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PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the ministry) reconsideration decision dated March 4, 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

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PART E – Summary of Facts

The appellant did not attend the hearing. After confirming that the appellant was notified, the hearing proceeded under Section 86(b) of the *Employment and Assistance Regulation*.

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 November 10, 2014, a physician report (PR) dated August 12, 2014 and an undated assessor report (AR) both completed by a general practitioner who has known the appellant for less than a month and has seen her twice in that time. Asked to describe the approaches and information sources used to complete the AR, the general practitioner indicated only an office interview with the appellant.

The evidence also included the following:

1) Undated prescription for physiotherapy for chronic shoulder and back pain;
2) Statement and Witness Evidence dated January 22, 2012;
3) Symptoms of Spinal Misalignment Questionnaire dated October 17, 2013;
4) Part of a psychiatric consultation report from another province dated March 17, 2014; and,
5) Request for Reconsideration completed by the general practitioner and dated February 12, 2015, with the following documents attached:
    - Handwritten statement by the appellant; and,
    - Letter dated February 11, 2015 from a support worker 'To Whom It May Concern.'

Diagnoses

In the PR, the appellant was diagnosed by the general practitioner with substance abuse in remission for 17 months, major depressive disorder, post traumatic stress disorder [PTSD], chronic pain disorder (fractured rib in July 2012 and soft tissue injury left leg in May 2012), and irritable bowel syndrome.

Physical Impairment

In the PR, the general practitioner reported that:

- The appellant does not require an aid for her impairment.
- For functional skills, the appellant can walk 4 or more blocks unaided, she can climb 5 or more steps, lift 7 to 16 kg (15 to 35 lbs.), and has no limitation on the time she can remain seated.

In the AR, the general practitioner indicated that:

- The appellant is independent with walking indoors, walking outdoors, climbing stairs, and standing. She requires periodic assistance and takes significantly longer than typical with lifting and carrying and holding. The general practitioner wrote: "needs assistance or 2 to 3 times longer due to back pain."
- In the section of the AR relating to assistance provided through the use of assistive devices, the general practitioner identified other "orthotics" and commented: "patient will also benefit from physiotherapy back and hip, orthotics will help with gait."
- For additional information, that the appellant "has soft tissue injuries in past which is (sic) contributing to her ability to transfer, lift… has constant hip, foot pain especially over her calf which is also wasted… has irritable bladder and bowel. Altered bowel (illegible), urgency, and frequency."

In her self-report, the appellant wrote that:

- She has acute arthritis in her shoulder and back. She is currently receiving physiotherapy for her domestic assault injuries, including from blows to the head and chest and back.
- Her left leg and foot have chronic pain all the way to her hip. She has limited range of motion.
- She also has insomnia due to her pain.

In the handwritten statement with the Request for Reconsideration, the appellant wrote:

- A domestic abuse incident in 2012 resulted in the injury to the calf of her left leg. The wound did not heal and her ankle and calf are tight. She has chronic pain in her ankle.
- She has chronic pain from her second rib on her left side from abuse.

Mental Impairment

In the PR, the general practitioner reported that:

- In terms of health history, the appellant "has past history of substance use which is in remission for 22 months. She has moderate to severe depression, feels sad, lack of interest on daily basis. Has poor concentration and poor short term memory. Also has sleep disorder, insomnia, resulting in fatigue. She has frequent flashbacks of past abuse, nervousness, hypervigilance, and fearful."
- Regarding the degree and course of impairment, "she will benefit from anti-depressants. Has appointment to see psychiatrist to clarify treatment and optimize."
- The appellant does not have difficulties with communication.
- The appellant has significant deficits in her cognitive and emotional functioning in the areas of memory, emotional disturbance, motivation, impulse control, and attention or sustained concentration, with the comment "poor short term memory, feels depressed, anxious daily."
- In the additional comments, the general practitioner wrote that the appellant "has mood-related illness. She is currently not in remission and is awaiting specialist consultation. Her current symptoms are moderate to severe and, if left untreated, may require hospitalization. She has seeked (sic) help and is motivated to [stop] substance use, which she has successfully done for more than 20 months. She however continues to feel fatigue, insomnia, difficulty concentrating, flashbacks and anxiety."

