

## PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the ministry) reconsideration decision dated June 11, 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 his impairment is likely to continue for at least two years. However, the ministry was not satisfied that the evidence establishes that:

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

## PART D – Relevant Legislation

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

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

## PART E – Summary of Facts

The appellant consented to the attendance of an advocate at the hearing to assist with presenting the appellant's evidence and to provide him with support.

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, a physician report (PR) dated December 17, 2013 and an assessor report (AR) dated January 23, 2014, both completed by a general practitioner who has known the appellant for 3 years. The evidence also included the following:

- 1) Letter dated May 12, 2014 from the same general practitioner who prepared the initial reports and stating that the appellant was seen in emergency following an epileptic seizure and left shoulder dislocation. He has not been working for a while and is unable to do so until his orthopedic consult; and,
- 2) Request for Reconsideration with attached submission dated June 4, 2014.

### ***Diagnoses***

In the PR, the appellant was diagnosed by the general practitioner with left shoulder and knee cartilage repair with recurrent dislocations, refractory left leg resulting in chronic pain, and shoulder dislocation post seizure.

### ***Physical Impairment***

In the PR, the general practitioner reported that:

- In terms of health history, the appellant has multiple chronic disabilities. His seizures are poorly controlled with medications and his last fit was September 2013. He has been seen by a neurologist and has had his medications altered. However, the experience renders him unsafe to work or drive and thus his employability is affected. He has had multiple surgeries to his left leg and shoulder... this is causing chronic pain and affecting his ability to work or remain employable. He had two grand mal seizures on December 31 with resulting shoulder dislocation.
- The appellant does not require any prosthesis or aid for his impairment.
- Regarding the degree and course of the impairment, the chronic and progressive pain is "on and off" and is unlikely to fully remit.
- In terms of functional skills, the appellant can walk 2 to 4 blocks and climb 5 or more steps unaided, and he has no limitations with lifting or remaining seated.

In the AR the general practitioner indicated that:

- The appellant is assessed as independent with walking indoors and outdoors, climbing stairs and standing. He requires periodic assistance from another person with lifting and he requires periodic assistance with carrying and holding, with no further comments provided.
- The section of the AR relating to assistance provided through the use of assistive devices has been crossed out as not applicable.

In the appellant's self-report, he wrote that:

- He has seizures and the medication he takes has not been working properly, causing him to miss work. He has started to change his medication and he hopes this will settle the seizure problem.
- He also has arthritis in his left shoulder and knee and takes pain killers (Tylenol 3) just so he is

able to work.

In his Request for Reconsideration with attached submission dated June 4, 2014, the appellant wrote that:

- Since he initially submitted his application, his physical and mental situation has drastically changed for the worse. In the last four months, he has had six grand mal seizures, which resulted in his shoulder severely dislocating on four occasions. After having an episode at work during his last job, he has not been able to work. His seizures are not being controlled by the medication. His family doctor believes his physical health will worsen with age.
- He basically has the use of just one arm because of the damage to his other arm (shoulder). He is on prescribed pain killers to manage the pain.
- He still has continuous pain in his knees and his arm due to seizure-related injuries. He is unable to lift more than 10 lbs. and he cannot use his damaged arm for extended periods of time.
- He has pending appointments with his neurologist and an orthopedic surgeon.

### ***Mental Impairment***

In the PR, the general practitioner reported:

- The appellant has cognitive difficulties with communication and significant deficits with cognitive and emotional function in the area of emotional disturbance.
- In the comments section: "Chronic pain resulting in mood changes and depression."

In the AR, the general practitioner indicated that:

- The appellant has a good ability to communicate in all areas: speaking, reading, writing and hearing.
- The section of the report describing impacts to cognitive and emotional functioning is marked as no impact in 13 areas of functioning, with a moderate impact in the area of emotion. The general practitioner noted that multiple seizures have resulted in poor work and home-life situations. The appellant cannot drive and employment is thus limited. He has to live with his family because of fears of living alone brought on by his seizures. All of this has led to emotional issues, principally depression and anxiety.
- With respect to social functioning, the appellant is independent in all aspects, with marginal functioning in his immediate social network and good functioning in his extended social networks.

