

## PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the ministry) reconsideration decision dated January 14, 2015 which found that the appellant did not meet three of the five statutory requirements of Section 2 of the *Employment and Assistance for Persons with Disabilities Act* for designation as a person with disabilities (PWD). The ministry found that the appellant met the age requirement and that her impairment is likely to continue for at least two years. However, the ministry was not satisfied that the evidence establishes that:

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

## PART D – Relevant Legislation

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

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

## PART E – Summary of Facts

With the consent of both parties, the hearing was conducted as a written hearing, pursuant to section 22(3)(b) of the *Employment and Assistance Act*.

The evidence before the ministry at the time of the reconsideration decision included the Person With Disabilities (PWD) Application comprised of the applicant information and self-report dated May 25, 2014, a physician report (PR) and an assessor report (AR) both dated September 24, 2014 and completed by a general practitioner who has known the appellant for approximately 8 years.

The evidence also included the following:

- 1) Letter printed January 6, 2015 from the appellant's general practitioner; and,
- 2) Request for Reconsideration dated January 7, 2015.

### **Diagnoses**

In the PR, the appellant was diagnosed by the general practitioner with chronic pain syndrome and anxiety, both with an onset in 2001.

### **Physical Impairment**

In the PR, the general practitioner reported that:

- In terms of health history, the appellant has "severe chronic pain following a serious MVA [motor vehicle accident]. Her pain definitely impacts her daily living a great deal. Her back, hip and hand/arm are the areas that are most affected. She has genuine pain which is very disabling to her."
- Regarding the degree and course of impairment, the appellant "has been through all of the remedial treatments available to her."
- For functional skills, the appellant can walk 4 or more blocks unaided "most days" and some days 1 to 2 blocks "but takes longer than average," she can climb 5 or more steps "but painful++", lift 5 to 15 lbs., and remain seated 1 to 2 hours and "varies day to day."
- The appellant requires an aid for her impairment, namely handles in the walk-in shower.

In the AR, the general practitioner indicated that:

- The appellant takes significantly longer than typical with all aspects of mobility and physical ability, namely: walking indoors, walking outdoors, climbing stairs, standing, lifting and carrying and holding. The general practitioner wrote: "these activities take longer due to chronic pain."
- In the section of the AR relating to assistance provided through the use of assistive devices, the general practitioner identified braces and bathing aids ("handles in shower"), and commented: "hard to get out of tub."

In her self-report, the appellant wrote that:

- On a scale of 1 to 10, the pain in her back ranges from 7 on a good day to 9 on a bad day. For her hand and arm this range is from 5 on a good day to 6/7 on a bad day, and her hip is 7/8 on a good day to 8 on a bad day.
- She has had moderate to severe back pain since she was in a motor vehicle accident. She finds it very hard to stand or sit for long periods of time.
- If she sleeps in the wrong position at night or if she strains her back one day, it limits her mobility the next day.
- She has to do daily stretches and exercises but some days the pain is too severe.

- Some days she has difficulty getting out of bed and she needs to call a family member or friend to help her get up.
- She has to have a handle in her shower and the tub to help her in and out.
- Cooking herself meals can also be a huge task because she needs to constantly take 5 to 10 minute breaks to sit and rest her back.
- She cannot lift anything more than 30 lbs. or she feels severe pain in her lower back.
- She had another MVA that caused nerve damage to her right hand and right hip. She was told to do physiotherapy twice a week, which she did for a few months, but she was unable to continue due to the cost.
- The damage in her hand she would rate at a pain level of 5 out of 10 as it causes a shooting pain up her wrist and arm, making it very hard to hold, lift or even move two fingers. She has exercises and magnetic bracelets to help with the pain and she also has to wear a hand cast 4 out of 5 days to help with the pinched nerves and to keep her hand in the proper position.
- She was told that she has a hairline fracture in her right hip as well as major nerve damage that causes swelling in the joint. The pain is excruciating 5 out of 7 days a week. The pain feels like a grinding, sharp, shooting cut inside her leg and into the bottom of her foot.
- The pain from her hip causes her to collapse and fall to the ground if she cannot grab something to brace her fall.
- Her hip feels like it jams in the same position, giving her next to no mobility and she tries to do stretches with ice packs but it is very painful and sometimes the pain is unbearable.
- She rates the pain in her hip at 8 out of 10 for 6 to 7 days out of a week.

