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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 15 April 2015, which found that the appellant did not meet two 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 he has a severe mental impairment that, in the opinion of a medical practitioner, 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 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

With the consent of the appellant, a ministry trainee attended the hearing as an observer.

The evidence before the ministry at reconsideration consisted of the following:

1. The appellant's PWD Designation Application dated 09 September 2014. The Application contained:
   - A Physician Report (PR) dated 23 September 2014, completed by the appellant's general practitioner (GP) who has known the appellant for 8 months and seen him 7 times in that period.
   - An Assessor Report (AR) dated 23 September 2014, completed by the same GP.
   - A Self Report (SR) completed by the appellant.

2. The appellant's Request for Reconsideration, dated 14 April 2015, to which was attached a 9 page handwritten submission and a copy of his SR.

In the PR, the GP lists the following diagnoses related to the appellant's impairment: depression and anxiety (onset 2009), head injury – memory problems (onset 2009), alcoholism (onset 2009) and arthritis – widespread. The GP reports that the appellant's impairment will likely continue for 2 years or more.

The panel will first summarize the evidence from the PR and AR relating to the appellant's impairments as it relates to the PWD criteria at issue.

Severity/health history

Physical impairment

PR:
Under health history, the GP writes:

> "Chronic pain due to arthritis (all over) & previous compression fracture neck causing left arm nerve pain that's debilitating."

As to functional skills, the GP reports that the appellant can walk 1-2 blocks unaided (needs to rest after two blocks – hip/back/knee pain), climb 2-5 steps unaided (needs railing), is limited to lifting 5 lbs. (on a bad day) and can remain seated for less than one hour.

Ability to perform DLA

AR:
The GP reports that the appellant lives in a charitable organization hostel.
The GP lists the appellant's mental or physical impairments that impact his ability to manage DLA as follows:

- Severe arthritis all over his body + nerve pain left arm.
- Very anxious and depressed.
- Does not feel like socializing.
- Low self-esteem.

- Difficulty planning/organizing.

Regarding communications, in the PR the GP indicates that the appellant has cognitive difficulties, commenting: “subjectively he says he loses train of thought at times.”
In the AR, the GP assesses the appellant's ability as good for speaking and writing, and poor for reading (early cataracts – needs lots of light) and hearing (has hearing loss – no aides – hard to hear with background noise).

AR
Regarding mobility and physical ability, the GP assesses assistance required as follows (his comments in parentheses):

- Walking indoors – independent.
- Walking outdoors –independent.
- Climbing stairs – uses assistive device (needs railing).
- Standing – uses assistive device (uses a cane at times).
- Lifting – periodic assistance from another person.
- Carrying and holding –takes significantly longer than typical (can take 3 – 5 times longer).

The GP comments: “Can't carry/hold objects in left arm. Difficulties with stairs. Needs railing.”

The GP assesses the assistance required for managing DLA as follows (the GP’s comments in parentheses):

- Personal care: dressing, toileting and feeding self – independent; grooming, bathing, transfers in/out of bed, transfers on/off chair – takes significantly longer than typical (3-5 times longer).
- Basic housekeeping: laundry – independent; basic housekeeping – N/A as he lives in a charitable foundation hostel.
- Shopping: independent in all aspects (uses trolley, take breaks when carrying purchases home).
- Meals: meal planning, food preparation, safe storage of food – independent; cooking – takes significantly longer than typical (3-5 times longer).
- Paying rent and bills: banking and pay rent and bills – independent; budgeting – takes significantly longer than typical (3-5 times longer).
- Medications: independent in all aspects (sometimes forgets to refill prescriptions; sometimes confused with taking as directed).
- Transportation: independent in all aspects (gets confused but does on his own with using transit schedules and arranging transportation).

The GP further comments that “patient declined help” and “could benefit from caseworker to help organize & plan.”

In the PR, the GP indicates that the appellant has significant deficits with cognitive and emotional function in the areas of consciousness, executive, memory, emotional disturbance, motivation, and attention, commenting “Severe memory and attention problems.” In the AR, GP indicates that the appellant's mental impairment or brain injury restricts or impacts his functioning as follows:

- Major impact – emotion, attention/concentration, memory and motivation.
- Moderate impact – executive.

- Minimal impact – consciousness.
- No impact – bodily functions, impulse control, insight and judgment, motor activity, language, psychotic symptoms, other neuropsychological problems, and other emotional or mental problems.

The GP comments:

> "Struggles with memory & concentration. Can't read more than 15 min. Has social anxiety and struggles in group settings. Also hearing loss makes it worse. Severe chronic depression. Loss of motivation. Problem solving & organizing a problem."

