

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the ministry) reconsideration decision dated March 23, 2015 which found that the appellant did not meet all of the 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 he has an impairment that is likely to continue for at least two years. However, the ministry was not satisfied that the evidence establishes that:

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

PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Act (EAPWDA), section 2
Employment and Assistance for Persons with Disabilities Regulation (EAPWDR), section 2

PART E – Summary of Facts

The ministry did not attend the hearing. The panel received confirmation from the Tribunal that the ministry had been notified of the date, time and location of the hearing. Accordingly, under s. 86(b) of the *Employment and Assistance Regulation*, the panel heard the appeal in the ministry's absence.

The evidence before the ministry at the time of the Reconsideration Decision included:

1. The appellant's PWD Application comprised of:

- The undated Applicant Information and Self-report ("SR") prepared by the appellant; and
- The Physician Report ("PR") and Assessor Report ("AR"), both dated December 22, 2014 and both prepared by the appellant's general practitioner ("the GP") of thirty years.

2. Four undated photos with an accompanying handwritten note describing the photos as being of the appellant's CT scans "showing the massive blood clot from the front lobal [sp] to the back spinal cortex";

3. Seven Radiological Consultation reports as follows

- May 4 and May 8, 2012, CT abdomen and pelvis, results compared (CT Reports "#1" and "#2");
- August 16, 2012, Abdominal ultrasound Doppler ("Ultrasound Report #1");
- June 13, 2014, Abdominal ultrasound ("Ultrasound Report #2");
- August 5, 2014, Abdominal ultrasound Doppler ("Ultrasound Report #3");
- October 27, 2014, Ultrasound scan, abdomen ("Ultrasound Report #4");
- December 30, 2014, CT CTV ("CT Report #3").

4. Two Discharge Summary Reports dated May 8, 2012 and November 14, 2014 relating to the appellant's discharge from a hospital ("Discharge Reports "#1" and "#2");

5. Four Outpatient Clinic Reports relating to the appellant's treatment at a thrombosis clinic at a hospital:

- June 22, 2012 ("Outpatient Report #1")
- August 27, 2012 ("Outpatient Report #2")
- June 27, 2014 ("Outpatient Report #3"); and
- January 5, 2015 ("Outpatient Report #4");

6. A letter from the appellant's GP dated July 11, 2014 confirming the appellant's diagnosis of unprovoked thrombosis of the portal vein with significant secondary splenomegaly ("the GP Letter");

7. A Surgical Operation Report dated October 27, 2014 relating to surgery performed on the appellant ("the Surgical Report");

8. Two Consultation Reports dated October 30, 2014 and January 20, 2015 relating to the appellant presenting with a neurological issue (Consultation Reports "#1" and "#2");and

9. The appellant's Request for Reconsideration ("RFR") dated March 12, 2015.

For ease of reference, those documents numbered 3 through 8 above will be collectively referred to as "the Medical Records."

Diagnoses

In the PR, the appellant is diagnosed by the GP as follows:

1. Unprovoked Portal/Splenic Vein Thrombosis (middle and right portal vein thrombosis) with Portal

- Hypertension – Date of onset May 2012;
2. Acute Sigmoid Sinus Thrombosis (Cervical Venous Sinus Thrombosis) – Date of onset October 2014;
 3. Esophageal Varices Hemorrhage (Secondary to Splenic Vein Thrombosis) – Date of onset October 2014; and
 4. Anxiety and depression – Date of onset October 2014.

The GP comments further, “Severe thrombosis of Portal/Splenic veins with unknown etiology and secondary splenomegaly and esophageal varices.”

Physical Impairment

In the RFR, the appellant states that the original adjudicator erred in referring to his condition as “un-proved” as it is in fact “un-provoked.” The appellant further notes that his current health restricts him from any form of stress related activities with work being the main one.

