

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the “ministry”) reconsideration decision of January 28, 2015, which found that the appellant did not meet three of five statutory requirements of section 2 of the *Employment and Assistance for Persons With Disabilities Act* (“EAPWDA”) for designation as a person with disabilities (“PWD”). The ministry found that the appellant met the age requirement and that in the opinion of a medical practitioner the appellant’s 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 that
- as a result of those restrictions, the appellant requires the significant help or supervision of another person, an assistive device, or the services of an assistance animal.

PART D – Relevant Legislation

EAPWDA, section 2

Employment and Assistance for Persons with Disabilities Regulation (“EAPWDR”), section 2

PART E – Summary of Facts

With the consent of the parties the hearing was held in writing, in accordance with section 22(3) of the *Employment and Assistance Act*.

The information before the ministry at the time of reconsideration included the following:

- The appellant's PWD application form consisting of the appellant's self-report form dated November 23, 2014 ("SR"), a physician's report ("PR") completed by the appellant's general practitioner (the "physician") on November 7, 2014; and an assessor's report ("AR") also completed by the physician in November 2014.
- The appellant's Request for Reconsideration form with attached reconsideration submission dated January 19, 2015 (RFR) and attached letter from the physician dated January 12, 2015 (the "January 2015 letter").
- Clinical records from the physician's medical clinic from July 19, 2014 to October 10, 2014 (13 pages) (the "clinical records") which include treatment records for July 19, August 1, 8, 15, 29 and October 10, 2014; a referral dated October 10, 2014; imaging reports dated August 8 and October 2, 2014 and a copy of a claim from an insurance company and CT requisition.

Physical Impairment

- In the PR the physician (who had known the appellant for 1 year and seen her two to ten times in the past 12 months) diagnosed the appellant with spinal stenosis (onset December 2013).
- In the Health History portion of the PR the physician commented that the appellant has a lot of difficulty with persistent low back pain and paresthesia in both legs.
- In terms of physical functioning, the physician reported in the PR that the appellant can walk less than 1 block unaided on a flat surface, can climb 2+ stairs unaided, can lift under 5 pounds and can remain seated for less than 1 hour.
- In the AR the physician reported that the appellant independently manages walking indoors but takes significantly longer with walking outdoors, climbing stairs, standing, lifting and carrying and holding. The physician comments that the appellant is limited and has weakness, paresthesia and pain in her low back and both legs.
- In the SR, the appellant states that she experiences numbness in both legs, is unable to stand or walk alone, uses a cane to walk, her legs give out, and she cannot lift her right arm past her head without shooting pain down her back. The appellant states that she tries to walk every day but it is hard because of the numbness and the pain. In particular, the appellant states that taking her dog for walks is very hard and she is not able to walk long enough for him but she walks as long as her legs will allow. She states that climbing stairs is hard and that if she goes up "5 to 2 steps, my leg throbs and shakes and hurts" so she has to lay down until the pain passes. She also states that she has shooting pain in her lower back with an onset of December 31, 2013. She also reports that her physician has prescribed her pain medication that makes her dizzy.

In the RFR the appellant states that she is unable to work because her legs cannot withstand any length of time standing and go numb after any length of time on them. She states that when she walks into her apartment she hangs on the walls, back of chairs, her cane and counter so she does not understand why she was denied PWD designation. She is waiting for an MRI, continues to use her cane and is only able to take small steps when she walks. She states that she has ongoing sharp

back pain.

The August 2014 imaging report indicates that the appellant has mild to moderate multilevel lumbar spondylosis. The October 2014 imaging report indicates that the appellant has multilevel lumbar spondylosis most marked at L2-3 with moderate spinal stenosis and as well at L3- with the left foraminal stenosis. The October 2014 also indicates that the appellant has severe degenerative disc disease at L4-5 and moderate to severe degenerative facet disease at L5-S1.

In the January 2015 letter the physician indicates that the appellant has degenerative disc disease of her lumbar spine and some degree of spinal stenosis which causes weakness and pain in her legs, resulting in difficulty walking. The physician also indicates that her range of movement is about 50% of normal.