In his Request for Reconsideration, the appellant wrote that:

- The increased amount of his seizures (epilepsy) has negatively affected his mental state. He now deals with increased depression, anxiety and stress, which has caused him to be almost completely isolated.
- The fear of having a seizure and getting injured has affected every aspect of his life.
- The increased amount of seizures he has been having has affected his independence as he is unable to get or maintain a job, unable to engage socially, he is consistently worried even when simply going for a walk.

### ***Daily Living Activities (DLA)***

In the PR, the general practitioner indicated that:

- The appellant has not been prescribed any medication and/or treatments that interfere with his

daily living activities.

- The appellant is periodically restricted with mobility inside and outside the home. The general practitioner noted that "pain is exacerbated by movement. Seizures are also exacerbated by stress." Regarding the degree of restriction, the note is "none."
- The appellant is not restricted with personal self care, meal preparation, management of medications, basic housework, daily shopping, use of transportation and management of finances.
- There is no assessment regarding restrictions to social functioning but a notation: "depression, anxiety, mood disorders."
- In the additional comments, the general practitioner wrote: "As above, daily functioning critically impaired as patient is unable to get or maintain a job."

In the AR, the general practitioner reported that:

- The appellant is independent with moving about indoors and outdoors.
- The appellant is independent in all tasks of all other listed DLA, namely: personal care, basic housekeeping, shopping, meals, paying rent and bills, medications, transportation, and social functioning.
- For additional comments regarding the type and amount of assistance required and the identification of any safety issues, the general practitioner wrote: "no."

In his self-report, the appellant wrote that:

- Most days he is in too much pain to function without the pain meds.
- He is always concerned about whether he is going to have a seizure because the medication he takes was not working. He was getting dizzy spells and sleep apnea.
- He has had to leave well-paying jobs to work at lower paying jobs.

In his Request for Reconsideration, the appellant wrote that:

- With his limitation to lifting no more than 10 lbs, he cannot carry groceries, clean his apartment, get around town, etc.
- As the seizures increase, so do his physical limitations.

### ***Need for Help***

The general practitioner indicated in the PR that the assistance required with DLA is "nil" and, in the AR, he crossed out the section relating to assistance required for DLA from other people as not applicable. The section of the report indicating assistance provided through the use of assistive devices is also crossed out as not applicable to the appellant.

In his Request for Reconsideration, the appellant wrote that:

- If his seizures continue at this rate, he will be unable to live alone due to the risk of having a seizure with no one being there to help him.

In his Notice of Appeal dated July 18, 2014, the appellant expressed his disagreement with the ministry's reconsideration decision, and wrote that he believes the ministry did not wait until all the facts were in from his two specialist appointments.

At the hearing, the appellant read a note dated July 4, 2014 from his family doctor who completed the reports for the PWD application. The doctor wrote that the appellant is awaiting surgery and other

specialist consultations. The doctor recommends that the appellant take time off work to attend to his medical issues.

At the hearing, the appellant and his advocate stated that:

- Since the initial assessment made as part of the PWD application, there has been a drastic change to the appellant's condition and he needs to be re-assessed by his doctor.
- At the time of reconsideration, they were changing his medications and he had hoped that his seizures would be controlled and that he could return to work. Instead, he ended up having 4 grand mal seizures over a two-month span and he dislocated his shoulder 3 times. He had the seizures in April and May and the beginning of June 2014 (over an 8-week period).
- He is scheduled to have an MRI scan of his brain and his shoulder on November 5, 2014. He will have a CT scan of his shoulder tomorrow.
- His doctors will not provide a further written update of his condition until the scans have been completed.
- He met with his neurologist and had an EEG done and it was suggested that he may be a good candidate for brain surgery.
- He met with the orthopedic surgeon and it is suspected that he may have a bone chip "floating" in his shoulder which could lodge in the muscle tissue. He has to be 6 months seizure-free before he will be considered for surgery on his shoulder.
- The dosage of his pain medications have been increased because his shoulder is in constant pain. He can only lift a maximum of 10 lbs. with his left arm. He can lift normally with his right arm.
- He needs someone to help carry his groceries now. He needs assistance with the daily living activity of shopping.
- A friend drives him to his appointments because he is not allowed to get a license.
- The appellant can no longer walk 2 to 4 blocks unaided.
- He continues to suffer from depression and anxiety because he worries about having a seizure and whether he will dislocate his shoulder again. He is concerned about being in a secure environment if he has a seizure.
- His doctor added another seizure medication and, so far, it has been effective in controlling his seizures. He last had a seizure 1 ½ months ago.
- He has someone living with him who is available if he has any problems at night. His roommate keeps an eye out and also helps take the garbage out, do the dishes, and carry groceries.