In the AR, the general practitioner indicated that:

- The appellant has a good ability to communicate in all areas, specifically: 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 major impact to bodily functions and wrote "has difficulty sleeping on daily basis." The appellant has moderate impacts to emotion, impulse control, attention/concentration, memory, and motivation. There are minimal impacts in the areas of executive and motor activity and no impacts assessed to the remaining six listed areas of functioning. The general practitioner wrote: "has problems with short term memory due to lack of concentration. Easily agitated and restless, anxious."
- The appellant is independent in 2 out of 5 areas of social functioning, specifically making appropriate social decisions and securing assistance from others. She requires continuous support/supervision with developing and maintaining relationships, with the comment: "lack of social network, gets nervous around strangers. Feels others are judging her."
- The appellant requires periodic support/supervision with interacting appropriately with others

and with dealing appropriately with unexpected demands. The general practitioner wrote: "tries to avoid stressful situation and withdraws from problems arising in social environment" and "gets easily overwhelmed."
- The appellant has marginal functioning in both her immediate and extended social networks, with the comment added: "tries to avoid spontaneous interaction."
- Asked to describe the support/supervision required which would help maintain the appellant in the community, the appellant: "would benefit from counseling and peer mentor."

In her self-report, the appellant wrote that:
- She has depression and post traumatic stress disorder. Anxiety gets the best of her.
- She fully isolates herself and becomes lost in despair and her body becomes tense.

In the Request for Reconsideration, the general practitioner wrote:
- The appellant "reports history of anxiety, worry, unable to relax. Gets panic attacks, during sleep wakes up with night mares. Difficulty concentrate, always tense."

In the psychiatric consultation report from another province dated March 17, 2014, the physician wrote:
- The appellant has lived through significant trauma with her husband throughout their entire relationship, with significant domestic abuse. Initially it was more verbal abuse, but the physical abuse started when they started using crystal meth.
- The appellant is persistently anxious and hypervigilant. She is constantly worrying about the past and the future.
- She feels she cannot tolerate being around people as she gets easily irritable and has no patience.
- She constantly feels emotionally unstable.
- She has been a heavy substance abuser for many years and was abusing crystal meth on a regular basis until July 2012.
- She has never had any hospitalizations or any suicide attempts.
- She clearly meets full criteria for a post traumatic stress disorder that has been quite severe. As well, she has a history of substance abuse including crystal meth, which is in remission, and continues to use marijuana on a regular basis. The marijuana abuse is primarily self-medication for both horrendous anxiety and stress, as well as chronic pain syndrome that she has.

In her handwritten statement, the appellant wrote:
- She is at the mercy of PTSD, which is the biggest challenge of her life. Her trauma is from physical and mental abuse that occurred in her marriage of many years.
- She wakes up every night "with unknowing why, out of breath, heart rate is high" and it is a time when anxiety gets out of control. She wakes up in fear every night.
- She is a survivor of domestic violence and, as a result, she has PTSD.
- She is attending therapy from the general practitioner and another doctor, as well as a group therapy once a week.

In the letter dated February 11, 2015, a support worker wrote:
- The appellant was a resident of a [woman's residence] from July 2014 through the beginning of February 2015. She needed support and safety.

- The appellant is strong and capable but she has personal and physical limitations which make it difficult to live a life without barriers.

Daily Living Activities (DLA)

In the PR, the general practitioner indicated that:

- The appellant has not been prescribed medications and/or treatments that interfere with her ability to perform DLA.