In her Request for Reconsideration, the appellant wrote that:

- She feels that she is unable to function normally due to high degrees of pain in her back, hip and right hand and arm, which makes it very difficult to complete or function with everyday necessities.

In the letter printed January 6, 2015, the appellant's general practitioner wrote:

- He feels the appellant is genuinely disabled by chronic pain and anxiety and has significant interference with her activities of daily living as a result.

### ***Mental Impairment***

In the PR, the general practitioner reported that:

- In terms of health history, the appellant "suffers from severe generalized anxiety which greatly affects her activities of daily living."
- The appellant does not have difficulties with communication.
- The appellant has significant deficits in her cognitive and emotional functioning in the areas of emotional disturbance, motivation, and attention or sustained concentration, with the comment "anxiety issues."

In the AR, the general practitioner indicated that:

- The appellant has a good ability to communicate in all areas, namely: speaking, reading, writing and hearing.
- For the section of the AR assessing impacts to cognitive and emotional functioning for an applicant with an identified mental impairment or brain injury, the general practitioner indicated a moderate impact to emotion and minimal impacts in the areas of attention/concentration and motivation. There are no impacts assessed to the remaining 11 listed areas of functioning.

- The appellant is independent in 4 out of 5 areas of social functioning, namely: making appropriate social decisions, interacting appropriately with others, dealing appropriately with unexpected demands, and securing assistance from others. The appellant requires periodic support/supervision in her ability to develop and maintain relationships, but no explanation or description of the nature of the support/supervision.
- The appellant has marginal functioning in her immediate social networks and good functioning in her extended social networks.

In her self-report, the appellant wrote that:

- On a scale of 1 to 10, her anxiety ranges from 1/2 on a good day to 10 on a bad day.
- Her anxiety is triggered quite frequently at random and unexpected times.
- She was using a medication when her attacks were too much to bear, and she was using breathing techniques to manage.
- Her attacks are scary because they have been so bad that she has fainted and fallen to the ground.

In the letter printed January 6, 2015, the appellant's general practitioner wrote:

- He feels the appellant is genuinely disabled by chronic pain and anxiety and has significant interference with her activities of daily living as a result.

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

In the PR, the general practitioner indicated that:

- The appellant has been prescribed medications that interfere with her DLA with the comment: "intermittent use of [medication] sparingly for anxiety."

In the AR, the general practitioner reported that:

- The appellant takes significantly longer than typical with moving about indoors and outdoors, with no further comments.
- The appellant is independently able to perform every task of several listed DLA, namely: personal care (dressing, grooming, bathing, toileting, feeding self, regulate diet, transfers in/out of bed and on/off of chair), paying rent and bills (banking, budgeting, paying rent and bills), and medications (filling/refilling prescriptions, taking as directed, safe handling and storage).
- The appellant requires periodic assistance with the tasks of basic housekeeping and laundry, and going to and from stores and carrying purchases home when shopping, while being independent with reading prices and labels, making appropriate choices and paying for purchases.
- The appellant takes significantly longer than typical with the tasks of food preparation and cooking, while remaining independent with meal planning and safe storage of food, and takes longer with getting in and out of a vehicle, while remaining independent with using public transit and using transit schedules and arranging transportation.

In her self-report, the appellant wrote that:

- Some days she has difficulty getting out of bed and she needs to call a family member or friend to help her get up.
- She has a handle in her shower to help her in and out.
- Cooking meals can be a huge task because she needs to constantly take 5 to 10 minute breaks to sit and rest her back.

- All of her injuries have made it very hard for her to maintain any job for any amount of time.
- She needs help with daily tasks such as house cleaning, cooking, personal hygiene, getting in and out of bed and in and out of the shower.
- She has difficulty balancing to get dressed and has to wear shoes that do not require bending down to tie, zipper or button them.

In her Request for Reconsideration, the appellant wrote that:

- She has a high degree of pain in her back, hip and right hand and arm, which makes it difficult to function with everyday necessities.
- For example, she was trying to prepare dinner and could not bend down to get a baking sheet because her back pain was so severe. She had to call a friend to help make her dinner or, otherwise, she would have ended up on the floor, hungry.