In the SR, the appellant writes that his health condition has become quite serious due to complications of deep vein thrombosis (“DVT”). He reports that on October 27, 2014 he was admitted to a hospital suffering from a gastrointestinal (“GI”) tract bleed and two days later was further diagnosed with a blood clot in his brain which required medical treatment. Following his release from hospital, the appellant continued to take blood thinning and blood pressure medication. The appellant describes stress as a significant factor in his disability which will always affect his health.

The appellant notes that his doctors have advised him to reduce stress as it aggravates his thrombotic condition, his hydrocele and his umbilical hernia. He reports several “serious close calls” with internal bleeding and blood clots with secondary headaches (sometimes very severe).

The appellant reports suffering from chronic fatigue which he experiences after 4-6 hours leaving him feeling not as sharp and making his normal duties harder to complete successfully. For example, the appellant writes that his deep vein thrombosis condition prevents him from physically performing manual labour or exercise as he did previously and that instead he does yoga and deep meditation at home.

The appellant writes that he suffers from loss of function and inability to participate in strenuous activities due to headaches, an enlarged spleen and esophageal varices at risk of hemorrhage.

In the PR, the GP sets out the appellant’s health history. He writes that the appellant developed unprovoked, significant and severe thrombosis of his portal and splenic veins in May 2012 resulting in the development of esophageal varices requiring banding in 2012 and October 2014 secondary to significant hemorrhage. The GP adds that the appellant has secondarily developed splenomegaly. The appellant is described as taking daily blood thinning medication and that given his history including two operations involving banding of the esophageal varices, his condition will continue to be ongoing and chronic and unlikely to resolve with a significant risk for further GI bleeds.

The GP adds that the development of the cerebral venous sinus thrombosis in October 2014 is another chronic medical condition and will require ongoing use of blood thinning medication. This condition is described as resulting in initial severe headaches and ongoing headaches which interfere with and reduce the appellant’s ability to function. He adds that the appellant’s physical condition, which includes fatigue, has severely reduced his ability to function.

The GP indicates that with respect to functional skills, the appellant can walk 4 or more blocks and climb 5 or more steps unaided, lift 2 to 7 kg and remain seated for less than one hour. The GP comments further that the thrombosis conditions are chronic and have resulted in secondary medical risks of esophageal varices (described as “high risk of further major upper gastrointestinal bleeds”), significant splenomegaly (“risk of

rupture if subjected to trauma") and chronic headaches secondary to thrombosis in cerebral veins.

In the AR, the GP reports that the appellant lives with his girlfriend and that he is independent with all aspects of mobility and physical ability other than carrying and holding for which he requires periodic assistance from another person and he adds the note "has unbalanced hernia/right hydrocele." The GP adds the further comment that this condition limits the appellant's lifting or carrying objects for any duration and that he needs to be careful and avoid any pressure on his upper abdomen due to splenomegaly. The GP notes the appellant's physical impairment as including thrombosis of the portal vein/splenomegaly and cerebral venous sinus thrombosis.

The panel notes that in their totality, the Medical Records confirm the physical conditions as diagnosed by the GP including unprovoked portal/splenic vein thrombosis, splenomegaly, hypertension, esophageal varices, sigmoid sinus thrombosis, GI bleed, umbilical hernia, right hydrocele, headaches and a surgical procedure in October 2014.

Mental Impairment

In the SR, the appellant writes that his loss of function and inability to participate in strenuous activities due to headaches, an enlarged spleen and esophageal varices at risk of hemorrhage has resulted in his experiencing severe anxiety and depression which impacts on his memory and motivation and causes constant worry about loss of life activities.

In the PR, the GP describes the appellant's health history and notes that his disabilities have resulted in significant depression and anxiety which affect his short-term memory, reduce his motivation and cause general lack of interest as well as severely reduce his ability to function. The GP indicates that the appellant experiences significant deficits with cognitive and emotional function in the areas of emotional disturbance and motivation and comments further that the appellant is under significant stress due to his inability to work and that he has marked anxiety with reduced motivation.

