APPEAL #

PART C – Decision under Appeal

The Ministry of Social Development and Social Innovation (the ministry) reconsideration decision dated 16 October 2014 determined that the appellant did not meet 3 of the 5 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 2 years. However, the ministry was not satisfied that the appellant had a severe mental or physical impairment and that the appellant's mental or physical conditions, in the opinion of a prescribed professional, directly and significantly restricted his daily living activities (DLA) either continuously or periodically for extended periods. The ministry was also not satisfied that as a result of those restrictions, in the opinion of a prescribed professional, the appellant requires help 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 following evidence was before the ministry at the time of reconsideration:

- A 3 page PWD Application – Applicant Information dated 2 May 2014 and signed by the appellant before a witness indicating that he suffers from multiple sclerosis (MS) and that there are days when his condition is such that he cannot get out of bed. He had to drop out of university. He stated that when he is in pain, it's hard to go out, exercise or get groceries and it impacts on how much work he can do without getting tired. He found it hard to lift anything because of pain in his arm as well as writing for any length of time. Because he stopped working and dropped out of university as a result of his condition, his financial situation deteriorated and he had gone into debt and depleted his assets.
- A 8 page Physician Report (PR) dated 30 May 2014 completed and signed by the appellant's physician indicated the following:
    - Specific diagnosis: MS, mood disorders and anxiety disorders.
    - Health history: Diagnosed with MS in early 2013, confirmed by neurologist and MRI showing head, back and lumbar puncture. He has tried a number of medications and antidepressants. He experiences moderate to severe fatigue, generalized weakness, diffuse paresthesias, pain to neck, back and extremities, anxiety, insomnia and depression.
    - Some prescribed medication or treatment interferes with the appellant's ability to perform DLA because they can cause drowsiness and constipation as well as some fatigue and the anticipated duration of "medications / treatments" is indicated as "uncertain".
    - In terms of functional skills the appellant does not have any limitation identified other than not being able to lift more than 16 kg and not being able to remain seated for more than 2 hours.
    - In terms of significant deficits with cognitive and emotional functions, the physician identifies 7 areas: consciousness, executive, memory, emotional disturbance, motivation, motor activity and attention or sustained concentration and comments that the appellant's emotional state "is affecting his function to a significant degree."
    - In terms of additional comments, the physician wrote that the appellant experienced frequent flare ups of his MS and needed to attend Emergency regularly for acute management of his symptoms, being unable to function during those times and being usually bedridden. His condition prevented him from doing any prolonged activities like going to school or working. He was waiting for a trial of new medication.
    - The appellant had been her patient since December 2013 and that she has seen him 2 to 10 times since then.
- An 11 page Assessor Report (AR) also dated 30 May 2014, completed and signed by the same physician as the PR, indicated the following:
    - The appellant lives alone.
    - Depression and anxiety interfere with his ability to work and poor motor strength and chronic pain affect his abilities to manage DLA.
    - The appellant's ability to communicate by speaking, reading, writing and hearing is good.
    - In terms of mobility and physical ability he is independent with all activities but not for prolonged periods of time and unable to perform if he has an attack.
    - In terms of cognitive and emotional functioning when there is an identified mental impairment or brain injury, his mental impairment restricts or impacts his daily functioning as a major impact for bodily functions and emotion, moderate impact on motivation, motor