With respect to social functioning the GP assesses the appellant as independent for making appropriate social decisions, developing and maintaining relationships (not interested in relationships), interacting appropriately with others, dealing appropriately with unexpected demands (gets easily overwhelmed) and securing assistance from others (no help at the moment)

The GP describes the impact of the appellant's impairment on his immediate and extended social networks as marginal functioning, commenting that he is not in touch with his family.

Help provided/required

PR:
The GP indicates that the appellant does not require any prostheses or aids for his impairment

AR:
The GP states that, for support/supervision for his social functioning, the appellant requires help of a "care worker to check in at times – appointment planning, etc."

The GP indicates that the appellant receives help for DLA from the charitable organization where he lives, a mental health support agency and from a 12 step organization. The GP adds that the appellant will meet with a support worker to help with current needs. The GP states that he needs the help on an ongoing caseworker.

The GP reports that the appellant used to have a cane and needs to a have new one.

Self report

In describing his disability, the appellant writes that he has been struggling with depression, anxiety and suicidal ideations since 2009. He frequently has nightmares and requires sleeping pills. He also struggles with memory, confusion and frustration and frequently feels overwhelmed. In 2008 he was diagnosed with IBS as a result of a medical mishap and this hits him regularly. He was also diagnosed in 2008 with COPD, making him tired and restless often. He has had many injuries including a compression fracture in his neck and lower back, a pinched nerve in the left shoulder and has had multiple concussions, the latter greatly impacting his memory. Since 2009 he has had arthritis in his hips, knees, left ankle, neck, lower back, shoulders, elbows and hands. He is always in pain from his arthritis and injuries, but is allergic to opiates and codeine and no medication works to manage the pain. From his head injuries he also struggles with dizziness and constant hissing noise in his ears as well as memory problems and confusion. He also has bad hearing which he needs to

get checked out.

The appellant, in describing how his disability affects his life and his ability to take care of himself, writes that throughout the day he often feels overwhelmed both mentally and physically. He finds it difficult to get up, move about and perform normal everyday tasks. As a result of his medication he has a hard time functioning in the morning and it takes him a long time to get organized, frustrating him and making him have delayed starts to his days.

He writes that his depression greatly impacts his ability to care for himself: he get so depressed that he does not eat for days and he can feel so overwhelmed that shaving feels like too much for him. He lacks the motivation to deal with everyday tasks such as eating and grooming and he stops doing any social activities when he is depressed. He also avoids social situations because he has trouble carrying out meaningful conversations, feeling like he does not have anything valuable to contribute to the conversation. He struggles with social anxiety and feels despair and useless as he is not able to do the things that he used to. He frequently struggles with suicidal thoughts and has had suicide attempts.

The appellant explains that his struggles with memory and confusion contribute to his feelings of exhaustion and being overwhelmed. He frequently forgets his belongings and leaves them in different places. He finds it very difficult to make decisions, plan his day, prioritize his tasks and keep appointments and he often feels overwhelmed while attempting to complete simple tasks – e.g. when taking the bus he finds it difficult to remember which one to take, even though he has taken it many times. He writes that he needs someone to help him develop strategies to help him keep on track. He also has difficulties concentrating and will frequently forget his train of thought and get confused and/or forget what he was supposed to be doing.

The appellant goes on to write that he is always in pain and this is distracting. He used to try to get money by picking bottles, but he cannot even do this anymore because it's too hard physically to walk and carry the bottles. He has gotten another cane to help him get from place to place. He keeps forgetting and losing his canes. He can only walk two blocks before his hips, back and knees are in pain and he has to sit down for a bit. He cannot sit down for too long however without experiencing pain. He has trouble with stairs and must use the railings. He cannot get up or down from low positions – he needs rails to get up from chairs, cars etc. He also cannot hold or carry anything with his left arm. He states that he requires lots of support in order to do household chores and grocery shopping and he gets fatigued while doing regular activities such as stairs or walking inclines because of his COPD.

Reconsideration submission

To summarize, the appellant writes that:

- On reading the original decision, he realized that the PR and AR contained insufficient, vague or even mistaken information: in particular, it was not clear that he is unable to lift/hold/carry anything with his left arm due to pain and weakness from a pinched nerve in his neck; and when interviewed when the form was being completed he did not realize that a cane was an assistive device – he always uses a cane and cannot walk 2 blocks unaided, as indicated in the PR.
- Since the application was completed, he has experienced additional physical problems: his left

hip, knee and ankle have become more painful, as well as his right knee. This has resulted in even more restrictions on the distance he can walk and stairs are now impossible. His left knee gives out more often, resulting in more falls, the most recent resulting in another compression fracture in his lower back.