In the AR, the GP comments that the appellant suffers from depression due to financial difficulties secondary to his inability to work in his current occupation and that his ability to read, write, hear and speak are all good. The GP further describes the degree to which the appellant's mental impairment impacts his daily functioning: major impacts are noted on emotion, moderate impacts are noted on motivation and other emotional or mental problems, minimal to moderate impacts are noted on insight and judgment, minimal impacts are noted on motor activity and no other impacts on daily functioning are indicated by the GP on bodily functions, consciousness, impulse control, attention/concentration, executive, memory, language, psychotic symptoms or other neuropsychological problems.

The GP adds the comment that depression and anxiety have occurred secondary to the appellant's most recent illness in October 2014 resulting in an inability to work and limiting function particularly initially as well as significant reduction in motivation and an increased loss of interest. The GP writes that the appellant has shown poor insight into his health issues and the significance of his underlying medical conditions and episodes of increased irritability and anger secondary to his depression and desperate financial position.

Daily Living Activities (DLA)

In the PR, the GP indicates that the appellant has not been prescribed any medication and/or treatments that interfere with his ability to perform DLA.

In the AR, the GP reports on the assistance required by the appellant relating to the impairments that directly restrict his ability to manage his DLA as follows:

- In the area of Personal Care, the appellant is independent in all activities including dressing, grooming, bathing, toileting, feeding himself, regulating his diet and transfers in and out of bed and on and off of a chair.
- In the area of Basic Housekeeping, the appellant is independent with laundry and basic housekeeping.
- With Shopping, the appellant is independent going to and from the store, reading prices and labels, making appropriate choices, paying for purchases and carrying purchases home.
- For tasks related to Meals, the GP has noted the appellant as being independent with meal planning, food preparation, cooking and safe storage of food.
- For Paying Rent and Bills, the appellant is independent with banking and budgeting but receives periodic assistance from his son and girlfriend paying rent and bills and he has added the comment that the appellant experiences financial difficulty due to his inability to work.
- For tasks relating to his medications, the appellant is independent in all aspects including filling and refilling prescriptions, taking medications as directed and safe handling and storage of medications. The appellant is described as independent getting in and out of a vehicle and using public transit where available and using transit schedules and arranging transportation.

With respect to social functioning, the GP indicates that the appellant is independent while making appropriate social decisions but requires periodic support/supervision developing and maintaining relationships (“Increased irritability and has impacted his relationships”), interacting appropriately with others (“Terse at times and impatient. The increased irritability impacts his social interactions”) and securing assistance from others (“Son and girlfriend have needed to help him”). The GP has assessed the appellant as requiring continuous support/supervision in dealing appropriately with unexpected demands commenting “Does not have the energy or ability to manage or cope with unexpected situations.”

The appellant is assessed as having marginal functioning with his immediate and extended social networks with the GP adding that the appellant is much more isolated and withdrawn with the former and that he demonstrates a lot more avoidance of social situations in the latter. The GP adds the further comment that the appellant is able to function but has withdrawn a lot from the social sphere and that his financial difficulties have impacted his ability to do very much and that he has changed his diet to meet his financial problems.

Need for Help

In the PR, the GP did not indicate that the appellant requires an assistive device. In the AR, the GP indicates that the appellant receives help from family and friends and that he depends heavily on his son and girlfriend for financial assistance and support. The GP comments further that the appellant is able to function due to this assistance as well as that from a few friends. The GP does not indicate in the AR that the appellant requires assistance through the use of assistive devices or assistance animals.

Appellant’s Additional Evidence

In his Notice of Appeal dated March 30, 2015, the appellant writes that those who suffer from drug addiction and schizophrenia qualify for disability and that he does not fall into either of those categories. He writes that he suffers from thrombosis and cannot work or survive on his current monthly benefit.

Appellant’s Evidence At Hearing

The appellant stated that on reflection he suffers from depression and poverty and that the assistance he receives from the government is insufficient. The appellant cited section 7 of the Constitution Act, RSC 1982 which states that everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice. He listed his medical conditions as including a hydrocele, an umbilical hernia, DVT in his liver, an enlarged spleen and a condition in

his kidneys. He stated that as a result of his DVT he fatigues easily and must go to bed early but then wakes up in the middle of the night and has difficulty falling back asleep. The appellant previously worked as a sales representative but recently determined that he is no longer able to work in that industry. His financial difficulties limit his ability to buy food, supplements and access public transportation. The seriousness of his condition causes him stress and he gets blisters on his feet from walking too far due to the impact of his DVT and associated blood flow.