activity and other mental problems, and minimal impact on consciousness, attention/concentration, executive and memory. There are no impacts on other areas. She wrote in comments that depression and anxiety caused the appellant to withdraw from his educational plans, being unable to focus, concentrate or keep motivated. He was attending counseling and was on a wait list for a psychiatrist.
    - In terms of DLA, he is independent except for the following activities:
        - Basic housekeeping: Has assistance with cleaning due to pain and fatigue.
        - Cooking: Needs help when fatigued.
        - As a general comment, the physician mentioned that he was independent with the other activities except when he had a flare up of his MS.
    - His mental impairment was described as impacting his relationship with his immediate social network as marginal functioning since he has issues with his family when he is depressed or anxious as he gets angry at times. In terms of extended social networks it is described as good functioning.
    - The appellant has assistance from family and friends when he is sick. Housecleaning and counseling is paid for by the appellant.
    - He did not need assistive devices or have an assistance animal.
    - The appellant was compliant with treatment and medication that were tried and experienced side effects. He tried to keep working but proved to be incredibly difficult and ended up to be unable to work. He also tried to remain active.
    - The AR's author is the appellant's family physician that is coordinating his cure for his mental and physical symptoms and she sees him on a regular basis.
- Along with the PR and the AR were 7 medical reports pertaining to the appellant as follows:
    - From a consultant neurologist, 3 reports dated 22 January 2013, 27 June 2013 and 23 August 2013 dealing with symptoms the appellant had and the difficulties he had to deal with his MS.
    - From a physician at an outpatient clinic, one report dated 23 April 2013 indicated that the appellant had "an episode of neck down numbness that lasted 2 or 3 months which is largely resolved but he has some residual hand numbness. He had blurred vision in the right eye and eye movement pain for a week recently that he says is back to normal." The physician noted that he reassured the appellant "that his recent possible optic neuritis is probably back to normal."
    - From the appellant's neurologist, 3 reports dated 29 November 2013, 20 December 2013 and 25 April 2014 indicated that he discussed with the appellant the possible therapies that the appellant was undecided about, the appellant went abroad and upon his return from this trip, that he went back for follow up and that the appellant was doing quite well as he had no clear relapses but continued suffering from significant generalized pain and he would see him in 6 months. He concluded: "His EDSS score remains low. I would grade it as 2, with none of the symptoms with objective findings. Chronic pain seems to be the main issue."
- A letter from the appellant's physician dated 19 August 2014 indicated that he needed urgent approval of his PWD designation "as he will be attending school on Sept. 3, 2014 and requires financial assistance prior to that" and that his employment insurance payments expired on 16 August 2014.
- A 7-page report by a prescribed professional (a registered nurse - RN) dated 29 September 2014 indicated the following:

- Ability to communicate:
  - He mumbles and slurs his speech when tired so people may think he is impaired and that bothers him.
  - He can read for about 5 minutes, then will lose focus and it takes him more time to read more challenging concepts.
  - It takes him 2-3 times longer than normal to write because of his impairment and it is illegible. He had to relearn typing and it takes him 2-3 times longer to type school assignments.
  - He has no hearing limitation.
- Mobility and physical ability:
  - Walking indoors: frequently bumps into walls, furniture and doors; is anxious about walking in school; he trips several times a week; condition is worse when tired but can happen anytime.
  - Walking outdoors: he seldom walks outdoors, only when he needs to and it's as short as possible; he can walk 2-3 minutes then drags is feet and must stop to rest about every 2 minutes.
  - Climbing stairs: he can climb stairs as long as he can use the railing and if longer, he sits on a stair half way up.
  - Standing: cannot stand long without feeling off balance and fatigued; can stand about 5 minutes and must sit down but cannot sit for long periods either – so it's constantly up and down; if he stands, he must lean against a counter but is unable to stand for long periods as he is unable to accomplish anything.
  - Lifting: he works out and can lift 15-20 lbs and has a personal trainer; he wears a backpack at school and has a locker so that he does not have to carry more than 10 lbs at a time; the backpack worsens his balance and he must walk slower.
  - Carrying and holding: he does not carry heavy things at home and packs his grocery bags lighter, 5-7 lbs each and makes more trips bringing them into his home; at his sister's place, she carries groceries.
- Cognitive and emotional functioning:
  - Bodily functions: he has chronic sleep issues; he is conscientious about eating a proper diet; he takes short, 5 minutes showers once a day and shaves every 3 days or wears a beard.
  - Consciousness: drowsy when fatigued and disoriented when wakes up.
  - Emotion: depression, anxiety and obsessive compulsive disorder (OCD); frustrated that he cannot do things that his friends can do; must leave store if he has a panic attack or where he feels trapped; needs to call friends, family or counselor every day to talk him through his panic attacks; without support from others, he would not do anything and stay home.
  - Impulse control: needs to have his cell phone with him at all times or will get anxious; reviews his bank account every day because of his anxiety; obsessed with cleanliness, personal hygiene.
  - Insight and judgment: over aware of himself, his health and safety.
  - Attention / concentration: poor short term memory; needs to keep note of everything; cannot maintain concentration for the duration of his classes, can only focus well for 30 minutes; difficulties remembering.
  - Executive: does very well but not as easy as before; takes longer to solve problems