- His mental health has also deteriorated during this time as well: another suicide attempt, ending up in the ER on a breathing machine, having stopped breathing on his own at Christmas.
- He finds that he is frustrated because there are many opportunities that would help him mentally, physically, in alcohol recovery and even with his pain but he cannot walk to take advantage of them and he doesn't have the financial means to take the bus very often.
- As part of his anxiety and depression, and being alone with no help, he worries a lot and is fearful of his future. When his time is up at the charitable organization hostel, he is afraid he will not be able to find a safe place to stay – ending up in another shelter where he might be beaten up, robbed or stabbed by a dirty needle, as has happened to him before.
- It took him 3 weeks to write this submission, as he tends to lose his train of thought or go off in tangents.

The appellant's Notice of Appeal is dated 04 May 2015. He gave as reasons: “I feel the decision is incorrect.”

The hearing

At the hearing, the appellant submitted a prescription note from his GP dated 20 May 2015. The GP wrote: “[The appellant] is using a cane on a daily basis for his back & leg pain.”

The appellant described how he suffers from constant pain, depression and poor memory. He frequently feels overwhelmed and anxious. Taking the bus he sometimes gets lost, but he cannot walk anywhere for meetings or activities. Sometimes his way of coping is by not doing anything. No one helps him because there is no one to help. He does not feel that he is a “basket case,” requiring constant care, but he needs someone to check up on him and motivate him. He takes sleeping medication at night so that he can sleep right through without nightmares and he takes anti-depressants in the mornings. These medications make it hard for him to wake up and make him slow to become active in the mornings.

The appellant explained how his pain and nerve damage on his left side impact his daily activities – his left knee will frequently give out and cause a fall; anything requiring using both hands, such as feeding himself or cutting food for cooking, is difficult. Apart from making coffee or using a microwave, cooking is impossible anyway, because of his memory problems and how he might forget to turn off the stove. He is allergic to opiates and even marijuana, so he has to rely on non-prescription pills that do not do much to alleviate his pain. He stated that he has been referred to a pain specialist to see what might be done about his pain.

The appellant's advocate made submissions which went to argument (see Part F, Reasons for Panel Decision, below).

The ministry stood by its position at reconsideration.

Admissibility of new Information

The ministry did not object to the admissibility of the appellant's oral testimony or the GP's prescription note regarding the use of a cane. The panel finds that the appellant's testimony and the document submitted are in support of the information on the appellant's impairments and the use of a cane addressed in the original PWD application and in the reconsideration submission as they tend to corroborate assessments and comments made by the GP and the appellant. The panel therefore admits this information as evidence in accordance with Section 22(4) of the *Employment and Assistance Act.*

APPEAL #

PART F – Reasons for Panel Decision

The issue in this appeal is whether the ministry decision that determined that the appellant did not meet two of the five statutory requirements of Section 2 of the *EAPWDA* for designation as a person with disabilities (PWD) is reasonably supported by the evidence or is a reasonable application of the legislation in the circumstances of the appellant. The ministry found that the appellant met the age requirement and that he has a severe mental impairment that, in the opinion of a medical practitioner, 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 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 following section of the *EAPWDA* applies to this appeal:

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.

The following section of the EAPWDR applies to this appeal:

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.

(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.

Severity of impairment

Physical impairment

In the reconsideration decision, the ministry reviewed the assessments provided by the GP. The ministry noted that the GP indicates in the PR that the appellant can walk 1-2 blocks, climb 5+ steps, lift under 2kg on a bad day and can remain seated for less than one hour. In the AR the GP indicates that the appellant uses a railing for climbing stairs and uses a cane to stand while at home. The GP also indicated that the appellant requires periodic assistance with lifting and it takes him 3-5 times longer to carry and hold. The GP commented that the appellant "can't carry/hold objects in left arm, difficult to do stairs, needs railing." The ministry also noted that the GP indicated in the PR that the appellant does not need any prostheses or aids for his impairment and in the PR does not indicate that he routinely uses any equipment or devices to help compensate for his impairment, though the GP reports that the appellant used to use a cane and now needs a new one. The position of the ministry is that, in reviewing all the information provided by the GP, the ministry does not have enough information from the GP to confirm that the appellant has a severe physical impairment.

The position of the appellant, as argued by his advocate at the hearing, is that his GP has confirmed that he needs the use of a cane. A cane meets the definition of an "assistive device" – 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. As the evidence shows that the appellant

needs a cane for moving about indoors and outdoors, a severe physical impairment has clearly been established.