In response to questions, the appellant stated that he takes blood thinning medication for his DVT and another for blood pressure. He undergoes a weekly blood test to measure his international normalized ratio ("INR") which he says is currently 1.8 while the acceptable range is between 2 and 3. He is taking supplements which he feels are helping with this.

The appellant stated that he still lives with his girlfriend although their relationship is platonic in nature. With respect to DLA, he is able to cook and shop and when he is in need of transportation he walks or arranges rides but he notes that he becomes tired when walking. He does his own laundry by hand to save on cost and helps with housekeeping as much as he is able although this also causes him to become tired.

Admissibility

Section 22(4) of the *Employment and Assistance Act* ("EAA") provides the legislative test for the admissibility of evidence at a hearing. Specifically, there are two categories of evidence that may be admitted. The first, which is set out at section 22(4)(a), is information and records that were before the minister when the decision being appealed was made. In this case, that would include the PWD application, the RFR Submissions and the balance of the medical documents referred to previously. The second category, found at section 22(4)(b) is oral or written testimony in support of the information and records referred to in paragraph (a). In other words, for the oral testimony of the parties or the witnesses in this matter to be admitted by the panel at hearing, it must be in support of the PWD application, the RFR Submissions and/or Medical Records. It cannot be "new" evidence that does not corroborate or substantiate the evidence at reconsideration.

The evidence of the appellant with respect to his physical and mental conditions is consistent with the Medical Records and as such it is admitted pursuant to section 22(4)(b) of the *EAA* on the basis that the panel finds that it was in support of the information and records that were before the ministry when the decision being appealed was made.

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) under section 2 of the *EAPWDA*, 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 met the age requirement and that he has an impairment that 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.

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)(a) of the *EAPWDR* defines DLA for a person who has a severe physical or mental impairment as follows:

Definitions for Act

2 (1) For the purposes of the Act and this regulation, "**daily living activities**" ,

- (a) in relation to a person who has a severe physical impairment or a severe mental impairment, means the following activities:
- (i) prepare own meals;
 - (ii) manage personal finances;
 - (iii) shop for personal needs;
 - (iv) use public or personal transportation facilities;
 - (v) perform housework to maintain the person's place of residence in acceptable sanitary condition;
 - (vi) move about indoors and outdoors;
 - (vii) perform personal hygiene and self care;
 - (viii) manage personal medication, and
- (b) in relation to a person who has a severe mental impairment, includes the following activities:
- (i) make decisions about personal activities, care or finances;
 - (ii) relate to, communicate or interact with others effectively.

Jurisdiction of Panel

As set out above, the appellant cited section 7 of the *Constitution Act* in the course of his submissions. Section 24(1) of the *EAA* provides that, after holding a hearing, the panel must determine whether the decision being appealed is reasonably supported by the evidence, or is a reasonable application of the applicable enactment in the circumstances of the person appealing the decision. Section 19.1 of the *EAA* provides that section 44 of the *Administrative Tribunals Act* applies to the tribunal and section 44(1) provides that this tribunal does not have jurisdiction over constitutional questions. Therefore, while the panel acknowledges that it is the appellant's position that the level of financial assistance he receives from the ministry is inconsistent with section 7 of the *Constitution Act*, the panel does not have jurisdiction to apply it in the adjudication of this appeal for the reasons stated.

Severity of impairment

Section 2(2)(a) of the *EAPWDA* provides that when addressing the issue of a severe physical or mental impairment in the context of a person applying for a PWD designation, that person must be found to have a severe physical or mental impairment that, in the opinion of a medical practitioner, is likely to continue for at least 2 years.