and must use paper because he cannot remember; takes twice as long as usual to solve problems.
    - Memory: forgets names, acronyms etc; must consult charts and tables for homework; more disorganized than usual; cannot find things as easily as before; frequently misplaces wallet and keys; it takes him 3 times as long to learn new things.
    - Motivation: must be pushed and encouraged by others to continue on; easily overwhelmed; needs to talk to other people to get through.
    - Motor activity: washes hands every hour because of OCD; showers up to 3 times daily; cannot leave things on the counters or out of place; needs to put it away or straigthen things up, put them back where they belong.
    - Language: speaks English and another language and mixes both sometimes so others may not understand what he is saying;
    - Psychotic episodes: he mixes things in his head when talking about one thing and others tell him he doesn't make sense; needs to stop and reorganize his thinking but sometimes he will just walk away.
- DLA:
    - Personal care: grooms himself not as often as before;
    - Toileting: experiences urgency and frequency with his bladder but it takes him twice as long to go to the bathroom.
    - Feeding self / regulate diet: cooks very basic simple meals; sometimes does not eat at all if he feels depressed.
    - Transfers: can get out of bed on his own but need a couple of minutes for his head to clear and to start walking away.
    - Laundry: his sister does his laundry, if not he does small loads that he can handle.
    - Basic housekeeping: too much for him and he doesn't care – has a housekeeper.
    - Shopping: going to and from stores: avoids busy times so that he can park closer to store; never goes alone and can only last ½ hour; mostly his sister shops for groceries.
    - Carrying purchases home: makes frequent trips of light weight bags 5-7 lbs; must rest 20 minutes after shopping.
    - Meal planning: mostly done by his sister or very plain and basic on his own; does very little preparation work.
    - Food preparation: very easy or not at all.
    - Pay rent and bills: does own banking and budgeting.
    - Medications: mixes up medications and forgets to take them at times.
    - Transportation: cannot tolerate public transportation; has his own standard car but at times if his leg is painful and numb, he cannot drive it – he stays at home.
    - Social functioning: maintains relationships but hesitant to start new ones; does not respond well to unexpected events or change as he becomes anxious and cannot deal with it, getting frustrated, angry and shutting down.
    - Immediate social network: marginal functioning; if frustrated and stressed, will yell at his family or hang up on them.
    - Extended social network: marginal functioning; will interact to take care of business.
- Requires help: uses the support of counselor, family and friends to encourage him to keep going when he wants to quit or give up; has new crisis about every second day and relies

on them to keep going; has been seeing a counselor for a year every 2 weeks and a psychiatrist every month for the previous 4 months.
  - Assistance provided to the appellant: family, friends, counselor, psychiatrist, disability services, family doctor and housekeeper.
  - Assistive devices / animals: he always uses a cart when shopping, will get a recorder for school and has a pet dog as companion to calm him.
  - She has known the appellant for 18 months and saw him 2-10 times in the past year.
  - This is a MS clinic providing follow-up, education, support, diagnosis, treatment and symptom management.

In his Notice of Appeal dated 22 October 2014, the appellant indicated he felt his application fully adhered to a permanent disability and that he could not work. He mentioned that the adjudicator had been very rude on the phone and that conversation impacted the appellant's decision.