#### ***Admissibility of New Information***

The ministry did object to the admissibility of the information in the doctor's note or raise an objection to the oral testimony on behalf of the appellant. The appellant provided additional information regarding his impairment as diagnosed in the PWD application, which contribute additional detail with respect to those conditions. The panel admitted this additional information as being in support of information and records that were before the ministry at the time of reconsideration, in accordance with s. 22(4)(b) of the *Employment and Assistance Act*.

The ministry relied on its reconsideration decision as summarized at the hearing.

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

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

### Persons with disabilities

2 (1) In this section:

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

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

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

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

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

- (i) directly and significantly restricts the person's ability to perform daily living activities either
  - (A) continuously, or
  - (B) periodically for extended periods, and
- (ii) as a result of those restrictions, the person requires help to perform those activities.

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

- (a) a person who has a severe mental impairment includes a person with a mental disorder, and
- (b) a person requires help in relation to a daily living activity if, in order to perform it, the person requires
  - (i) an assistive device,
  - (ii) the significant help or supervision of another person, or
  - (iii) the services of an assistance animal.

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

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

### Definitions for Act

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

- (a) in relation to a person who has a severe physical impairment or a severe mental impairment, means the following activities:
  - (i) prepare own meals;
  - (ii) manage personal finances;

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

### **Severe Physical Impairment**

The appellant's position is that a severe physical impairment is established by the evidence of the pain he experiences due to injuries and arthritis in his left shoulder and knee and the loss of function and risk to his safety as a result of epileptic seizures. The appellant argued in his Notice of Appeal that the ministry did not wait until all the facts were in from his two specialist appointments. The appellant argued that since he initially submitted his application, his physical condition has drastically worsened and he has had six grand mal seizures resulting in his shoulder dislocating on four occasions. The appellant argued that he basically has the use of just one arm because of the damage to his left shoulder and he is unable to lift more than 10 lbs. and he cannot use his damaged arm for extended periods of time.

The ministry's position is that the appellant experiences limitations to his physical functioning in the areas of lifting/ carrying and holding as he requires periodic assistance; however, no information is provided by the general practitioner on how often the appellant requires assistance and no limitation was indicated by the general practitioner for the amount the appellant can lift. The ministry argued that, in terms of physical functioning, the general practitioner indicated that the appellant is independent with walking indoors and outdoors, climbing stairs and standing. The ministry argued that although the general practitioner commented that the chronic pain in the appellant's shoulder and knee affects his ability to work or remain employed, the PWD application is not intended to assess employability or vocational abilities.

### ***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 general practitioner.

The general practitioner, who had known the appellant for 3 years, diagnosed the appellant with left shoulder and knee cartilage repair with recurrent dislocations, refractory left leg resulting in chronic

pain, and shoulder dislocation post seizure. The general practitioner noted in the health history that the appellant has multiple chronic disabilities which include seizures which are poorly controlled with medications.

The appellant stated at the hearing that it seems that the recent addition of another seizure medication has been effective in controlling his seizures as his last seizure was approximately 6 weeks ago, but the neurologist also advised that he may be a good candidate for brain surgery. The appellant stated that the neurologist would not provide a further prognosis prior to reviewing the results of an MRI of the appellant's brain scheduled for November 2014. The appellant stated at the hearing that the orthopedic surgeon is considering operating on the appellant's shoulder pending the results of an MRI scan also scheduled for November 2014 and the appellant remaining seizure-free for a period of 6 months. Although the appellant argued in his Notice of Appeal that he believes the ministry did not wait until all the facts were in from his two specialist appointments, he also acknowledged at the hearing that the specialists are reserving further opinion and prognosis pending their investigations.

In terms of functional skills, the general practitioner indicated in the PR that the appellant can walk 2 to 4 blocks and climb 5 or more steps unaided, and he has no limitations with lifting or remaining seated. The appellant stated at the hearing that his chronic pain has become more constant and he can no longer walk a distance of 2 to 4 blocks unaided. In the section of the PR relating to restrictions to DLA, the general practitioner reported that the appellant is periodically restricted with mobility inside and outside the home and the appellant's pain, described as "on and off", is exacerbated by movement, and seizures are also exacerbated by stress.