A diagnosis of a serious medical condition or conditions 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. 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 prescribed professionals – in this case, the GP and the specialists.

Severity of mental impairment

The appellant takes the position that he has been diagnosed with anxiety and depression and that these conditions when viewed against their impact on his daily functioning constitute a severe mental impairment.

The ministry's position as set out in the reconsideration decision is that the evidence that was available at

reconsideration does not support a finding that the appellant has a severe mental impairment.

Panel Decision

The evidence of the GP indicates that the appellant suffers from anxiety and depression secondary to his physical condition. The appellant gave evidence at the hearing that he believes that he has suffered from depression since his teen years and that the seriousness of his physical condition causes him stress.

In the PR the GP reports deficits in two areas of cognitive and emotional functioning – emotional disturbance and motivation – and comments that the appellant is under “significant stress due to current inability to work and has marked anxiety with reduced motivation.”

The GP indicates in the AR that the appellant’s ability to communicate is good in all listed functions and comments that he suffers from “depression due to financial difficulties secondary to inability to work in his current occupation...”

The GP further notes in the AR that the appellant’s mental health has varying impacts on his cognitive and emotional functioning including a major impact on emotion, moderate impact on motivation and other emotional or mental problems, minimal to moderate impact on insight and judgment, minimal impact on motor activity and no impact on bodily functions, consciousness, impulse control, attention/concentration, executive, memory, language, psychotic symptoms and other neuropsychological problems. The GP again comments that the appellant’s depression and increased anxiety are secondary to his “most recent illness in October 2014” and that his inability to work has resulted in a reduction in motivation, an increased loss of interest and poor insight into his health issues and the underlying medical condition.

Section 2(1)(b) of the *EAPWDR* prescribes two DLA that are specific to mental impairment – making decisions about personal activities, care or finances (decision making), and relating to, communicating or interacting with others effectively (social functioning).

The prescribed professional’s evidence indicates that the appellant is not significantly restricted with respect to decision making in that, according to the GP, the appellant independently manages the decision making aspects of the DLA of personal self-care as well as management of medications and finances. The appellant is noted as being independent in regulating his diet, with the management of his personal medication (filling/refilling prescriptions/taking as directed/safe handling and storage), management of personal finances (banking and budgeting with periodic assistance from his girlfriend and son in paying rent and bills due to his inability to work) and daily shopping (making appropriate choices).

With respect to the social functioning DLA, the GP notes in the AR that the appellant is independent when making appropriate social decisions, that he requires periodic assistance developing and maintaining relationships, interacting appropriately with others and securing assistance from others and that he requires continuous support and/or supervision dealing appropriately with unexpected demands. The appellant is further described as functioning marginally in immediate and extended social networks. The GP notes that the appellant is “able to function but has withdrawn a lot from social sphere.”

Given the evidence that was available at reconsideration concerning the extent to which the appellant is independent in areas where his mental impairment could be expected to impact his daily functioning, the panel concludes that the ministry’s determination that there is not sufficient evidence to establish that the appellant has a severe mental impairment under section 2(2) of the *EAPWDA* was reasonable.

Severity of physical impairment

The appellant argues that he suffers from a variety of physical conditions as set out in the PR that constitutes a

severe physical impairment.

The ministry takes the position in the reconsideration decision that the appellant's physical conditions while serious, do not constitute a severe physical impairment.

Panel Decision

In both the PR and the AR, the diagnosis provided by the GP is consistent with that in the Medical Records. The appellant has, since May 2012, suffered from an unprovoked portal/splenic vein thrombosis with portal hypertension. Further, the appellant developed an acute synoid sinus thrombosis and an esophageal varices hemorrhage in October 2014. These conditions are described as being chronic and in addition, the GP describes the appellant in the PR as having developed secondary splenomegaly and headaches in addition to a right sided hydrocele and an umbilical hernia.

The appellant has been prescribed blood thinning and blood pressure medication and he takes supplements to address his INR levels and he gave evidence of improvement in that respect.