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

The general practitioner reported in the AR that the appellant lives alone and help required for DLA is provided by family and friends. In the section of the AR relating to assistance provided through the use of assistive devices, the general practitioner identified braces and bathing aids (“handles in shower”). Asked to provide detail of the equipment used, the general practitioner wrote: “hard to get out of tub.”

### ***Appellant’s Additional Information***

In her Notice of Appeal dated January 19, 2015, the appellant expressed her disagreement with the ministry’s reconsideration decision and wrote that she has been in two severe motor vehicle accidents causing her bodily harm that will forever affect her mobility. She constantly needs help and assistance from friends and family for the simplest tasks. She is in severe pain most days of the week. She would rate the pain levels at 8 out of 10 for 4 days out of a week.

The ministry relied on its reconsideration decision as the ministry’s submission and did not raise an objection to the admissibility of the information in the appellant’s Notice of Appeal.

### ***Admissibility of Additional Information***

The appellant’s Notice of Appeal contained information about her medical conditions that tends to corroborate the diagnoses considered at reconsideration and the panel admits this information as being in support of information and records that were before the ministry at the time of reconsideration, in accordance with Section 22(4)(b) of the *Employment and Assistance Act*.

## PART F – Reasons for Panel Decision

The issue on the appeal is whether the ministry's reconsideration decision, which found that the appellant is not eligible for designation as a person with disabilities (PWD), was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the circumstances of the appellant. The ministry found that the appellant does not have a severe mental or physical impairment and that her daily living activities (DLA) are not, in the opinion of a prescribed professional, directly and significantly restricted either continuously or periodically for extended periods and that, as a result of those restrictions, it could not be determined that the appellant requires the significant help or supervision of another person, the use of an assistive device, or the services of an assistance animal to perform DLA.

The criteria for being designated as a 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) 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.

Section 2(2) of the EAPWDR defines prescribed profession as follows:

- (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.

### **Severe Physical Impairment**

The appellant's position, as expressed in her Request for Reconsideration, is that a severe physical impairment is established by her inability to function normally with everyday necessities due to high degrees of pain in her back, hip and right hand and arm.

The ministry's position is that there is not sufficient information from the general practitioner to confirm that the appellant has a severe physical impairment. The ministry wrote that although the general practitioner reported that the appellant takes significantly longer to complete activities requiring mobility and physical ability "due to chronic pain", he does not describe the amount of extra time that the appellant takes. The ministry wrote that in the January 6, 2015 letter the general practitioner did not provide specific information concerning his assessment of the appellant's physical functioning and did not address the amount of time the appellant requires to complete activities requiring 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 both 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 appellant's general practitioner.

The general practitioner, who has known the appellant for 8 years, diagnosed the appellant in the PR with chronic pain syndrome since 2001. In terms of health history, the general practitioner wrote that the appellant has "severe chronic pain following a serious MVA. Her pain definitely impacts her daily living a great deal. Her back, hip and hand/arm are the areas that are most affected. She has genuine pain which is very disabling to her." Regarding the degree and course of impairment, the general practitioner reported that the appellant "has been through all of the remedial treatments available to her." The general practitioner assessed the appellant as able to walk 4 or more blocks unaided "most days" and some days she can only walk 1 to 2 blocks "but takes longer than average." The general practitioner indicated that the appellant requires handles in the walk-in shower as an aid to her impairment and the appellant wrote that she has to wear a hand cast 4 out of 5 days to help with the pinched nerves in her hand and to keep her hand in the proper position; however, there was no indication that the appellant requires an aid to her mobility. The appellant is assessed as able to climb 5 or more steps "but painful++", lift 5 to 15 lbs., and remain seated 1 to 2 hours and that this "varies day to day. The appellant wrote in her self-report that she cannot lift anything more than 30 lbs. or she feels severe pain in her lower back.