Mental Impairment

- In the Diagnosis portion of the PR the physician has not included any diagnosis of mental impairment.
- In the Functional Skills portion of the PR the physician indicated that the appellant has no difficulties with communication. In the AR the physician described the appellant's speaking, reading, writing, and hearing as "good".
- In the PR the physician indicated that the appellant suffers significant deficits in two of twelve categories of cognitive and emotional function: emotional disturbance and motivation. The physician comments that the appellant cannot work, and is anxious and depressed.
- In the AR the physician indicated that the appellant's impairments have a moderate impact on emotion, motivation, and other emotional or mental problems, minimal impact on bodily functions, attention/concentration and executive. The physician reported no impact to the remaining 8 categories, namely consciousness, impulse control, insight and judgment, memory, motor activity, language, psychotic symptoms and other neuropsychological problems. In the comments section the physician notes that the appellant has financial concerns and poor self esteem.
- In the SR, RFR and January 2015 letter there is no further information regarding a mental impairment.

DLA

- In the PR the physician indicated that the appellant has not been prescribed medication or treatment that interferes with her ability to perform DLA.
- In the PR the physician reported that the appellant is continuously restricted with 8 of the 10 listed aspects of DLA, namely *personal self-care, meal preparation, basic housework, daily shopping, mobility inside or outside the home, use of transportation and social functioning*. The physician reports that the appellant is not restricted with *management of medications* or *management of finances*. The physician reports that the appellant's social functioning is impacted because she has no financial income and feels like a failure.
- In the AR the physician indicated that the appellant independently manages 5 of the 8 tasks related to personal self care, namely dressing, grooming, toileting, feeding self, and regulating diet, but takes significantly longer with bathing, transfers (in/out of bed) and transfers (on/off of chair). With respect to basic housekeeping, the physician reports that the appellant requires periodic assistance with laundry and basic housekeeping. With shopping, the physician

reports that the appellant is independent with reading prices and labels, making appropriate choices and paying for purchases, but takes significantly longer with going to and from stores and uses an assistive device for carrying purchases home. The physician reports that the appellant needs help. Under additional comments, the physician notes that the appellant cannot stand more than 15 minutes and cannot walk 50 yards. With respect to shopping the physician states that the appellant is independent with meals and safe storage of food but takes significantly longer with food preparation and cooking. The physician states that the appellant is independent with all tasks of paying rent and bills and medications. With respect to transportation the physician states that the appellant is independent with using transit schedules and arranging transportation but takes significantly longer with getting in and out of a vehicle and using public transit.

- The physician described the appellant as independent with all aspects of social functioning and that she has good functioning with her immediate and extended social networks.

In the SR the appellant states that she cannot stand or walk alone and requires a cane to walk. She states that climbing stairs is very hard. In the RFR the appellant states that she has to hang on to walls, counters and chairs in her home due to pain.

In the RFR the appellant states that she walks with a cane, is waiting for an MRI and that she hangs on the back of chairs, walls, counters and her cane.

Help

- In the PR the physician reports that the appellant does not require any prostheses or aids for her impairment. Under section E – DLA the physician reports that the appellant would benefit from help in her house.
- In the AR the physician indicated that the appellant requires help with housework and mobility. The physician notes that she receives assistance from family and friends and that she requires a cane, and walker.
- In the SR the appellant does not provide information regarding the assistance that she receives or requires.
- In the RFR the appellant states that she cannot make the necessities of life as her rent has increased and she does not have enough money and no ability to work.

Additional information provided

In her Notice of Appeal the appellant states that she cannot walk, stand or lift any weight and that some days are good and some days are bad. She states that she needs help with everyday living which she gets from her niece and sister.

