

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the ministry) reconsideration decision dated December 4, 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 evidence before the ministry at the time of the reconsideration decision included the Persons With Disabilities (PWD) Application comprised of the applicant information and self-report dated July 7, 2014, a physician report (PR) dated and an assessor report (AR) both dated April 8, 2014 and completed by a general practitioner who has known the appellant for 10 years.

The evidence also included:

- 1) Letter dated November 5, 2014 from an optometrist 'To Whom It May Concern;'
- 2) Note dated November 8, 2014 from a medical clinic; and,
- 3) Request for Reconsideration dated November 5, 2014.

Diagnoses

In the PR, the appellant was diagnosed by the general practitioner with significant bilateral retinal detachments and spondyloepiphyseal dysplasia ("a genetic condition") which he has had "since birth" and "which has resulted in marked restriction of vision and walking." There is no diagnosis of a mental health condition.

Physical Impairment

In the PR, the general practitioner reported that:

- In terms of health history, the appellant "has marked restriction of vision and walking."
- The appellant does not require any prosthesis or aid for his impairment.
- In terms of functional skills, the appellant can walk 1 to 2 blocks unaided, can climb 2 to 5 steps unaided, lift 2 to 7 kg. (5 to 15 lbs.), and remain seated 2 to 3 hours.

In the AR the general practitioner indicated that:

- The appellant is assessed as being independent with walking indoors and outdoors, climbing stairs, standing, lifting and carrying and holding. No further comments are provided by the general practitioner.
- No assistive devices are indicated in the section of the AR relating to assistance provided.

In his self-report, the appellant indicated that:

- He has spondyloepiphyseal dysplasia, which has resulted in vision loss, hearing loss and spinal damage. He is unable to walk as he once did.
- He is blind in his right eye and has very low vision in his left eye. He has difficulty seeing the board to takes notes in class even when he sits in front of the class.
- His vision is getting worse because the cataract is moving towards the center. The doctor says he may need surgery but wants to wait as long as possible as the surgery would be "tricky."
- His spinal cord damage has affected his hands as well. His fingers lock randomly, which is painful and causes dizziness.
- It is painful to walk, which starts about 2 minutes into walking and the pain increase as he walks longer. About 20% of the time he can work through the pain as he needs to walk only about 2 to 3 minutes.
- Sometimes he cannot even stand up from a sitting position. His legs and feet also randomly lock at times causing pain and dizziness. A few times he has fallen to the ground and could not get up for a time. He has also once blacked out while sitting on a chair and woke up on the floor in pain.

In the letter dated November 5, 2014, the optometrist indicated that:

- He has been the appellant's optometrist for 14 years.
- The appellant has retinal detachments in both eyes.
- He has no vision in the right eye and his left eye acuity is 20/80, corrected with a prescription at -26.00.
- The appellant is also starting to form cataracts in the left eye which will eventually make the vision worse. He will need surgery in the left eye to remove the cataract.
- The appellant's vision enables him to perform regular activities that a young adult would be able to.

In the note dated November 8, 2014, the medical practitioner at a medical clinic certified that:

- The appellant suffers from spondyloepiphyseal dysplasia congenita resulting in small stature and loss of vision in the right eye.

Mental Impairment

In the PR, the general practitioner reported:

- The appellant has no difficulty with communication.
- The appellant has significant deficits with cognitive and emotional function in the areas of memory and attention/concentration, with no further comments added.

In the AR, the general practitioner indicated that:

- The appellant has a good ability to communicate in speaking, reading and writing and poor hearing in his left ear.
- There are no major impacts to the appellant's cognitive and emotional functioning. A moderate impact is assessed to other neuropsychological problems. There are minimal impacts to emotion, impulse control, attention/concentration, executive, memory, and motivation and no impacts to the remaining 7 areas of functioning. There were no comments added by the general practitioner.
- With respect to social functioning, the appellant is assessed as being independent in all areas, namely: with making appropriate social decisions, developing and maintaining relationships, interacting appropriately with others, dealing appropriately with unexpected demands, and securing assistance from others.
- The appellant has good functioning in both his immediate and extended social networks, with no further comments added.

Daily Living Activities (DLA)

In the PR, the general practitioner indicated that:

- The appellant has not been prescribed any medications and/or treatments that interfere with his ability to perform daily living activities.