In the AR, the general practitioner indicated that the appellant takes significantly longer than typical with all aspects of mobility and physical ability "due to chronic pain", namely: walking indoors, walking outdoors, climbing stairs, standing, lifting and carrying and holding.." The general practitioner did not indicate how much longer than typical it takes the appellant to perform these activities. Asked to describe her disability in her self-report included with the PWD application, the appellant wrote that her pain varies from day to day and that, on a scale of 1 to 10, the pain in her back ranges from 7 on a good day to 9 on a bad day, the pain in her hand and arm ranges from 5 on a good day to 6/7 on a bad day, and the pain in her hip goes from 7/8 on a good day to 8 on a bad day. The appellant also wrote that the pain in her hip is excruciating 5 out of 7 days a week. The appellant wrote that certain activities trigger her pain, such as sleeping in the wrong position, and her mobility will be limited the next day. "Some days" the pain is too severe to do her daily stretches and exercises or to get out of bed. She was told to do physiotherapy twice a week, which she did for a few months, but she was unable to continue due to the cost. In her Notice of Appeal, the appellant wrote that she is in severe pain most days of the week and she would rate the pain levels at 8 out of 10 for 4 days out of a week.

In the letter printed January 6, 2015, the appellant's general practitioner reported that he feels the appellant is genuinely disabled by chronic pain and anxiety and that she has significant interference with her activities of daily living as a result. However, although he had an opportunity to do so in his letter, the general practitioner did not describe the frequency and duration of the exacerbations to the appellant's pain, especially given some of the variations in the appellant's reporting of the frequency of her "bad" days. The general practitioner also did not change his assessment of the appellant's physical functioning, which remains within the moderate range for "most days," or refer to any medical imaging or specialist reports to clarify the nature and extent of the appellant's injuries.

The panel finds that although the evidence demonstrates that the appellant experiences exacerbations to her pain and consequent reductions in her physical functioning, the ministry

reasonably concluded that there is insufficient evidence to establish a significant restriction to her overall functioning. The panel finds that the appellant's impairment has also not translated into significant restrictions to her ability to manage DLA, as discussed in more detail in these reasons for decision under the heading "Restrictions in the Ability to Perform DLA." Considering all of the evidence currently available, 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 is that a severe mental impairment is established by the evidence of the impacts from her anxiety and panic attacks. The appellant wrote in her self-report that her anxiety ranges from 1/2 on a good day to 10 on a bad day and her anxiety is triggered quite frequently at random and unexpected times.

The ministry's position is that there is insufficient evidence to establish that the appellant has a severe mental impairment. The ministry wrote that the general practitioner reported that the appellant does not have any difficulties with communication and the impacts to the appellant's cognitive and emotional functioning are moderate to minimal and mostly no impact. The ministry wrote that the general practitioner assessed mostly independent social functioning and his January 6, 2015 letter does not provide specific information concerning his assessment of the appellant's mental functioning.

### **Panel Decision**

The general practitioner diagnosed the appellant with anxiety, which started in 2001, described as "severe generalized anxiety which greatly affects her activities of daily living" and "genuine severe anxiety." In the PR, the general practitioner identified significant deficits in the appellant's cognitive and emotional functioning in the areas of emotional disturbance, motivation, and attention or sustained concentration, with the comment "anxiety issues." However, in the AR, the general practitioner indicated a moderate impact to emotion and minimal impacts in the areas of attention/concentration and motivation, with no impacts assessed to the remaining 11 listed areas of functioning.

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. Regarding the decision making DLA, the general practitioner reported in the AR that the appellant independently manages her finances (budgeting and paying rent and bills) and her medications (taking as directed and safe handling). She 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), transportation (using transit schedules and arranging transportation) and with making appropriate social decisions as part of her social functioning.

Regarding the DLA of social functioning, the appellant is assessed by the general practitioner as independent with interacting appropriately with others, dealing appropriately with unexpected demands and securing assistance from others, but requiring periodic support/supervision with developing and maintaining relationships. The general practitioner indicated that the appellant has marginal functioning in her immediate social networks while she has good functioning in her extended social networks, but also indicated that she receives assistance from both family and friends. The

general practitioner did not provide an explanation or description of the support/supervision required in order for the appellant to develop and maintain relationships to indicate the extent of the assistance required. The general practitioner reported in the PR that the appellant has no difficulties with communication and has a good ability to communicate in all areas.