The appellant also provided a submission including the following documents:

1. Letter from a physiotherapist dated April 29, 2014 indicating that the appellant has been treated four times for low back pain and is slowly improving. The physiotherapist indicates that the appellant's main complaint is her inability to walk long distances due to her leg pain from her back.
2. Chiropractic report from an examination date of May 12, 2014 indicating that the appellant has

right side leg, lower back, neck pain, right leg numbness, tingling and foot drop with pain down her legs and recommendation for treatment;

3. Diagnostic imaging report (CT Lumbar spine) dated October 2, 2014 indicating that the appellant has multilevel lumbar spondylosis.
4. Letter from a chiropractor dated January 29, 2015 stating that the appellant has been a patient since May 12, 2014 receiving treatment to strengthen her back in order to perform work duties. The chiropractor states that there has been some progress but standing for work continued to aggravate the appellant's back condition and she was unable to work for over a couple of hours without pain. The chiropractor refers to a lumbar spine X-ray of October 2014 which indicates that the appellant has multiple levels of degenerative joint disease that can cause pain and be exacerbated by many weight-bearing activities such as standing and walking. The chiropractor states that the appellant is unable to work at this time.
5. Letter from Canada Revenue Agency (CRA) to the appellant's physician dated January 30, 2015 indicating that CRA requires more information to assess the appellant's application for a disability tax credit with response from the physician indicating that the appellant has great difficulty walking even 25 metres and that she requires three times longer than an average person of the same age who does not have the impairment, at least 90% of the time.
6. Letter from the appellant's sister dated January 31, 2015 stating that she uses her daughter's car to help the appellant with shopping, appointments and errands. The appellant's sister states that it seems that the appellant is in great pain if she walks any distance. The appellant's sister also states that on days where the appellant is in too much pain she has prepared meals and taken them to her but she is not sure how much longer she can provide help as she has her own health conditions.
7. Letter from the appellant's physician dated February 23, 2015 indicating that the appellant is unable to work due to spinal stenosis and severe degenerative disc disease of her lumbar spine. The physician states that the appellant also has severe facet degeneration of her lumbar spine and is in constant pain and has severe limitation of mobility and range of movement. The physician states that the appellant is unable to access public transportation and the weakness, pain and numbness make it almost impossible for her to stand more than 5 minutes which makes shopping, laundry and cooking impossible. The physician states that it is very difficult for her to climb stairs, and to shower or bathe due to the high risk of falling. The physician states that the appellant needs assistance and has requested an MRI of her lumbar spine and is awaiting consultation by a neurosurgeon ("the February 2015 letter").

Admissibility of New Information

The ministry did not raise an objection to admissibility, and the panel has admitted the appellant's new information into evidence as it is in support of information and records that were before the ministry at the time of reconsideration, in accordance with section 22(4) of the *Employment and Assistance Act*. In particular, the new information relates to the appellant's physical and mental diagnosis and her ability to perform DLA and tends to corroborate the appellant's evidence in the SR and RFR.

PART F – Reasons for Panel Decision

The issue on this appeal is whether the ministry's decision to deny the appellant designation as a PWD was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the circumstances of the appellant. In particular, was the ministry reasonable in determining that the appellant does not have a severe physical or mental impairment, and that in the opinion of a prescribed professional the appellant's impairments do not directly and significantly restrict her from performing DLA either continuously or periodically for extended periods, and that as a result of those restrictions the appellant does not require help to perform DLA?

The relevant legislation is as follows:

EAPWDA:

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.

EAPWDR section 2(1):

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 taking all of the information into account, particularly the February 2015 physician's letter, the information provided from the chiropractor, physiotherapist and diagnostic imaging reports, that the information provided has confirmed that the appellant has a severe physical impairment.

The ministry's position, as set out in its reconsideration decision, is that the information provided is not evidence of a severe physical impairment. The ministry argued that the information provided by the physician makes it difficult to develop a clear and cohesive picture of the degree of restrictions that the appellant has with her mobility and physical abilities as the physician indicates that she is independent yet takes significantly longer to perform them. The ministry's position is that the information provided by the physician indicates a moderate degree of impairment and is not enough to establish a severe physical impairment.

Panel Decision:

The information provided by the appellant's physician, chiropractor and physiotherapist corroborate her evidence that she is unable to work due to her physical impairments. However, employability is not an eligible criterion for designation as a PWD.

A diagnosis of a serious medical condition also does not in itself determine PWD eligibility or establish a severe impairment. An "impairment" is a medical condition that results in restrictions to a person's ability to function independently or effectively.

