

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 three of the five statutory requirements of Section 2 of the *Employment and Assistance for Persons with Disabilities Act* for designation as a person with disabilities (PWD). The ministry found that the appellant met the age requirement and that her impairment is likely to continue for at least two years. However, the ministry was not satisfied that the evidence establishes that:

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

PART D – Relevant Legislation

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

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

PART E – Summary of Facts

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 December 2, 2014, a physician report (PR) dated December 4, 2014 and an assessor report (AR) dated January 16, 2015, both of the latter completed by a general practitioner who has known the appellant for 4 months. 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 appellant's Request for Reconsideration dated March 19, 2015.

Diagnoses

In the PR, the appellant was diagnosed by the general practitioner with PTSD [post traumatic stress disorder] with an onset in 2012, anxiety with an onset in 1990, bulimia with an onset in 2006, and substance abuse, alcohol, cocaine in recovery, with an onset in 2012. The appellant also wrote in the PR that she has severe asthma and has been hospitalized for 7 days this year already; her liver is being tested for "bad enzymes" detected while in hospital (2015) and she has issues with sleep and is on medications for sleep. In the AR, asked to describe the impairments that impact the appellant's ability to manage daily living activities, the general practitioner wrote "chronic anxiety, chronic depression, social isolation, lack of trust issues."

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, it is unknown how much she can lift, and she can remain seated less than an hour, with a note: "anxiety."

In the AR, the general practitioner indicated that:

- There is no assessment of the appellant's mobility and physical ability, in the areas of walking indoors and outdoors, climbing stairs, lifting and carrying and holding, and this section has been marked "NA," or not applicable to the appellant.
- In the section of the AR relating to assistance provided through the use of assistive devices, the general practitioner did not identify any of the listed items.

In her self-report, the appellant wrote that:

- She has severe asthma and chronic bronchitis, and liver issues currently being tested.

In her Request for Reconsideration, the appellant wrote:

- When she is hospitalized for her asthma, her expenses double and she needs help especially in those times.
- She is also now having issues with her liver.

Mental Impairment

In the PR, the general practitioner reported :

- In terms of health history, the appellant is "unable to cope with any stress; difficult maintaining relationship or even leaving her lodging."
- The appellant has difficulties with communication and also that this section is "NA", or not

applicable to the appellant.

- The appellant has significant deficits in her cognitive and emotional functioning in the areas of consciousness, memory, emotional disturbance, motivation, motor activity, and attention or sustained concentration, but under comments indicated “N/A.”
- In the additional comments, that the appellant has “chronic PTSD, anxiety, depression, with frequent exacerbation and bulimia.”

In the AR, the general practitioner indicated:

- The appellant has a satisfactory ability to communicate in all areas, specifically: speaking, reading, writing and hearing, yet the explanation/description is “NA” and “global.”
- 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 no major impacts. The appellant has moderate impacts to bodily functions, consciousness, emotion, impulse control, insight and judgment (which is also marked as a minimal impact), attention/concentration, memory, and motivation. There are minimal or no impacts in the remaining six listed areas of functioning. The general practitioner did not provide any further comments to explain or describe the impacts to functioning.
- The appellant is independent in 4 out of 5 areas of social functioning, specifically making appropriate social decisions, interacting appropriately with others, dealing appropriately with unexpected demands, and securing assistance from others. She requires periodic support/supervision with developing and maintaining relationships, with the comment for an explanation or description of: “NA.”
- The appellant has very disrupted functioning in her immediate social network and both good and very disrupted functioning in her extended social networks. No further comment is added by the general practitioner.
- Asked to describe the support/supervision required which would help maintain the appellant in the community, the general practitioner left this section blank.

In her self-report, the appellant wrote that:

- She experienced a motor vehicle accident that involved a fatality and that is how she got on medications.

In her Request for Reconsideration, the appellant wrote:

- She has a great many issues with depression, anxiety and respiratory illness, etc.
- Her doctor believes she needs disability for the extra help since she is a single parent of young children.

Daily Living Activities (DLA)

In the PR, the general practitioner indicated that:

- The appellant has been prescribed medications that interfere with her ability to perform DLA, which she will be on indefinitely.
- It is unknown whether the appellant’s impairment restricts her ability to perform DLA.
- The appellant is not restricted with any of the listed DLA, specifically: personal self care, meal preparation, management of medications, basic housework, daily shopping, mobility inside and outside the home, use of transportation, management of finances, and social functioning.