In the AR, the general practitioner reported that:

- The appellant is independent with moving about indoors and outdoors.
- The appellant is independent with all tasks of the DLA personal care (dressing, grooming, bathing, toileting, feeding self, regulating diet, transfers in/out of bed and on/off chair), basic housekeeping, shopping (going to and from stores, reading prices and labels, making appropriate choices, paying for purchases and carrying purchases home), paying for rent and bills, managing medications and managing transportation.

- Regarding meals, the appellant is independent with the task of safe storage of food and requires periodic assistance from another person with meal planning and food preparation and continuous assistance for cooking.

In his self-report, the appellant indicated that:

- Sometimes the pain is so severe that he has missed a half semester of school and other events.

Need for Help

- In the AR, the general practitioner reported that, with respect to the assistance provided by other people, the appellant's family assists him.

In his Notice of Appeal stamped received by the ministry on December 17, 2014, the appellant expressed his disagreement with the ministry's reconsideration decision and wrote that:

- He does have a physical impairment, he is legally blind.
- He has restrictions in everyday living.
- He has severe and permanent conditions.
- He requires significant help from other people. He has been dependent on his family all his life.

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

- 1) Letter dated January 4, 2015 in which the appellant's older brother wrote that:
 - He has spent his entire life around his brother's disability from the age of 5.
 - The appellant's independence is extremely limited.
 - The family has assisted the appellant with every day needs such as helping with meals, and helping him dress himself as he finds it difficult to stand for too long.
 - The appellant is not able to find a job where he is able to accomplish every aspect as expected.
 - It takes the appellant 10 to 15 minutes to walk the 2 blocks to his school, which should take about 5 minutes. He has to stop to take breaks and has pain in his legs. Sometimes the appellant has to be picked up from his school because he does not have the energy to take public transportation.
- 2) Letter dated January 5, 2015 in which the general practitioner who completed the PR and the AR wrote that:
 - The appellant has marked restriction of his vision and walking.
 - He is unable to lift more than 2 to 3 lbs. even though it was previously indicated that the appellant was independent in lifting.
 - On discussions with the appellant's mother, it is his understanding that the appellant needs assistance with bathing and his mother cooks for him.
 - Even though the appellant can carry purchases up to 2 lbs., it is his understanding that the appellant has never gone to stores and banks without his mother and his mother does all the purchasing and bank work.
 - In his opinion, the appellant qualifies for PWD;
- 3) Undated letter in which the appellant's cousin stated that:
 - He lives with the appellant and helps him with his daily life chores.
 - He gives the appellant rides where ever he needs to go because he can not apply for a license due to his poor vision.

- The appellant needs support after he walks for a block and, at times, he cannot even walk for a few feet.
- There are times when the appellant cannot even get out of his bed and needs assistance to get up. He needs someone to help him even to sit or stand.

At the hearing, the advocate stated that:

- The doctor did not properly consult the appellant prior to completing the reports for the PWD application and there is information missing. The appellant was not with the doctor when he completed the reports.
- Although the doctor was approached by the family to provide the missing information, the doctor did not want to do so because he thought it might make him look bad. He eventually agreed to provide the letter dated January 5, 2015.
- An example of the doctor's lack of care in completing the reports is shown by the doctor indicating that the appellant's condition of retinal detachment is a genetic, or hereditary condition. In fact, it was caused by an accident when the appellant was 5 years old, when he was playing with his older brother.
- The appellant experienced retinal detachment on one eye, which is not repairable and he has no vision in his right eye. He has impaired vision in his left eye and is considered legally blind.
- The appellant is seeing the specialist in a few days to consider surgery on his left eye.
- The appellant's family has been helping him since his accident. The family members help him to choose his clothes to get dressed, help him with bathing and with meal preparation because he cannot see which buttons to push. The appellant's mother will sometimes help him to get dressed. The appellant requires assistance with cooking meals and he cannot be left alone. The appellant's height also hinders him for reaching items in the kitchen.
- The appellant cannot see the dirt to be able to sweep or vacuum properly to do any housekeeping.
- Since the appellant cannot climb stairs, the family converted a den on the main floor of their house to a bedroom for the appellant. They made sure all the amenities were available to him on the main floor.
- The appellant had a bone that grew on the back of his neck and, in 2005, he had surgery to remove the bone but the nerves were pinched and he has experienced muscle spasm, numbness and tingling ever since. His joints will also lock for periods of time ranging from a few minutes to several hours. Nothing can be done to fix this problem.
- The appellant sometimes has black outs and there is no notice when this will happen. Sometimes the appellant needs help getting out of bed.
- The appellant has good days and bad days.
- The family members will take time off work to get the appellant to his appointments.
- The appellant can only carry 2 to 3 lbs. and he can only walk a short distance so he cannot go shopping. He cannot drive and he relies on his family members and friends to help him with shopping.
- His mother goes with him to help with banking.
- The appellant will never be able to live independently. He has people helping him every day. Either his friend or his brother or his mother helps him. Without their help, the appellant would likely be in an assisted living situation. He is only about 30% independent in his life. The family is concerned for what will happen to the appellant when his brother and friend move on with their lives and his parents get older and they are not able to help him.
- The appellant will not be able to get a job. He cannot be gainfully employed.