To assess the severity of an impairment one must consider the nature of the impairment and the extent of its impact on daily functioning as evidenced by functional skill limitations and the degree to which performing DLA is restricted. The legislation makes it clear that the determination of severity is at the discretion of the minister, taking into account all of the evidence. However, the legislation is also clear that the fundamental basis for the analysis is the evidence from a prescribed professional – in this case, the appellant's physician.

The appellant's physical functional skills as described by the physician in the PR indicate that the appellant can walk less than one block unaided, can climb 2 to 5 steps unaided, is limited to lifting under 5 pounds and can remain seated less than one hour. This is consistent with the physician's evidence in the PR and AR where he indicates that the appellant is independent walking indoors but takes significantly longer than typical with walking outdoors, climbing stairs, standing, lifting and carrying and holding. The physician indicates that the appellant is limited but does not provide further information about how much longer than typical it takes the appellant to perform these tasks. However, in the AR, the physician comments that the appellant cannot stand more than 15 minutes and cannot walk 50 yards.

In the January 2015 letter the physician again indicates that the appellant has difficulty walking and her range of movement is about 50% of normal. In the February 2015 letter, the physician states that the appellant has severe spinal stenosis and facet degeneration which cause constant pain and severe limitations of the appellant's mobility and range of movement. In addition, the physician provides further information to explain that it is almost impossible for the appellant to stand more than 5 minutes and it is difficult for her to climb stairs. The panel notes that the January 2015 and February 2015 information from the physician indicates that the appellant's condition has worsened since the imaging of August 2014 and October 2014 although the October 2014 does also indicate that the appellant has severe degenerative disc disease at L4-5 and moderate to severe degenerative facet disease at L5-S1. This information is consistent with the information provided from the physician to CRA indicating that the appellant now has difficulty walking even 25 metres, that she sometimes needs a cane to walk 100 metres and that she takes three times longer than an average person of the same age who does not have the impairment at least 90% of the time. The panel also finds that this information is consistent with the nature of the appellant's diagnosis of degenerative disc disease and some worsening of her condition from August through October 2014. Although the appellant's chiropractor indicates that the appellant made some progress with treatment, the chiropractor also indicates that the more recent imaging of October 2014 indicates that there are multiple levels of degenerative joint disease that can cause pain and be exacerbated by many different weight-bearing activities such as standing and walking.

In the SR the appellant states that she cannot stand or walk alone and uses a cane when she needs to walk as her legs will go numb or give out. She states that she cannot lift her right arm past her head without shooting pain going down her back and although she takes pain medication it makes her dizzy. The appellant states that she tries to walk every day but it is hard because of the pain and numbness when she is on her feet any length of time. She also reports that climbing 2 to 5 stairs is hard for her and her leg throbs and shakes and hurts so much she has to lay down and wait until the pain passes which takes 1 or 2 hours. She reports that she also has shooting pain in her low back which has been present since a fall on December 31, 2013.

In the RFR the appellant reports that she is waiting for an MRI, that when she walks in her apartment

she has to hang on walls, backs of chairs, her cane and the counter and when she walks she can only take small steps because of shooting pain in her back. In her Notice of Appeal the appellant states that she cannot walk, stand or lift any weight except some days that are good but that she needs help every day with DLA.

The fundamental basis for the analysis is the evidence from the physician, and the panel finds that the appellant's functioning as described by the physician does indicate that the appellant is severely impacted by her physical impairments. The panel finds that the ministry was not reasonable in determining that the evidence falls short of establishing that the appellant has a severe physical impairment as contemplated by the legislation.

Severe Mental Impairment

The appellant's position is that her deficits with cognitive and emotional functioning in the areas of emotional disturbance and motivation constitute a severe mental impairment, particularly as she is not able to work and has no income.

The ministry's position is that the information provided is not sufficient evidence of a severe mental impairment. In particular, the ministry notes that the physician indicates that the appellant has moderate impacts with emotion, motivation and other emotional or mental problems due to financial concerns and low self esteem; minimal impacts with bodily functions, attention/concentration and executive, and no impacts to the remainder of her cognitive and emotional functioning. The ministry also notes that the physician indicates that the appellant does not have any difficulties with communication and that her speaking, reading, writing and hearing are good. The ministry finds that there is not enough information to establish a severe mental impairment.