In his letter dated January 6, 2015, the appellant's general practitioner wrote that he feels the appellant is genuinely disabled by chronic pain and anxiety and has significant interference with her activities of daily living as a result. However, the general practitioner did not change his assessment of the appellant's cognitive, emotional or social functioning as set out in the PR and AR, or refer to any specialist reports to clarify the nature and extent of the appellant's mental health condition in order to allow the ministry to be "satisfied" of this conclusion. Given the absence of evidence regarding specific 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 her physical and mental impairments directly and significantly restrict her ability to perform DLA on an ongoing basis to the extent that she requires the significant assistance of another person and the use of assistive devices.

The ministry's position is that the information from the prescribed professional does not establish that impairment significantly restricts DLA either continuously or periodically for extended periods. The ministry wrote that the majority of the listed tasks of DLA are performed independently by the appellant and, for those tasks that require periodic assistance or take longer, the general practitioner has not provided sufficient information to establish that there is a significant restriction in the appellant's ability to perform these activities.

### ***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 her 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 reported in the PR that the appellant has been prescribed medications that interfere with her DLA, namely "intermittent use of [medication] sparingly for anxiety." In the AR, the general practitioner reported that the appellant takes significantly longer than typical with moving about indoors and outdoors and with the tasks of food preparation and cooking, while remaining independent with meal planning and safe storage of food, and takes longer with getting in and out of a vehicle, while remaining independent with using public transit and using transit schedules and arranging transportation. No further comments are added by the general practitioner to allow the ministry to determine how much longer than typical these tasks take the appellant.

In her self-report, the appellant wrote that she needs help with daily tasks such as house cleaning, cooking, personal hygiene, getting in and out of bed and in and out of the shower, and she has

difficulty balancing to get dressed. The general practitioner reported that the appellant is independently able to perform every task of several listed DLA, namely: personal care (dressing, grooming, bathing, toileting, feeding self, regulate diet, transfers in/out of bed and on/off of chair), paying rent and bills (banking, budgeting, paying rent and bills), and medications (filling/refilling prescriptions, taking as directed, safe handling and storage). The general practitioner indicated that the appellant requires an aid to get in and out of the shower, namely handles in the walk-in shower. While the general practitioner reported that the appellant requires periodic assistance with the tasks of basic housekeeping and laundry, and going to and from stores and carrying purchases home when shopping, he did not describe how often the appellant requires assistance or for how long.

With respect to the two DLA that are specific to mental impairment – decision making and social functioning, the available evidence indicates that the appellant is not significantly restricted in either, as previously discussed. In his January 6, 2015 letter, the general practitioner wrote that he feels the appellant has “significant interference with her activities of daily living” as a result of genuine chronic pain and anxiety. However, the general practitioner did not take the opportunity to change his previous assessment or provide more detail of the duration and frequency of the restrictions.

The panel finds that the evidence demonstrates that the appellant manages most of her DLA without assistance and that the ministry reasonably determined that there is insufficient information to allow the ministry to determine that the periodic assistance that is required is for extended periods of time. Therefore, the panel finds that the ministry reasonably concluded that there is not enough evidence from the prescribed professional to establish that the appellant’s impairment significantly restricts her ability to manage her DLA either continuously or periodically for extended periods, thereby not satisfying the legislative criterion of Section 2(2)(b)(i) of the EAPWDA.

#### **Help to perform DLA**

The appellant’s position is that she requires the significant assistance of another person or assistive devices to perform DLA.

The ministry’s position is that because it has not been established that DLA are significantly restricted, it cannot be determined that significant help is required from other persons. The ministry acknowledged that the prescribed professional indicated that the appellant requires the use of grab bars in the shower and a brace.

#### ***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 reported in the AR that the appellant lives alone and help required for DLA is provided by family and friends. In the section of the AR relating to assistance provided through the use of assistive devices, the general practitioner identified braces and bathing aids (“handles in shower”) as it is hard for the appellant to get out of tub. In her self-report, the appellant wrote that the damage in her hand makes it very hard to hold, lift or even move two of her fingers. She has to wear a hand cast 4 out of 5 days to help with the pinched nerves and to keep her hand in the proper position.

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.