the appellant's mental impairment the GP has assessed the appellant as requiring periodic assistance from another person in 3 of 5 aspects of the social functioning DLA of ability to make decision about personal activities, care or finances, again without providing a description of such help. As discussed above under severity of mental impairment, the panel is unable to assess the significance of any restrictions in the appellant's ability to relate to, communicate or interact with others effectively, given that the GP assesses the appellant's ability to communicate as "good" and the uncertainties related to the GP's statement that he is unable to mix outdoors with the general public or in stores, as he develops anxiety, panic attacks, preferring to stay at home. While the GP has assessed the appellant's social functioning with his immediate social network as very disrupted functioning and with his extended social networks as marginal functioning, overall the panel finds that the ministry was reasonable in determining that it has not been established that the appellant's impairments in the opinion of a prescribed professional directly and significantly restrict his ability to perform DLA, either continuously or periodically for extended periods.

Help with DLA

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

The position of the appellant is that, because of his knee injury and resulting pain he requires the periodic assistance of another person to perform several DLA, as well as an osteoarthritic knee brace. He also requires therapy and ongoing assistance as he struggles with agoraphobia, anxiety and depression.

Panel findings

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

Conclusion

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