In the AR, the general practitioner reported that:

- The appellant is independent with moving about indoors and outdoors, with no further comments.
- The appellant is independently able to perform every task of several listed DLA, namely: basic housekeeping, shopping (going to and from stores, reading prices and labels, making appropriate choices, paying for purchases and carrying purchases home), meals (meal planning, food preparation, cooking, and safe storage of food), and paying rent and bills (banking, budgeting, paying rent and bills).
- The appellant is independently able to perform most tasks of some of the DLA, specifically: personal care (dressing, grooming, bathing, feeding self, regulate diet, transfers in/out of bed and on/off of chair), and medications (filling/refilling prescriptions and safe handling and storage).
- The appellant requires periodic assistance with the tasks of toileting (note: "has frequency, urgency and occasional incontinence") as part of the personal care DLA, taking medications as directed (note: "needs reminders from daughters") as part of the medications DLA, and getting in and out of a vehicle, which also takes significantly longer than typical, as part of the transportation DLA, with the comment: "takes 3 to 4 times longer to get out of vehicle due to (illegible)."
- The appellant requires continuous assistance and it takes her significantly longer than typical with using public transit, with the comment "provokes anxiety in crowded places."
- For additional comments, the general practitioner wrote: "has chronic shoulder and hip pain, soft tissue, with associated stiffness, especially in morning. This affects her mobility and getting in and out vehicle 3 to 4 times longer."

Need for Help

The general practitioner reported in the AR that the help required for DLA is provided by family ("daughter helps") and other ("women's group"). In the section of the AR relating to assistance provided through the use of assistive devices, the general practitioner identified foot orthotics. Asked to provide details of the equipment used, the general practitioner wrote: "patient will also benefit from physiotherapy, back and hips, orthotics will help with gait." In her self- report, the appellant wrote that she has no supports other than reaching out to community agencies. Her family is not involved in her life.

Appellant's Additional Information

In her Notice of Appeal dated March 14, 2014 (sic), the appellant expressed her disagreement with the ministry's reconsideration decision and wrote that she has PTSD.

The ministry relied on its reconsideration decision 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 reiterates 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.*

APPEAL #

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 is that a severe physical impairment is established by her inability to function normally due to chronic pain disorder (fractured rib in July 2012 and soft tissue injury left leg in May 2012), and irritable bowel syndrome. The appellant argued that she has acute arthritis in her shoulder and back and her left leg and foot have chronic pain all the way to her hip. She has limited range of motion and she also has insomnia due to her pain.

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 requires periodic assistance and takes significantly longer with lifting and carrying and holding, the general practitioner indicated that the appellant can independently do all other areas 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 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 less than a month, diagnosed the appellant in the PR with chronic pain disorder (fractured rib in July 2012 and soft tissue injury left leg in May 2012), and irritable bowel syndrome. In the PR, the general practitioner reported that the appellant does not require an aid for her impairment and she can walk 4 or more blocks unaided, she can climb 5 or more steps, lift 15 to 35 lbs., and has no limitation on the time she can remain seated.

In the AR, the general practitioner indicated that the appellant is independent with walking indoors, walking outdoors, climbing stairs, and standing. The appellant requires periodic assistance and takes significantly longer than typical with lifting and carrying and holding. The general practitioner wrote: "needs assistance or 2 to 3 times longer due to back pain." For additional information, the general practitioner wrote that the appellant "has soft tissue injuries in past which is (sic) contributing to her ability to transfer, lift." However, the appellant's functional skill limitation with lifting has been assessed as 15 to 35 lbs., which is at the higher end of the range for lifting abilities, and she is assessed in the AR as independent with transfers in/out of bed and on/off of chair.

In the handwritten statement with the Request for Reconsideration, the appellant wrote that a domestic abuse incident in 2012 resulted in the injury to the calf of her left leg. The wound did not heal and her ankle and calf are tight and she experiences chronic pain in her ankle. She also has chronic pain from her second rib on her left side. In her self-report, the appellant wrote that she has acute arthritis in her shoulder and back. She is currently receiving physiotherapy for her domestic assault injuries, including from blows to the head and chest and back. The appellant wrote that she has limited range of motion and insomnia due to her pain.