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

- A letter from a physician, other than the appellant's family doctor, a psychiatrist according to the appellant, dated 8 October 2014 indicating that she had been taking care of the appellant for a number of concerns and that he had a period of unemployment and limited social functions due to panic and anxiety. He also has a dependence on prescription drugs that has restricted his cognitive ability in part. He had intermittent mood swings related to his disorder affecting him interpersonally and that may have been impacted by his MS that seems to have worsened since the diagnosis. She indicated he had made an attempt to return to school recently but he has not yet proved he can sustain that effort.
- A letter from his family doctor, the physician who completed the PR and AR, dated 10 November 2014 indicating the appellant has shown some deterioration of his MS symptoms. He has daily pains to his extremities limiting his ability to carry over 10 lbs; he is unable to walk more than 5 minutes "during a flare up"; he experiences paresthesias to his hands which interferes with his ability to type or write; he uses a recording device in class to capture information and similar information confirming the information in the reports she already submitted.
- A letter by the appellant's neurologist sent on 14 November 2014 to the Tribunal indicating particularly that the appellant's symptoms are persistent and disabling and "combination of his neuropathic pain that is typical in patients with MS, neurogenic fatigue with psychiatric illness (depression and anxiety) impairs his ability to function on a day to day basis." He supported his application for PWD.
- A letter dated 17 November 2014 from a clinical counsellor who met the appellant for the first time on 16 September 2013 (the letter indicates 2014 but the appellant corrected the date at the hearing) and since then for a total of 22 one-hour counselling sessions. She stated that he struggled with symptoms consistent with anxiety and depression affecting, according to her, his day-to-day functioning. He needs support to perform his day-to-day tasks due to "low mood and anxiety that feed obsessive thoughts" and that she believes, from observation, that his mental health symptoms alone can negatively impact his functioning to a significant degree. She supports his "disability application and the availability of continued supports, such as counselling and educational supports."

At the hearing, the appellant testified that the RN who did the report dated 29 September 2014 spent over 2 hours with him to complete it while the physician who completed the AR spent 15 minutes. He

added that he had seen his physician recently and that prompted her to write the letter dated 10 November 2014. He mentioned that there was a typo in the counsellor's letter and that he had seen her first on 16 September 2013 and not 2014, and had had many counselling sessions with her during that period of time. He estimated that out of the past month, he had flare ups of his MS for about 3 weeks. The appellant also stated that he currently only uses medication for pain and to help him sleep.

The ministry did not object to the admissibility of the new oral and documentary evidence and the panel determined it was admissible under s. 22(4) of the Employment and Assistance Act (EAA) as it was in support of the records before the minister at reconsideration and provided updated information about the appellant's medical condition.

PART F – Reasons for Panel Decision

The issue under appeal is whether the ministry's determination that the appellant has not met all of the eligibility criteria for designation as a PWD because it was not satisfied that the appellant had a severe physical and/or mental impairment that, in the opinion of a prescribed professional, directly and significantly restricts his ability to perform DLA either continuously or periodically for extended periods resulting in the need for help to perform DLA was either a reasonable application of the legislation or reasonably supported by the evidence. The ministry determined that the age requirement had been met and that the appellant has an impairment that will last for 2 years.

The criteria for being designated as a person with disabilities (PWD) are set out in s. 2 of the EAPWDA and s. 2 of the EAPWDR. Section 2 of the EAPWDA states:

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;
"health professional" repealed
"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 of the EAPWDR provides further clarification:
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.
(2) For the purposes of the Act, **"prescribed professional"** means a person who is
(a) authorized under an enactment to practise the profession of
(i) medical practitioner,
(ii) registered psychologist,
(iii) registered nurse or registered psychiatric nurse,
(iv) occupational therapist,
(v) physical therapist,
(vi) social worker,
(vii) chiropractor, or
(viii) nurse practitioner, or
(b) acting in the course of the person's employment as a school psychologist by
(i) an authority, as that term is defined in section 1 (1) of the *Independent School Act*, or
(ii) a board or a francophone education authority, as those terms are defined in section 1 (1) of the *School Act*, if qualifications in psychology are a condition of such employment.

The ministry acknowledged that the appellant meets 2 of the conditions for PWD designation in that he is at least 18 years of age and his impairment is likely to continue for 2 years or more. However, the ministry argued that he does not meet the other 3 criteria.

Severe physical impairment:

The ministry argued that the evidence did not demonstrate the appellant suffered from a severe physical impairment because according to the physician, he can independently manage all areas of mobility and physical ability and that he does not need any prostheses or aids.

The appellant referred to the medical documentation provided to the ministry and in particular the report made by the RN dated 29 September 2014, arguing that there was enough evidence of significant impairment on his daily functioning amounting to a severe physical impairment. He also argued that the ministry failed to properly consider that report in its analysis of the severity of his physical and mental impairments.