Panel Decision:

Although the physician indicates, in the PR, that the appellant has significant deficits with cognitive and emotional function in the areas of emotional disturbance and motivation, the physician has not provided a diagnosis of mental impairment. In the AR the physician reports that the appellant has moderate impacts to emotion, motivation and other emotional or mental problems, minimal impact to bodily functions, attention/concentration and executive and no impact to the remaining areas, namely consciousness, impulse control, insight and judgment, memory, motor activity, language, psychotic symptoms and other neurophysiological symptoms.

Section 2(1)(b) of the EAPWDR prescribes 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 physician's evidence in the PR indicates that the appellant has a continuous restriction with social functioning as she has no financial income and feels like a failure. However, in the AR, the physician reports that the appellant is independent with all aspects of social functioning. The physician also indicates that the appellant's functioning with her immediate social networks and extended social networks are both good.

The evidence of the physician in the AR indicates that the appellant is not significantly restricted with respect to *decision making* in that she independently manages the decision making aspects of

personal self-care (regulating diet), *shopping* (making appropriate choices), *meal preparation* (meal planning), all aspects of *paying rent and bills* and *medications*, and *transportation* (using transit schedules and arranging transportation).

The physician does not provide any additional information regarding a mental impairment in either the January 2015 letter or the February 2015 letter. The appellant's submission provides further information about her physical limitations and inability to work but does not provide any further information about a mental impairment.

Considering that:

- the appellant's ability to communicate is good in all respects,
- the appellant is not significantly restricted in terms of *decision making*, and
- the physician's evidence indicates moderate or minimal impacts to only a few aspects of cognitive and emotional functioning,

the panel concludes that the ministry reasonably determined that the information provided does not demonstrate a severe mental impairment.

Significant Restrictions to DLA

The appellant's position is that due to her physical limitations she is in constant pain, has numbness in her legs and has to hang on walls, back of chairs, counters and use her cane. She argues that she cannot walk, stand or lift anything for any length of time, although she does have some good days and some bad days. She states that she requires help with her DLA.

The ministry's position is that the information provided from the appellant's physician is inconsistent and it makes it difficult for the ministry to develop a clear and cohesive picture of the degree of restrictions that the appellant has with her DLA. In particular, the ministry notes that in the PR, the physician reports that the appellant is continuously restricted with personal self-care, meal preparation, basic housework, daily shopping, mobility in/outside the home, use of transportation and social functioning but in the AR the physician has not checked off any boxes indicating that the appellant requires continuous assistance with any DLA. The ministry notes that in the AR the physician indicates that the appellant requires periodic assistance with laundry and housekeeping but has not provided further information on how often she requires assistance. The ministry also notes that the physician indicates that the appellant takes significantly longer than typical to perform bathing, transfers in/out of bed, transfers on/off chair, going to and from stores food preparation, cooking, getting in and out of a vehicle and using public transit but no further information is provided on how much longer than typical it takes. The ministry acknowledges that the appellant has serious medical issues but the information provided is not enough to confirm that the appellant's impairments directly and significantly restrict her ability to perform DLA either continuously or periodically for extended periods.

The ministry also states that the appellant did not provide any additional information from the physician with the RFR regarding the impacts to her DLA so the reconsideration decision was based on the current information in the original PWD application.

Panel Decision:

The legislation – s. 2(2)(b)(i) of the EAPWDA – requires that in the opinion of a prescribed professional, a severe impairment directly and significantly restricts the appellant’s ability to perform DLA either continuously or periodically for extended periods. The term “directly” means that there must be a causal link between the severe impairment and the restriction. The direct restriction must also be significant. Finally, there is a component related to time or duration. The direct and significant restriction may be either continuous or periodic. If it is periodic it must be for an extended time. Inherently, any analysis of periodicity must also include consideration of the frequency. All other things being equal, a restriction that only arises once a year is less likely to be significant than one, which occurs several times a week. Accordingly, in circumstances where the evidence indicates that a restriction arises periodically, it is appropriate for the ministry to require evidence of the duration and frequency of the restriction in order to be “satisfied” that this legislative criterion is met.