In the AR, the general practitioner reported that:

- The appellant is independently able to perform every task of several listed DLA, namely: personal care (dressing, grooming, bathing, toileting, feeding self, and transfers in/out of bed and on/off chair), basic housekeeping (including laundry), meals (meal planning, food preparation, cooking, safe storage of food) and transportation (getting in and out of a vehicle, using public transit, using transit schedules and arranging transportation).
- The appellant is independently able to perform most tasks of some of the DLA, specifically: shopping (going to and from stores, reading prices and labels and paying for purchases), and medications (filling/refilling prescriptions and safe handling and storage).
- The appellant requires continuous assistance with the tasks of making appropriate choices and carrying purchases home when shopping, and periodic assistance with taking her medications as directed and with all tasks of the DLA pay rent and bills (banking, budgeting, pay rent and bills). There were no additional comments provided by the general practitioner explaining how often the appellant requires periodic assistance and for how long.

In her self-report, the appellant wrote:

- Her disabilities affect her from going back to her former profession.
- She is hoping she will get to a better mental status and get back to her profession.

Need for Help

In the PR, in response to a request to describe the assistance the appellant needs with DLA, the general practitioner wrote: "patient has better function and mental wellness from presence of her dog."

In the AR, the general practitioner reported that the help required for DLA is provided by family and community service agencies. In the section of the AR relating to assistance provided through the use of assistive devices, the general practitioner did not identify any of the listed items as being applicable. Regarding the assistance provided by assistance animals, both "yes" and "no" have been marked as applicable. Asked to specify either the nature of the assistance provided by the animal or the need, the comment is: "pet dog helps her greatly but has no service title which I would [illegible] see if I can get him the title."

Appellant's Additional Information

In her Notice of Appeal dated March 27, 2015, the appellant expressed her disagreement with the ministry's reconsideration decision and wrote that she needs the extra help. She has disability.

At the hearing, the appellant stated:

- PTSD affects her life greatly and holds her back from going to work. She would like to start to work part-time, 2 or 3 days a week, and slowly get herself back to work.
- She really just needs a cushion until she can get herself back on her feet.
- She was hospitalized this year for asthma and was taken to the emergency room and hooked up to ventilators.
- She has problems sleeping and is on medications for all the things that are wrong with her.
- She is regularly involved with doctors and counselors for her asthma and her sleeping issues.
- If she does not take her medications, she gets severe anxiety and depression. The sleep medication helps with her night terrors and sleep walking. Without these medications she would likely "be in the mental hospital."
- She can cope with going to the store to buy milk but she cannot take care of anyone else

besides herself and her children.

- The motor vehicle accident is the reason for lots of her ailments. She has to live with the memory of the fatality every day.
- She did see a psychiatrist 3 years ago, and is in the process of getting a referral to a different psychiatrist.
- She attends a drug and alcohol program once a week. She also talks to a worker every week by telephone for relapse prevention and attends women's groups and other therapies as she can. She knows it is important to "keep talking."
- Regarding the impacts to her cognitive and emotional functioning, the impact to impulse control relates to her OCD [obsessive compulsive disorder] which has developed into excessive cleaning and exercising. Sometimes she "cuts." When she gets extremely anxious, she cannot help herself from doing these things.
- She also had difficulties with impulse control when she used to turn to alcohol and drugs to stop thinking about the accident but now she is in recovery and no longer has these urges. She has also quit smoking.
- Sometimes she sleeps during the day, although her kids keep her motivated because she has to get up and "be the mom" and do the best she can.
- Her short term memory loss is pretty bad and she forgets appointments. She had to set three alarms to make sure she was present for the hearing.
- With respect to shopping, she requires continuous assistance with making appropriate choices because she used to buy things on impulse that she did not need. She lost her driver's license and now she has to carry all the groceries by herself.
- For paying rent and bills, her mom will hand her an extra \$20 to help her. She was not able to do any budgeting but that has gotten better with the help of a counselor.
- She is on medication for anxiety that was prescribed by the psychiatrist and continued with the general practitioner.
- She added the information about asthma to the PR because she realized that her doctor had forgotten and this was an important part of her application. She uses two inhalers for her asthma medication. She has an "asthma doctor" since she caught a bug that went into her lungs and she was hospitalized.
- She copes because she is a parent and she does not want her kids to see her suffering. She has to motivate herself.
- Getting back to work is important to her. However, because of the accident she cannot take care of anyone else besides herself and her kids. She makes sure her kids have what they need.
- In her case, it is mostly about her mental disabilities. She can feed herself and bathe herself but she does not always want to get out of bed.

The ministry relied on its reconsideration decision as summarized at the hearing and did not provide any additional evidence.

Admissibility of Additional Information

The ministry did not raise an objection to the oral testimony provided by the appellant or to the information in the appellant's Notice of Appeal, which contained information about her medical conditions that reiterates the diagnoses considered at reconsideration. The panel admits this information as being in support of information and records that were before the ministry at the time of reconsideration, in accordance with Section 22(4)(b) of the *Employment and Assistance Act*.