In the section of the AR relating to assistance provided through the use of assistive devices, the general practitioner identified other "orthotics" and commented: "patient will also benefit from physiotherapy back and hip, orthotics will help with gait." For additional information in the AR, the general practitioner wrote that the appellant "has constant hip, foot pain especially over her calf which is also wasted." However, the appellant's functional skill limitation with walking and with climbing stairs is at the top end of the range for mobility, for which she has been assessed by the general practitioner as being independent.

The panel finds that evidence demonstrates that the appellant is independent with her mobility and physical abilities, with the exception of undefined periodic assistance with lifting and carrying and holding, which may be for weights outside her functional skill range of 15 to 35 lbs. The panel finds that the appellant's impairment has also not translated into significant restrictions to her ability to manage DLA, being independent with all tasks of the more physical DLA of basic housekeeping and shopping, 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 substance abuse in remission, major depressive disorder, and PTSD. The appellant wrote in her handwritten statement that she is "at the mercy of PTSD", which is the biggest challenge of her life. Her trauma is from physical and mental abuse that occurred in her marriage of many years.

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, while the ministry acknowledges that the appellant experiences deficits to her cognitive and emotional functioning, the impacts assessed to her cognitive and emotional functioning by the general practitioner are mostly moderate to minimal.

Panel Decision
The general practitioner diagnosed the appellant with substance abuse in remission for between 17 and 22 months, major depressive disorder, and PTSD. The panel notes that the general practitioner had known the appellant for less than a month and has seen her twice in that time. Asked to describe the approaches and information sources used to complete the AR, the general practitioner indicated only an office interview with the appellant. The panel has, therefore, placed more weight on the narrative in the psychiatric consultation report since it is completed by a specialist in mental health.

In the PR, the general practitioner reported that the appellant "has past history of substance use which is in remission for 22 months. She has moderate to severe depression, feels sad, lack of interest on daily basis. Has poor concentration and poor short term memory. Also has sleep disorder, insomnia, resulting in fatigue. She has frequent flashbacks of past abuse, nervousness, hypervigilance, and fearful." The general practitioner also wrote, regarding the degree and course of impairment, that the appellant "will benefit from anti-depressants. Has appointment to see psychiatrist to clarify treatment and optimize." As the appellant did not attend the hearing, there was no further information available to the panel regarding the proposed appointment with a mental health specialist.

The general practitioner reported that the appellant does not have difficulties with communication. He assessed the appellant with significant deficits in her cognitive and emotional functioning in the areas of memory, emotional disturbance, motivation, impulse control, and attention or sustained concentration, with the comment "poor short term memory, feels depressed, anxious daily." In the AR, the general practitioner indicated a major impact only to the aspect of bodily functions and wrote "has difficulty sleeping on daily basis." The appellant is assessed with moderate impacts to emotion, impulse control, attention/concentration, memory, and motivation. There are minimal impacts in the areas of executive and motor activity and no impacts assessed to the remaining six listed areas of functioning. The general practitioner wrote that the appellant "has problems with short term memory due to lack of concentration. Easily agitated and restless, anxious."

In the additional comments to the PR, the general practitioner wrote that the appellant "has mood-related illness. She is currently not in remission and is awaiting specialist consultation. Her current symptoms are moderate to severe and, if left untreated, may require hospitalization." In the psychiatric consultation report from another province dated March 17, 2014, the physician wrote that the appellant has never had any hospitalizations or any suicide attempts. The physician indicated

that the appellant is persistently anxious and hypervigilant and she constantly feels emotionally unstable. She has been a heavy substance abuser for many years and was abusing crystal meth on a regular basis until July 2012. The physician reported that the appellant clearly meets full criteria for a post traumatic stress disorder that has been quite severe. In her handwritten statement, the appellant wrote that PTSD is the biggest challenge of her life and she wakes up every night "with unknowing why, out of breath, heart rate is high" and it is a time when anxiety gets out of control. The appellant wrote that she is attending therapy from the general practitioner and another doctor, as well as a group therapy once a week; however, there were no further mental health assessments or a psychiatric consultation report made available on the appeal.