In the appellant’s circumstances, the PR indicates that the appellant has continuous restrictions to all DLA except management of medications and management of finances but provided no information where asked to describe the degree of the restrictions. The physician comments that the appellant’s social functioning is impacted because she has no financial income and feels like a failure but this is not a direct result of limits to physical functioning, and in the AR the physician also indicates that the appellant is independent with all DLA of social functioning and has good functioning with both her immediate and extended social networks.

In the AR, the physician reports that the appellant is independent with many of the noted tasks of DLA, namely dressing, grooming, toileting, feeding self, regulating diet, reading prices and labels, making appropriate choices, paying for purchases, meal planning, safe storage of food, banking, budgeting, paying rent and bills, filling/refilling prescriptions, taking prescriptions as directed, safe handling and storage of medications and using transit schedules and arranging transportation. While the physician indicates that the appellant takes significantly longer with bathing, transfers in/out of bed, transfers on/off of chair, going to and from stores, food preparation, cooking, getting in and out of a vehicle and using public transit, the physician has not provide any further information to indicate how much longer than typical it takes.

Although the February 2015 physician’s letter provides further information regarding the appellant’s physical limitations the information provided does not indicate how much longer than typical it takes the appellant to perform DLA. In addition, while the physician indicates that the appellant’s family has to provide transport to her, there is no further information from the physician indicating that the appellant’s ability to perform DLA independently has changed. The additional information provided does not address the inconsistencies between the PR and the AR, particularly with respect to the appellant’s social functioning.

Based on the foregoing analysis, the panel concludes that the ministry reasonably determined that the evidence is insufficient to show that the appellant’s ability to perform her DLA is significantly restricted either continuously or periodically for extended periods.

Help with DLA

The appellant’s position is that she uses a cane and requires significant assistance with DLA from her family.

The ministry's position is that since it has not been established that the appellant's DLA are significantly restricted, it cannot be determined that significant help is required from other persons. The ministry also argues that no assistive devices are required and the appellant does not require the services of an assistance animal.

Panel Decision

EAPDWA section 2(b)(ii) requires that there must be an opinion from a prescribed professional confirming that as a result of a severe physical or mental impairment the appellant's DLA are both directly and significantly restricted and that as a result of those restrictions the appellant requires help to perform her DLA.

In the PR, the physician indicates that the appellant does not require any prosthesis or aids for her impairment but in the AR, the physician reports that the appellant requires a cane, walker and assistance from family and friends. In the February 2015 letter, the physician indicates that the appellant's family has to provide transport to her when they are available. The physician has also indicated that the appellant needs some help with laundry and cooking but the information provided is limited.

The appellant states she needs help with DLA, but has not provided any information about how much help she needs, the DLA she needs help with, or the amount of help she needs. The appellant's sister indicates that she helps with grocery shopping, errands, appointments and meal preparation on days that are particularly bad, there is no information to indicate how often this help is provided. While the appellant and her sister's information tends to corroborate the physician's information, there is still insufficient information on how much help is actually needed, particularly taking into account that the information on the AR indicates that the appellant remains able to perform the majority of DLA tasks independently. Section 2(3)(b)(ii) states that a person requires help in relation to DLA if, in order to perform it, the person requires the significant help or supervision of another person but the information does not establish that the appellant needs significant help.

In addition, a finding that a severe impairment directly and significantly restricts a person's ability to manage her DLA either continuously or periodically for an extended period is a precondition to a person requiring "help" as defined by section 2(3)(b) of the EAPWDA. For the reasons provided above, the necessary precondition has not been satisfied in this case.

Accordingly, the panel finds that the ministry reasonably concluded it could not be determined that the appellant requires help with DLA as defined by section 2(3)(b) of the EAPWDA.

Conclusion

The panel acknowledges that the appellant's medical conditions affect her ability to function. However, having reviewed and considered all of the evidence and the relevant legislation, the panel finds that the ministry's decision finding the appellant ineligible for PWD designation is a reasonable application of the legislation in the circumstances of the appellant. The panel therefore confirms the ministry's decision.