The general practitioner reported in the PR that the appellant has had multiple surgeries to his left leg and shoulder... this is causing chronic pain and affecting his ability to work or remain employable. In his Request for Reconsideration, the appellant wrote that, after having an episode at work during his last job, he has not been able to work. In his letter dated May 12, 2014, the general practitioner wrote that the appellant was seen in emergency following an epileptic seizure and left shoulder dislocation and that he has not been working for a while and is unable to do so until his orthopedic consult. For an impairment to be a "severe impairment," section 2(2) of the EAPWDA requires that the ministry must be satisfied that the evidence demonstrates significant restrictions in the person's ability to perform specified areas of daily functioning (DLA). As the ability to search for, accept or continue in employment is not listed as one of the prescribed DLA in subsection 2(1)(a) of the EAPWDR, the panel finds that the ministry reasonably held that employability is not a factor in assessing eligibility for PWD designation.

In the AR, the general practitioner assessed the appellant as independent with walking indoors and outdoors, climbing stairs and standing. He requires periodic assistance from another person with lifting and he requires periodic assistance with carrying and holding, with no further comments provided by the general practitioner. At the hearing, the appellant stated that the dosage of his pain medications has been increased because his shoulder is in constant pain. He can only lift a maximum of 10 lbs. with his left arm although he can lift normally with his right arm.

The panel finds that the evidence demonstrates that while the appellant experiences some limitations to his physical abilities due to chronic pain, particularly in the area of lifting and carrying and holding, he remains independent with his mobility and further investigations are pending. In the absence of further detail from the medical practitioners regarding impacts to the appellant's current functioning,



the panel 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's position, as expressed in his Request for Reconsideration, is that the increased amount of his epileptic seizures has negatively affected his mental state and he now deals with increased depression, anxiety and stress that has caused him to be almost completely isolated. The appellant argued that the fear of having a seizure and getting injured has affected every aspect of his life and has affected his independence as he is unable to get or maintain a job, unable to engage socially, and he is consistently worried even when simply going for a walk.

The ministry's position is that there is insufficient evidence to establish that the appellant has a severe mental impairment. The ministry noted that the general practitioner indicated that the appellant has a significant deficit with cognitive and emotional functioning in the area of emotional disturbance due to chronic pain resulting in mood changes and depression and that he has limited employment and poor home-life situations. However, the ministry argued that the PWD application is not intended to assess employability or vocational abilities.

### ***Panel Decision***

In the PR, the general practitioner reported that the appellant experiences seizures as a result of epilepsy, which is a health condition with impacts to both physical and mental functioning. In the PR, the general practitioner reported that the appellant has cognitive difficulties with communication while, in the AR, the appellant is assessed as having a good ability to communicate in all areas. The general practitioner reported a significant deficit with cognitive and emotional function in the area of emotional disturbance, noting: "chronic pain resulting in mood changes and depression." The section of the AR describing impacts to cognitive and emotional functioning is check-marked by the general practitioner with a moderate impact in the area of emotion and no impact in the other 13 areas of functioning. The general practitioner noted that multiple seizure have resulted in poor work and home-life situations. The appellant cannot drive and employment is thus limited and all of this has led to emotional issues, principally depression and anxiety. Again, the panel finds that the ministry reasonably held that employability is not a factor in assessing eligibility for PWD designation.

In his Request for Reconsideration, the appellant wrote that the increased amount of his seizures has negatively affected his mental state and he now deals with increased depression, anxiety and stress that have caused him to be almost completely isolated. The fear of having a seizure and getting injured has affected every aspect of his life. At the hearing, the appellant stated that he has now been without a seizure for about 6 weeks and the new seizure medication seems "promising" but that he continues to suffer from depression and anxiety because he worries about having a seizure, about being in a secure environment, and whether he will dislocate his shoulder again. The appellant is currently living with a room-mate who is able to monitor his safety overnight.