- The appellant is a young man and it is embarrassing for him to use an assistive device.

At the hearing, the appellant stated that:

- When the doctor completed the forms, he asked the appellant a few questions and completed the forms in a short period of time, in about 10 minutes. The advocate was thinking of another matter where the doctor did not complete the forms in his presence.
- He has been attending a post-secondary institution since he graduated from high school but his instructors make accommodations for him, such as copying the notes in bold text for him. He takes one class each semester and he missed half a semester because of pain and not being able to get out of bed.
- He experiences black outs about once every couple of months. He experiences dizziness every day.
- He does not take any medication for pain and has no prescriptions for his conditions.
- He does not use an assistive device, such as a walking or a white cane, to walk.
- He has hearing loss in his left ear and sometimes has buzzing in his ear which “comes and goes.” He does not use a hearing aid.
- The nerves in his right arm are being pressed and two of his fingers are numb. He is right handed so they are looking at surgery to correct this problem.
- In his opinion, his impairment is 50% his vision and 50% his other physical issues.

At the hearing, the appellant’s mother stated that:

- She helps her son a lot. He cannot make anything to eat for himself.
- She has to take him anywhere he goes, even to the doctor.
- He is dependent on her. They gave him a room on the main floor of the house because he cannot climb stairs. His knees and feet are sore and his legs and arms are weak.
- The doctor has said the appellant may need surgery on his arm. He also has an appointment with the eye surgeon and they do not know what will happen.
- She is alive now and can help the appellant but she worries about what will happen to him. At least with disability (assistance) she knows he will be able to get help for himself.
- If the appellant has been walking outside too much, he might not be able to get up for a week because his body “gives up on him” and she has to take days off work to help him.
- She presses the appellant’s clothes and sometimes he puts his clothes on inside-out. His poor eyesight affects his ability to get dressed.

Admissibility of New Information

The ministry did not raise an objection to the oral testimony on behalf of the appellant or the information provided in the letters from the general practitioner and the appellant’s brother and cousin. The ministry emphasized that this was not information that the ministry had available at the time of reconsideration. The additional information related to the impact of the appellant’s impairment as diagnosed in the PWD application, and is in support of information that was before the ministry at reconsideration. Therefore, 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 spondyloepiphyseal dysplasia and bilateral retinal detachment, which has resulted in vision loss, hearing loss in his left ear and spinal damage. The advocate argued that the general practitioner did not properly complete the original reports with the PWD application but the general practitioner has provided an additional letter and the family has also added information about the appellant's functioning. The advocate argued that the appellant is legally blind and he can only walk short distances. The advocate stated that the appellant had surgery on his spine that resulted in pinched nerves in the appellant's back and he has experienced muscle spasm, numbness and tingling and his joints will also lock for periods of time ranging from a few minutes to several hours. The advocate argued that the appellant cannot climb stairs and resides on the main floor of the family home and he can only lift 2 to 3 lbs., as confirmed in the additional letter from the general practitioner. The advocate argued that the appellant blacks out from time to time and experiences ongoing dizziness.

The ministry's position is that the appellant's functional skill limitations are not significantly restricted and the information provided does not establish that he has a severe physical impairment. The ministry argued that the general practitioner reported that the appellant is independent in all aspects of mobility and physical ability.

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 the ministry 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 the ability to perform 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 general practitioner.