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 safe handling of her medications. She requires periodic assistance with taking her medications as directed, described by the general practitioner as "needs reminders from daughters," with no indication of how frequently this assistance is required. The appellant 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 requiring periodic support/supervision with interacting appropriately with others and dealing appropriately with unexpected demands, described as: "tries to avoid stressful situation and withdraws from problems arising in social environment" and "gets easily overwhelmed." The general practitioner did not elaborate with details of how often or for how long the appellant requires the support or supervision. The appellant requires continuous support/supervision with developing and maintaining relationships, with the comment by the general practitioner that she has a: "lack of social network, gets nervous around strangers. Feels others are judging her." The general practitioner indicated that the appellant has marginal functioning in both her immediate and extended social networks and commented that she "tries to avoid spontaneous interactions." In the psychiatric consultation report dated March 17, 2014, the physician wrote that the appellant feels she cannot tolerate being around people as she gets easily irritable and has no patience. 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 the letter dated February 11, 2015, a support worker wrote that the appellant is strong and capable but she has personal and physical limitations which make it difficult to live a life without barriers. In the Request for Reconsideration dated February 12, 2015, the general practitioner wrote that the appellant "…reports history of anxiety, worry, unable to relax. Gets panic attacks, during sleep wakes up with night mares. Difficulty concentrate, always tense." However, the general practitioner did not change his assessment of the daily Impacts to 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. Given the evidence indicating mostly moderate impacts reported to the appellant's cognitive, emotional and 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 and the physician who prepared the psychiatric consultation report are the prescribed professionals. 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 not been prescribed medications that interfere with her DLA. In the AR, the general practitioner reported that the appellant is independent with the DLA of moving about indoors and outdoors, basic housekeeping, shopping, meals, and paying rent and bills. The appellant is also independently able to perform most tasks of the DLA personal care and medications. The general practitioner indicated that the appellant requires periodic assistance with the tasks of toileting as part of the personal care DLA (note: "has frequency, urgency and occasional incontinence"), taking medications as directed as part of the medication DLA (note: "needs reminders from daughters"), and getting in and out of a vehicle as part of the transportation DLA, which also takes significantly longer than typical, with the comment: "takes 3 to 4 times longer to get out of vehicle due to (illegible)." For additional comments, the general practitioner wrote: "has chronic shoulder and hip pain, soft tissue, with associated stiffness, especially in morning. This affects her mobility and getting in and out vehicle 3 to 4 times longer." The appellant requires continuous assistance and it takes her significantly longer than typical with using public transit, with the comment "provokes anxiety in crowded places."

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 the psychiatric consultation report dated March 17, 2014, the physician reported that the appellant feels she cannot tolerate being around people as she gets easily irritable and has no patience, and that her PTSD "has been quite severe", but does not provide a detailed assessment of her current cognitive, emotional, or social functioning.

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 or support that is required for some tasks is required 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.

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 help required for DLA is provided by family ("daughter helps") and a "women's group". In the section of the AR relating to assistance provided through the use of assistive devices, the general practitioner identified foot orthotics. Asked to provide details of the equipment used, the general practitioner wrote: "patient will also benefit from physiotherapy, back and hips, orthotics will help with gait." The panel notes that the ministry did not take a position as to whether orthotics fit within the definition of an "assistive device" in Section 2 of the EAPWDA, which is 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. In her self-report, the appellant wrote that she has no supports other than reaching out to community agencies.

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 under Section 2 of the EAPWDA was reasonably supported by the evidence, and therefore confirms the decision.