With respect to the two DLA that are specific to mental impairment – make decisions about personal activities, care or finances (decision making), and relate to, communicate or interact with others effectively (social functioning), the evidence indicates that the appellant is not significantly restricted in either. With respect to decision making, the general practitioner reported in the AR that the appellant independently manages his finances (banking, budgeting, pay rent and bills) and his medications (taking as directed and safe handling). He is also reported as independent in the

decision-making components of the DLA of daily shopping (making appropriate choices), meal preparation (meal planning and food storage) and transportation (using transit schedules and arranging transportation), and with making appropriate social decisions as part of his social functioning. Regarding the DLA of social functioning, the appellant is assessed by the general practitioner as independent in developing and maintaining relationships, interacting appropriately with others, and securing assistance from others. While having some cognitive difficulties with communication, the appellant is assessed with a good ability to communicate in all areas. Given the absence of reported impacts to the appellant's mental or social functioning, the panel finds that the ministry reasonably determined that a severe mental impairment was not established under section 2(2) of the EAPWDA.

### **Restrictions in the ability to perform DLA**

The appellant's position is that his physical impairment directly and significantly restricts his ability to perform DLA on an ongoing basis to the point that he requires the significant assistance of another person. The appellant argued in his Request for Reconsideration that, with his limitation to lifting no more than 10 lbs, he cannot carry groceries, clean his apartment, or get around town. The appellant argued that most days he is in too much pain to function without the pain meds. The appellant argued that as the seizures increase, so do his physical limitations and he has had to leave well-paying jobs to work at lower paying jobs and he struggles financially.

The ministry's position is that although the appellant has certain limitations that result from his medical conditions, particularly with mobility inside and outside the home, no information is provided on how often the appellant requires assistance and there are no restrictions to the remainder of his DLA. The ministry argued that although the general practitioner indicated that the appellant's social functioning is impacted by depression, anxiety and mood disorders, he also reported that the appellant is independent in all aspects of social functioning, with marginal functioning with immediate social networks and good functioning in his extended social networks.

### **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 his DLA, continuously or periodically for extended periods. In this case, the general practitioner 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 continuously or periodically for extended periods.

In the appellant's circumstances, the general practitioner initially reported in the PR that the appellant is not restricted with most DLA, namely: personal self care, meal preparation, management of medications, basic housework, daily shopping, use of transportation, and management of finances. While the appellant is periodically restricted with mobility inside and outside the home, this is described by the general practitioner as pain exacerbated by movement and seizures exacerbated by stress. In the additional comments to the PR, the general practitioner wrote: "daily functioning critically impaired as patient is unable to get or maintain a job." While the general practitioner's assessment was focused on employability, the panel finds that the ministry reasonably determined that this is not a factor for evaluating eligibility for PWD designation. Similarly, the panel notes that financial circumstances, as described by the appellant, are not criteria for designation as a PWD.

The appellant stated at the hearing that his condition has deteriorated substantially since the time of the initial reports and that he now requires assistance with many DLA, including shopping and housekeeping and supervision for safety by a room-mate. The appellant stated that the new medication appears to be effective in controlling his seizures as it has been 1 ½ months since his last seizure but the pain in his shoulder and leg has become more constant and he can no longer walk 2 to 4 blocks unaided. In the AR, the general practitioner reported that the appellant is independent with walking indoors and outdoors and with all tasks of all other listed DLA. The panel finds that the ministry reasonably concluded that there is not enough evidence from the prescribed professional to establish that the appellant's impairment significantly restricts his ability to manage his DLA either continuously or periodically for extended periods, thereby not satisfying the legislative criterion of section 2(2)(b)(i) of the EAPWDA.

### **Help to perform DLA**

The appellant's position, as expressed in his Request for Reconsideration, is that his combined physical and mental impairments affect his daily living functions to a severe enough extent that assistance is required. The appellant argued that if his seizures continue at this rate, he will be unable to live alone due to the risk of having a seizure with no one being there to help him.

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.

### **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 general practitioner indicated in the PR that the assistance required with DLA is "nil" and, in the AR, has crossed out the section relating to assistance required for DLA from other people as not applicable. The section of the AR indicating assistance provided through the use of assistive devices is also crossed out as not applicable to the appellant. The panel finds that the ministry reasonably determined that as direct and significant restrictions in the appellant's ability to perform DLA have not been established, it cannot be determined that the appellant requires help to perform DLA as a result of those restrictions, as defined by section 2(3)(b) of the EAPWDA.

### **Conclusion**

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