The general practitioner, who had known the appellant for 10 years, diagnosed the appellant with significant bilateral retinal detachments and spondyloepiphyseal dysplasia ("a genetic condition") which he has had "since birth" and "which has resulted in marked restriction of vision and walking." The advocate stated that the appellant's physical conditions were not accurately described in the PR and that this demonstrates the lack of care with which the general practitioner completed the reports.

In the additional note dated November 8, 2014, the medical practitioner at a medical clinic certified that the appellant suffers from spondyloepiphyseal dysplasia “congenital,” or a condition present since birth, resulting in small stature and loss of vision in the right eye.

In a letter dated November 5, 2014, the appellant’s optometrist reported the appellant has retinal detachments in both eyes which has resulted in no vision in the right eye and left eye acuity of 20/80, corrected with a prescription at -26.00. The appellant is also starting to form cataracts in the left eye which will eventually make the vision worse and he will eventually need surgery in the left eye to remove the cataract. At the hearing, the appellant stated that the eye surgeon will soon be evaluating whether he will proceed with cataract surgery for the appellant’s left eye. The optometrist, who has known the appellant for 14 years, concluded in the letter that the appellant’s vision “enables him to perform regular activities that a young adult would be able to.”

In the PR, the general practitioner described the appellant’s limitations as: “marked restriction of vision and walking” and reported that the appellant does not require any prosthesis or aid for his impairment. In his self-report, the appellant wrote that he experiences pain when he walks, which starts about 2 minutes into walking and the pain increase as he walks longer. In terms of functional skills, the general practitioner indicated that the appellant can walk 1 to 2 blocks unaided, can climb 2 to 5 steps unaided, lift 5 to 15 lbs., and remain seated 2 to 3 hours. In the letter dated January 5, 2015, the general practitioner wrote that even though it was previously indicated that the appellant was independent in lifting, the appellant is unable to lift more than 2 to 3 lbs. The appellant’s mother stated at the hearing that the appellant cannot climb stairs; however, the general practitioner did not modify his assessment of the appellant’s ability with climbing stairs even though he had the opportunity to do so in the additional letter.

In the AR the general practitioner assessed the appellant as being independent with walking indoors and outdoors, climbing stairs, standing, lifting and carrying and holding. No further comments are provided by the general practitioner. No assistive devices are indicated in the section of the AR relating to assistance provided. At the hearing, the appellant confirmed that he does not use a walking or white cane to assist with walking nor a hearing aid to address the hearing loss in his left ear, and the advocate explained that it is embarrassing for the appellant to use an assistive device at his young age.

The appellant stated at the hearing that he experiences ongoing dizziness and blacks out every couple of months. The advocate stated that the appellant has good days and bad days and, on his bad days, he experiences muscle spasms, numbness and tingling and his joints will lock for periods of time ranging from a few minutes to several hours. At the hearing, the appellant’s mother stated that if the appellant has been walking outside too much, he might not be able to get up for a week because his body “gives up on him” and she has to take days of work to help him. The appellant’s cousin wrote in his letter that, at times, the appellant cannot even walk for a few feet or get out of his bed and he needs assistance to get up. The appellant stated that he missed half a semester of his post-secondary institution as a result of periods of increased pain. However, the general practitioner did not describe these exacerbations in the appellant’s condition in either the PR or in the AR and, as discussed in more detail in these reasons for decision under the heading “*Restrictions in the Ability to Perform DLA*”, the limitations to the appellant’s physical functioning do not appear to have translated into significant restrictions to his ability to manage DLA.

Considering all of the evidence including the appellant’s independent mobility and the mostly

moderate level of impacts to the appellant's physical 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 did not maintain a position that he suffers from a severe mental impairment.

The ministry's position is that there is insufficient evidence to establish that the appellant has a severe mental impairment.

Panel Decision

The general practitioner did not diagnose a mental health condition in the PR and reported that the appellant has significant deficits with cognitive and emotional function in the areas of memory and attention/concentration, with no further comments added. In terms of impacts to daily functioning, the general practitioner assessed no major impacts to the appellant's cognitive and emotional functioning and a moderate impact to other neuropsychological problems. There are minimal impacts assessed to emotion, impulse control, attention/concentration, executive, memory, and motivation and no impacts to the remaining 7 areas of functioning. There were no comments added by the general practitioner.