On further review of the PR, while the GP has commented generally that the appellant's ability to function has been severely reduced, the appellant is nonetheless described as being able to walk more than 4 blocks unaided on a flat surface and climb more than 5 steps although the panel notes the appellant's evidence that he gets blisters on his feet easily when walking for long distances. He is able to lift between 2 and 7 kg and can remain seated for less than 1 hour. The GP also notes in the AR that the appellant is independent walking indoors and out, climbing stairs, standing and lifting and that he requires periodic assistance from another person carrying and holding. The GP comments that due to his umbilical hernia and right sided hydrocele, the appellant is limited in lifting or carrying objects for any distance and that he needs to be careful not to put pressure on his upper abdomen due to his splenomegaly. For those DLA that are of a physical nature such as personal self-care, meal preparation, basic housework and mobility inside and outside the home, the GP notes that the appellant is independent.

While the PR, AR and Medical Records are consistent with respect to the diagnosis of the appellant's physical conditions, after reviewing the GP's evidence in the PR and AR as to the appellant's ability to function, the panel finds that the ministry was reasonable in its determination that the evidence did not support a finding that he suffers from a severe physical impairment as provided by section 2(2) of the *EAPWDA*.

Restrictions in the ability to perform DLA

The appellant's position is that his impairments directly and significantly restrict his ability to perform DLA while the ministry's position as set out in the reconsideration decision is that it has not been established by the evidence of a prescribed professional that the appellant's ability to perform DLA has been directly and significantly restricted by his physical or mental impairments either continuously or periodically for extended periods as required by section 2(2) of the *EAPWDA*.

Panel Decision

Section 2(2)(b) of the *EAPWDA* requires that a prescribed professional, in this case the GP, provide an opinion that an applicant's severe impairment directly and significantly restricts his DLA, continuously or periodically for extended periods.

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 DLA, if any, are significantly restricted by the appellant's impairments, either continuously or periodically for extended periods. Employability is not a listed criterion in the legislation and as such is not a consideration in

the determination of whether an applicant's DLA are restricted by a severe impairment.

The appellant's GP of 30 years has described him as independent in all tasks of DLA aside from paying rent and bills for which the appellant receives periodic assistance from his son and girlfriend due to his not being able to work.

As noted above, the appellant does require periodic support and/or supervision in some aspects of social functioning, specifically in developing and maintaining relationships, interacting appropriately with and securing assistance from others. Specifically, the GP describes the appellant as experiencing increased irritability, being tense and impatient and lacking energy. The appellant is further described as requiring continuous support and or supervision when dealing appropriately with unexpected demands. The GP describes the appellant as functioning marginally in both immediate and extended social networks but he adds the comment that while the appellant has withdrawn from his social sphere, he is able to function.

While the evidence demonstrates that the appellant experiences restrictions in social functioning, the evidence as a whole including that of the GP in the AR is that the appellant independently manages all other tasks of DLA other than receiving financial help from his son and girlfriend. Based on the foregoing, the panel finds that the ministry reasonably concluded that the evidence is insufficient to demonstrate that the appellant's DLA are significantly restricted either continuously or periodically for extended periods as provided under section 2(2)(b) of the *EAPWDA*.

Help with DLA

The appellant's position is that that his impairments affect his DLA to the extent that assistance from others is necessary.

The ministry's position in the reconsideration decision is that because it has not been established that DLA are significantly restricted, it cannot be determined that significant help is required.

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. Section 2(3) of the *EAPWDA* provides that a person requires help in relation to a DLA if, in order to perform it, the person requires an assistive device, the significant help or supervision of another person, or the services of an assistance animal. In other words, it is a pre-condition to a person requiring help that there be a finding that a severe impairment directly and significantly restricts a person's ability to manage his or her DLA either continuously or periodically for an extended period.

Given the panel's finding that the ministry reasonably determined that direct and significant restrictions in the appellant's ability to perform DLA have not been established, the panel further finds that the ministry's conclusion that 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*, was reasonable.

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 a reasonable application of the applicable enactment in the circumstances of the appellant, and therefore confirms the decision.