PART F – Reasons for Panel Decision

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

The criteria for being designated as a PWD are set out in Section 2 of the EAPWDA as follows:

Persons with disabilities

2 (1) In this section:

"**assistive device**" means a device designed to enable a person to perform a daily living activity that, because of a severe mental or physical impairment, the person is unable to perform;

"**daily living activity**" has the prescribed meaning;

"**prescribed professional**" has the prescribed meaning.

(2) The minister may designate a person who has reached 18 years of age as a person with disabilities for the purposes of this Act if the minister is satisfied that the person has a severe mental or physical impairment that

(a) in the opinion of a medical practitioner is likely to continue for at least 2 years, and

(b) in the opinion of a prescribed professional

(i) directly and significantly restricts the person's ability to perform daily living activities either

(A) continuously, or

(B) periodically for extended periods, and

(ii) as a result of those restrictions, the person requires help to perform those activities.

(3) For the purposes of subsection (2),

(a) a person who has a severe mental impairment includes a person with a mental disorder, and

(b) a person requires help in relation to a daily living activity if, in order to perform it, the person requires

(i) an assistive device,

(ii) the significant help or supervision of another person, or

(iii) the services of an assistance animal.

(4) The minister may rescind a designation under subsection (2).

Section 2(1) of the EAPWDR defines DLA for a person who has a severe physical or mental impairment as follows:

Definitions for Act

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

(a) in relation to a person who has a severe physical impairment or a severe mental impairment, means the following activities:

(i) prepare own meals;

(ii) manage personal finances;

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

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

- (2) For the purposes of the Act, "**prescribed professional**" means a person who is
- (a) authorized under an enactment to practise the profession of
 - (i) medical practitioner,
 - (ii) registered psychologist,
 - (iii) registered nurse or registered psychiatric nurse,
 - (iv) occupational therapist,
 - (v) physical therapist,
 - (vi) social worker,
 - (vii) chiropractor, or
 - (viii) nurse practitioner, or
 - (b) acting in the course of the person's employment as a school psychologist by
 - (i) an authority, as that term is defined in section 1 (1) of the Independent School Act, or
 - (ii) a board or a francophone education authority, as those terms are defined in section 1 (1) of the School Act,
 if qualifications in psychology are a condition of such employment.

Severe Physical Impairment

The appellant's position is that a severe physical impairment is established by the vulnerability she has with a combination of her respiratory problems, including severe asthma and chronic bronchitis, for which she takes medication and sees a specialist, and issues with her liver. In the PR, the appellant wrote that she has severe asthma and has been hospitalized for seven days this year and her liver is being tested for "bad enzymes" detected while in hospital. In her Request for Reconsideration, the appellant argued that when she is hospitalized for her asthma, her expenses double and she needs help especially in those times.

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 the general practitioner assessed the appellant as able to walk 4 or more blocks, climb 5 or more stairs, remain seated for less than an hour due to anxiety and it is unknown how much she can lift, indicating that an assessment of the appellant's mobility and physical ability is not applicable.

Panel Decision

In the PR, the general practitioner, who had known the appellant for four months at the time of

completing the reports, did not diagnose the appellant with asthma or with medical problems with her liver and, instead, set out the conditions relating to a mental impairment which were also emphasized by him in the AR. At the hearing, the appellant admitted that she added the information about asthma to the PR because she realized that her doctor had forgotten and this was an important part of her application. The general practitioner indicated in the AR that an assessment of the appellant's mobility and physical ability was not applicable. 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, climb 5 or more steps, remain seated less than an hour due to anxiety and that it is unknown how much she can lift. Given the absence of a diagnosis by the medical practitioner or an assessment of significant impacts to the appellant's physical functioning, 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 with PTSD, anxiety, depression, bulimia, and substance abuse and her doctor believes she needs disability for the extra help since she is a single parent of young children. The appellant wrote in her self-report that she experienced a motor vehicle accident that involved a fatality and that is how she got on medications, and stated at the hearing that PTSD affects her life greatly and holds her back from going to work. The appellant stated at the hearing that she takes medication for anxiety and depression prescribed by a psychiatrist and sleep medication that helps with her night terrors and sleep walking and, without her medications, she would likely "be in the mental hospital."

The ministry's position is that there is insufficient evidence to establish that the appellant has a severe mental impairment. The ministry acknowledged that the general practitioner assessed significant deficits to the appellant's cognitive and emotional functioning, but argued that the impacts assessed are mostly moderate. The ministry pointed out that while the general practitioner indicated that the appellant has difficulties with communication, he also reported that she has a satisfactory ability to speak, read, write and hear. The ministry pointed out that the appellant emphasized her inability to return to her profession at this time and argued that the PWD application is not intended to assess employability or vocational abilities as employability is not an eligibility criterion for designation as a PWD.