At the outset, the panel agrees with the appellant that the ministry did not properly consider the report dated 29 September 2014 by the RN since there is only a mention at the bottom of a page that it was considered but there is no specific reference to this report when analysing the severity of the impairments and its impact on the appellant's DLA. The ministry argued that it did not need to consider that report but only the physician report to determine the severity of the impairment but admitted that it should have been considered when analysing DLA since the author met the conditions set at s. 2(2)(a)(iii) of the EAPWDR as a prescribed professional. The panel finds it was unreasonable for the ministry not to include that report in its analysis of the appellant's PWD application, and will consider this report in our analysis.

The panel notes that there have been some changes since the reports were completed in terms of lifting and while the physician indicated the appellant could lift up to 35 lbs, the RN limited lifting to 20 lbs and the more recent letter from the appellant's physician dated 10 November 2014 indicated a limitation to 10 lbs. Further, the most recent information from the appellant's physician stated that he is unable to walk more than 5 minutes during flare ups but she had assessed him as "independent" in terms of lifting and walking indoors and outdoors with the caveat that he could perform those activities independently but not for prolonged periods of time and unable to perform if he has an attack, but without any further information in terms of frequency or the degree of the impact it would have. While the panel notes the appellant's condition on some aspects may worsen and he has some limitations to what he can physically do, those limitations were reasonably viewed by the ministry as not significant to the point of demonstrating a severe physical impairment and the panel finds the ministry reasonably determined it was not satisfied the information provided was evidence of a severe impairment.

Severe mental impairment:

The ministry acknowledged deficits of cognitive and emotional functioning but only 2 areas suffer a major impact: bodily function and emotion while all other areas have moderate to no impact on daily functioning. Thus, the ministry argued, there is not enough evidence of a severe mental impairment.

The appellant argued that the evidence was sufficient to prove a severe mental impairment for the same reasons a severe physical impairment was established.

In terms of cognitive and emotional function, the RN's report provides much more information for "bodily functions" than the AR but he is independent with all of those functions and the same can be said for "emotions" if he gets the proper support from his family and friends. In the PR, the physician wrote that those deficits (on cognitive and emotional function) affect his function to a significant degree while in the AR she wrote that they caused him to withdraw from his educational plans and that he was attending counselling and waiting for psychiatric consultation. From the evidence, the panel notes that the appellant's mental condition appears to be under control and while it has some impact on his daily functioning it is not to the point where it could be qualified as "severe" mental impairment. Recent evidence seems to support this: In her letter dated 8 October 2014, a psychiatrist mentions "major depressive disorder in remission" but that he suffers from intermittent mood swings that seems to have worsened and impact attending school. As well, in a letter dated 19 August 2014, the appellant's physician was of the view the appellant needed a PWD designation because he would be attending school in September and required financial assistance since his employment insurance had expired – the panel notes that being able to work or going to school is not determinative for a PWD designation.

In the voluminous documentation that was provided, the panel also notes that there are many medical reports, some of them suggesting a mental impairment far from being severe. For example, his psychiatrist reported on 20 December 2013 that he has not had any neurological symptoms and expressed absolutely no concerns or reservation about the appellant going on a trip abroad and upon coming back from his trip, the psychiatrist wrote in a report dated 25 April 2014, that the appellant returned from his trip abroad and that "from a neurological standpoint he has done actually quite well"; he sets the next appointment to 6 months.

In terms of memory, the panel notes that the AR indicated a minimal impact and that the RN mentioned some of those difficulties faced by the appellant, i.e. that he forgets names etc. and that he is more disorganized but she also indicated that he could consult his charts and tables for homework; in other words, he does have tools to address those deficiencies.

Given the evidence before the ministry at reconsideration including the RN evidence as well as new evidence provided by the appellant, the panel finds that the ministry reasonably determined the information provided did not amount to evidence of severe mental impairment.

Daily Living Activities (DLA):

The ministry based its assessment for DLA exclusively on the AR, arguing that there was insufficient information provided to explain the degree, frequency or duration of the assistance required by the appellant to manage cleaning and cooking, and that he is independent for all the other DLA. Further, the ministry argued that when the AR mentioned that some activities were impacted when there was a flare up of his MS, there was no information indicating what activities were impacted, the frequency of the flare ups and the degree of assistance required. Finally the ministry argued that while the AR mentioned that some DLA were impacted by medication, there was no information on the degree, frequency or duration of those impacts. Since the appellant is independent for the majority of DLA or requires little help from others, the ministry argued that the appellant has not established that impairment significantly restricts DLA either continuously or periodically for extended periods.