Panel findings

A diagnosis of a serious medical condition or the use of a device such as a cane does not in itself determine PWD eligibility. Under the legislation, eligibility for PWD hinges on an "impairment" and its severity. An "impairment" is more than a diagnosed medical condition. An impairment is a medical condition that results in restrictions to a person's ability to function independently, appropriately, effectively or for a reasonable duration.

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 the ability to perform 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 medical practitioner and a prescribed professional – in this case, the appellant's GP.

The legislation requires that for PWD designation, the minister must be "satisfied" that the person has a severe mental or physical impairment. For the minister to be "satisfied" that the person's impairment is severe, the panel considers it reasonable for the ministry to expect that the information provided presents a clear and complete picture of the nature and extent of the impacts of the person's medical conditions on daily functioning.

The GP has diagnosed the appellant with arthritis – widespread. Under Health History, where the GP is asked to indicate the severity of the medical condition relevant to the person's impairment, the GP writes: "Chronic pain due to arthritis (all over) & previous compression fracture neck causing left arm nerve pain that's debilitating." The panel notes that the GP has not provided any description regarding the intensity of the pain or in what way it is debilitating, nor is there any information provided as to any treatment regime or prospects for one. In assessing functional skills in the PR, the GP indicates that the appellant can walk 1-2 blocks unaided (needs to rest after two blocks due to hip/back/knee pain), climb 5+ steps (needs railing), lift under 2 kg (on a bad day) and remain seated for less than 1 hour. In the AR, the GP assesses the appellant as independent for walking indoors and walking outdoors and requiring an assistive device for climbing stairs (needs railing) and for standing (uses cane at times); periodic assistance from another person is required for lifting and it takes significantly longer than typical (3-5 times longer) for carrying and holding (can't carry/hold objects in left arm.)

In terms of the impact on the appellant's physical impairment on daily functioning, the GP has assessed the appellant as independent in almost all tasks involving physical activity, including walking indoors and outdoors, or taking significantly longer than typical in a few such tasks (see the discussion below regarding direct and significant restrictions in the ability to perform DLA).

The panel finds that the evidence concerning the appellant's use of a cane is unclear and contradictory. In the PR, the GP indicates that the appellant does not require any prostheses or aids for his impairment. In the AR, the GP indicates that the appellant uses a cane for standing (at times) but not for walking indoors or outdoors. The GP also notes that the appellant used to have a cane and needs a new one. In the prescription note submitted at the hearing, the GP writes that the

appellant is using a cane on a daily basis for his back and leg pain. However, no further explanation is provided regarding to what extent or under what circumstances the cane is used, leaving the impression that the use of a cane only comes into play when the appellant is standing for any length of time.

Considering the extent to which the appellant has been assessed as independent in performing most tasks requiring physical effort, including for walking indoors and outdoors, and without a clear picture as to his use of a cane, the panel finds that the ministry was reasonable in determining that a severe physical impairment had not been established.

Direct and significant restrictions in the ability to perform DLA.

The ministry, in its reconsideration decision, reviewed the evidence relating to the appellant's ability to manage DLA, noting that the GP has indicated that the appellant had not been prescribed any medication and/or treatments that would interfere with his ability to perform DLA and that the GP has assessed the appellant as independent for most DLA tasks applicable to a person with a severe mental or physical impairment, with the exception of grooming, transfers in/out of bed, transfers on/off chair's, cooking and budgeting, all of which takes significantly longer than typical. The ministry noted that the GP does not indicate that the appellant requires any periodic or continuous assistance to manage any of these DLA tasks. In addition, while it would be reasonable to assume that the evidence of a severe mental impairment may be reflected in the appellant's ability to manage his social functioning, the GP indicates that the appellant can independently manage all aspects of his social functioning. Therefore, based on information provided by the GP, the ministry's position is that there is not enough evidence to establish that the appellant's impairments directly and significantly restrict his ability to perform DLA either continuously or periodically for extended periods.

The position of the appellant is that the evidence clearly shows that his mental and physical impairments directly and significantly restrict his ability to perform DLA on an ongoing basis. As his GP has reported, as a result of his pain in his back and leg his ability is restricted to the extent that he needs to use a cane for moving about indoors and outdoors, with the implication that a cane is also required for any other activities requiring physical effort, such as shopping or taking transportation, while taking significantly longer than typical to move on/off a chair or in/out of bed. Because of nerve damage to his left side he cannot lift/carry/hold anything in his left arm, which obviously makes tasks requiring use of both hands impossible, such as cutting food for meal preparation or using a broom and dust pan for housework. Further, as a result of his severe mental impairment, his memory is so bad that he cannot cook for fear of forgetting to turn the stove off and his social functioning is restricted to the point where, as the GP has reported, he needs the assistance of a caseworker to help him organize his daily life.