In the AR, the general practitioner indicated that the appellant has a good ability to communicate in speaking, reading and writing and poor hearing in his left ear. With respect to social functioning, the appellant is assessed as being independent in all areas and he has good functioning in both his immediate and extended social networks. Given the absence of a mental health diagnosis and no significant impacts assessed 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 and mental impairments directly and significantly restrict his ability to perform DLA on an ongoing basis to the point that he requires the significant assistance of another person, namely his family. The appellant argued that he has been dependent on his family all his life and the advocate argued that the appellant will never be able to live independently, which is of great concern to his family. The advocate argued that the general practitioner did not properly completed the reports with the PWD application but the information from the appellant and his family confirms that the appellant requires assistance with tasks of personal care (dressing, bathing) and the DLA of housekeeping, shopping, meals, finances and use of transportation.

The ministry's position is that the information from the general practitioner, as the prescribed professional, does not establish that the appellant's impairments significantly restrict his DLA either continuously or periodically for extended periods of time.

Panel Decision

Section 2(2)(b) of the EAPWDA requires that a "prescribed professional" provide an opinion that an applicant's severe impairment directly and significantly restricts 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, the prescribed professionals completing these forms have 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 reported in the PR that the appellant has not been prescribed any medication and/or treatments that interfere with his ability to perform DLA. At the hearing, the appellant stated that he does not take any pain medication or any prescriptions for his conditions.

The general practitioner reported in the AR that appellant is independent with moving about indoors and outdoors. While the appellant and his family stated that he experiences periods of exacerbation of his condition, where his joints lock and he suffers muscle spasms, which sometimes make it difficult for him to walk at all, the general practitioner did not describe these periods, although given an opportunity to do so in his January 5, 2015 letter. The appellant's mother stated that she helps the appellant with dressing and bathing and the general practitioner indicated in the AR that the appellant is independent with all tasks of the DLA personal care: dressing, grooming, bathing, toileting, feeding self, regulating diet, transfers in/out of bed and on/off chair. In the letter dated January 5, 2015, the general practitioner wrote that, after discussions with the appellant's mother, it is his understanding that the appellant needs assistance with bathing and his mother cooks for him. Regarding the DLA meals, the general practitioner indicated in the AR that appellant is independent with the task of safe storage of food and requires periodic assistance from another person with meal planning and food preparation and continuous assistance for cooking. At the hearing, the advocate stated that the appellant's height and his vision both impact his ability to prepare food and to cook.

In the AR, the general practitioner assessed the appellant as independent with all tasks of the DLA basic housekeeping, shopping (going to and from stores, reading prices and labels, making appropriate choices, paying for purchases and carrying purchases home), paying for rent and bills, managing medications and managing transportation. In his letter dated January 5, 2015, the general practitioner wrote that even though the appellant can carry purchases up to 2 lbs., it is his understanding that the appellant has never gone to stores and banks without his mother and his mother does all the purchasing and bank work. The general practitioner did not indicate the extent of the assistance required by the appellant in these tasks. At the hearing, the advocate stated that the appellant cannot see the dirt to be able to sweep or vacuum properly to do any housekeeping; however, the general practitioner did not address the DLA of housekeeping in his letter. In his letter dated January 4, 2015, the appellant's older brother wrote that sometimes the appellant has to be picked up from his school because he does not have the energy to take public transportation; however, the general practitioner did not address the DLA of use of transportation in his letter.

Considering the evidence as confirmed by the general practitioner as the prescribed professional, the panel finds that the ministry reasonably concluded that the evidence is insufficient to show that the appellant's overall ability to perform his DLA is significantly restricted either continuously or periodically for extended periods, thereby not satisfying the legislative criterion of Section 2(2)(b)(i) of the EAPWDA.

Help to perform DLA

The appellant's position is that his combined physical and mental impairments significantly restrict his daily living functions to a severe enough extent that significant assistance is required from his family.

The ministry's position is that because it has not been established that DLA are significantly

restricted, it cannot be determined that significant help is required. The ministry stated that the appellant does not require an assistive device or an assistance animal.

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.

In the AR, the general practitioner reported that, with respect to the assistance provided by other people, the appellant's family assists him. The appellant acknowledged that he does not use an assistive device. 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.