The appellant argued that the RN's report was evidence that his DLA were significantly impacted by his impairment and that his condition has worsened. He argued he needed significant help from others and gave as example the help he gets from the counsellor that he sees and with whom he could discuss his condition extensively. He also argued that he was trying many different medications and some had significant side effects that were detrimental to his health. He indicated that his flare ups were quite frequent, for instance for the equivalent of 3 weeks in the last 4 weeks and that had a significant impact on his DLA.

The panel notes there was no mention whatsoever of the RN's report in the ministry's assessment of DLA even though she is a prescribed professional under the act. There are certain discrepancies between the RN's report and the AR but the former is much more elaborate than the latter for reasons already mentioned. Yet, in general, the RN's report shows the appellant can manage the vast majority of his DLA independently as he found ways of addressing his physical and / or mental deficiencies. For instance, the AR mentioned the appellant gets help from others for cooking while the RN's report explains that the appellant can cook basic simple meals with meat and vegetables but he also has the opportunity of going at his sister's place when he is in her community. In terms of laundry, while the AR stated that he is independent the RN's report stated that his sister does his laundry but also mentioned he did small loads and would like to wash clothes more often. Likewise for basic housekeeping, while the AR mentioned assistance due to pain and fatigue, the RN's report stated that he does not do it as it is too much for him and he doesn't care and that he has a housekeeper at his residence; at the hearing, the appellant admitted that there were days when he could do that kind of work but he won't do it since he does have access to that service.

For social functioning, there is a notable discrepancy between the AR and the RN's report for the appellant's functioning with extended networks that the RN assessed as "marginal functioning" with the comment "will interact to take care of business" while the AR assessed as "good functioning – positively interacts in community: often participates in activities with others". For lack of an explanation by the RN, the panel is satisfied that whether it is to interact in the community or to take care of business, it is reasonable to conclude he has good interaction with extended networks – and here the panel must mention that at the hearing, the appellant was very articulate, clear and concise when he spoke, showing no hesitation in making his points, defending his position effectively.

The panel also notes that in the AR there is no mention of the help required while in the RN's report, she indicated that he uses the support of his counsellor, family and friends and that he is on the phone often to deal with new crisis and that without this assistance he would stay at home and would not attend school.

In terms of medication, the ministry argued that there was no evidence of the impact on the appellant's DLA but the panel notes that in the letter from a psychiatrist dated 8 October 2014 (that the ministry had not received by the time it conducted the reconsideration), she mentioned he had a dependence on a type of drugs "that have restricted his cognitive ability in part" but, again, it did not specify what this impact was. Thus, the panel finds that with the evidence available then and today, the ministry reasonably determined there was not enough information to establish that the appellant's impairment significantly restricted DLA either continuously or periodically for extended periods.

As a result of those restrictions, help required to perform DLA:

The ministry argued that since DLA are not significantly restricted, it cannot be determined that significant help is required from other persons and that no assistive devices are required nor an assistance animal.

The appellant argued that he does need help from friends, family and professionals to deal with his impairments and that he could not go to school or interact with others if he did not have that assistance.

From the evidence presented, the appellant has managed to create a network of friends and family with professionals to help him cope with his illness but this help is general, supportive of his endeavours, mostly to encourage him to be active or deal with crisis – little of this assistance is required to perform DLA. Thus, the panel finds the ministry reasonably determined the appellant did not meet the legislative test for the need for help arising from significant restrictions to perform DLA either continuously or periodically for extended periods.

Conclusion:

The panel realizes that the appellant's medical condition is difficult and that it does have an impact on his daily functioning. However, based on the above analysis and evidence, the panel comes to the conclusion that the ministry reasonably determined the appellant does not have a severe physical or mental impairment and that the prescribed professionals did not establish that an impairment directly and significantly restricted his ability to perform DLA either continuously or periodically for extended

periods and that, as a result of those restrictions he required help to perform those activities under s. 2(2) of the EAPWDA. Consequently, the panel finds the ministry's decision was reasonably supported by the evidence and confirms the decision.