Panel findings

The legislation – section 2(2)(b)(i) of the *EAPWDA* – requires the minister to assess direct and significant restrictions of DLA in consideration of the opinion of a prescribed professional, in this case the appellant's GP. This doesn't mean that other evidence shouldn't be factored in as required to provide clarification of the professional evidence, but the legislative language makes it clear that the prescribed professionals' evidence is fundamental to the ministry's determination as to whether it is "satisfied".

In terms of the DLA applicable to a person with a severe mental or physical impairment (the latter not established in this appeal), as the ministry has noted, the GP has assessed the appellant as independent for virtually all of the DLA tasks listed, with the exception of grooming, transfers in/out of bed, transfers on/off chairs, cooking and budgeting, all of which take significantly longer than typical. With respect to the DLA of moving about indoors and outdoors, the GP has assessed the appellant as independent for walking indoors and outdoors, taking significantly longer than typical for climbing stairs and requiring the use of an assistive device for standing (at times).

Regarding the DLA applicable to a person with a severe mental impairment – make decisions about personal activities, care or finances and relate to, communicate or interact with others effectively, the GP has assessed the appellant as independent for making appropriate social decisions, developing and maintaining relationships, interacting appropriately with others, dealing appropriately with unexpected demands and securing assistance from others, the GP commenting that the appellant is not interested in relationships, gets easily overwhelmed and does not receive any help at the moment. With regard to communications, the GP assesses the appellant's ability for speaking and writing as good and for reading and hearing as poor, but the latter are explained to be as a result of early cataracts and hearing loss – i.e. physical impairments – not due to mental impairment.

The panel notes several gaps and inconsistencies both between the appellant's description of impact of his impairment on his daily functioning as set out in the SR, his reconsideration submission and his testimony at the hearing and the impacts assessed by the GP in the PR and AR, as well as internally within the PR and AR:

- In the PR, the GP indicates that the appellant has not been prescribed any medication that would interfere with his ability to manage DLA. However, the appellant has described how his sleeping medication (and possibly his antidepressant medication taken in the morning) makes him slow in getting up and becoming active in the morning.
- In the AR, the GP assesses the appellant is independent for food preparation and taking significantly longer than typical (memory problems) for cooking, while in his testimony at the hearing the appellant stated that because of his inability to use his left hand he was unable to cut food for cooking and that he dare not use a stove for fear that he would forget to turn it off.
- In the AR, the GP provides no assessment as to the appellant's ability to manage daily housekeeping (N/A as he lives in a charitable organization hostel). Since the evidence implies that the appellant has difficulties with any activity that requires the use of both hands (and possibly a cane) an assessment of his ability to manage household chores would have been helpful.
- See the discussion above under Severity of physical impairment regarding the appellant's use of a cane.
- In the AR, the GP assesses the appellant as independent in all listed aspects of social functioning – that is, requiring no periodic or continuous support/supervision. However, in answer to the question “If the applicant requires help, as indicated above, please describe the support/supervision required which would help to maintain him in the community.” the GP answers; “care worker to check in at times – appointment planning, etc.”

As the legislation requires the minister to consider “the opinion of a prescribed professional,” in the panel's view it would be unreasonable to expect the ministry to read something different into the assessments made by the GP in the PR and AR and infer or substitute assessments different from

those specifically made by the GP.

Considering the degree to which the GP has assessed the appellant as independent in most aspects of DLA, including all aspects of social functioning, the panel finds that the ministry was reasonable in determining that there was not enough evidence to establish that the appellant's impairments directly and significantly restrict his ability to perform DLA either continuously or periodically for extended periods.

Help with DLA

The ministry's position is that as it has not been established that DLA are significantly restricted, it cannot be determined that significant help is required from other persons.

The position of the appellant is that he requires the use of a cane for mobility and the help of a caseworker to motivate himself and help him organize his daily life

Panel findings

The panel notes that the legislation requires that in the opinion of a prescribed professional the need for help must arise from direct and significant restrictions in the ability to perform DLA that are either continuous or periodic for extended periods. While the evidence is that the appellant uses a cane and would benefit from the services of a caseworker to help him be organized, the panel finds that the ministry reasonably determined that since it has not been established that DLA are directly and significantly restricted, it cannot be determined that help is required as provided under section 2(2)(b)(ii) of the *EAPWDA*.

Conclusion

Having reviewed and considered all of the evidence and the relevant legislation, and for the reasons provided above, the panel finds that the ministry's decision that the appellant was not eligible for PWD designation was reasonably supported by the evidence. The panel therefore confirms the ministry's decision.