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 panel notes that the general practitioner had known the appellant for only 4 months at the time of completing the reports and, asked to describe the approaches and information sources used to complete the AR, he indicated only an office interview with the appellant. The panel further notes that

the appellant stated at the hearing that she is involved in weekly mental health programs and had previously consulted with a psychiatrist, but no reports or assessments were submitted from a mental health specialist.

The general practitioner diagnosed the appellant with PTSD, anxiety, bulimia, and substance abuse and wrote in the PR that the appellant is “unable to cope with any stress; difficult maintaining relationship or even leaving her lodging.” There are significant deficits reported to the appellant’s cognitive and emotional functioning in the areas of consciousness, memory, emotional disturbance, motivation, motor activity, and attention or sustained concentration, but with the comment “N/A.” Also, when assessing the degree of impact to the appellant’s daily functioning, the general practitioner indicated in the AR that there are no major impacts. The appellant has moderate impacts to bodily functions, consciousness, emotion, impulse control, insight and judgment (which is also marked as a minimal impact), attention/concentration, memory, and motivation, and there are minimal or no impacts in the remaining six listed areas of functioning. The general practitioner did not provide any further comments to explain or describe the impacts assessed to the appellant’s functioning. While the general practitioner wrote in the additional comments, that the appellant has “chronic PTSD, anxiety, depression, with frequent exacerbation and bulimia,” he did not explain the frequency of the exacerbation or the extent of the impact on the appellant’s functioning.

The appellant stated at the hearing that PTSD affects her life greatly and holds her back from going to work. As for searching for work and/or working, the panel finds that the ministry reasonably concluded that employability is not a criterion in section 2(2) of the EAPWDA nor is it listed among the prescribed daily living activities in Section 2 of the EAPWDR. The appellant stated at the hearing that she takes medication for anxiety and depression, as well as sleep medication that helps with her night terrors and sleep walking, and she acknowledged at the hearing that these medications allow her to cope sufficiently to care for herself and, as a single parent, for her young children.

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 does not establish that the appellant is significantly restricted in either. Regarding the decision making DLA, the general practitioner reported in the AR that the appellant independently manages the decision-making components of the DLA meal preparation (meal planning and safe storage of food) and transportation (using transit schedules and arranging transportation) , as well as the tasks of safe handling and storage of her medications. The appellant requires continuous assistance with the decision-making component of the DLA shopping (making appropriate choices) and the appellant explained at the hearing that, in the past, she used to have problems with her impulse control and she would make purchases of items she did not need. The appellant is also assessed as requiring periodic assistance with her finances DLA (banking, budgeting and paying rent and bills) and, although the general practitioner did not provide additional comments, the appellant stated at the hearing that, with coaching, she is getting better with budgeting and that she receives occasional financial help from her mother. The appellant requires periodic assistance with taking her medications as directed, described by appellant as the general practitioner’s assistance in prescribing her medications, which does not reflect inability or impairment taking medications but rather the need for medications. The general practitioner also reported in the AR that the appellant is independent with making appropriate social decisions.

Regarding the DLA of social functioning, the appellant is assessed by the general practitioner in the PR as not being restricted. In the AR, the appellant is assessed as being independent with

interacting appropriately with others, dealing appropriately with unexpected demands, and securing assistance from others. The appellant requires periodic support/supervision with developing and maintaining relationships; however, the general practitioner did not elaborate with details of how often or for how long the appellant requires the support or supervision. In the PR, the general practitioner reported that the appellant is “unable to cope with any stress; difficult maintaining relationship or even leaving her lodging.” The general practitioner indicated that the appellant has very disrupted functioning in her immediate social network, yet receives help from her family, and has both good and very disrupted functioning in her extended social networks, with no further explanation. Asked to describe the support/supervision required which would help maintain the appellant in the community, the general practitioner left this section blank. In the PR, the general practitioner reported that the appellant has difficulties with communication and, in the AR, that she has a satisfactory ability to communicate in all areas.

Given the evidence indicating mostly moderate impacts reported to the appellant’s cognitive, emotional and social functioning and no description by the general practitioner or a mental health specialist of how these impacts affect daily functioning or contribute to exacerbations to the appellant’s conditions, 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, including her mother and health care professionals, and her dog.

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, the general practitioner has not provided sufficient information to establish that there is a significant restriction in the appellant’s ability to perform these activities.

Panel Decision

Section 2(2)(b) of the EAPWDA requires that a prescribed professional provide an opinion that an applicant’s severe impairment directly and significantly restricts her DLA, continuously or periodically for extended periods. In this case, the general practitioner is the prescribed professional. DLA are defined in Section 2(1) of the EAPWDR and are also listed in the PR and, with additional details, in the AR. Therefore, a prescribed professional completing these forms has the opportunity to indicate which, if any, DLA are significantly restricted by the appellant’s impairments either continuously or periodically for extended periods.

In the appellant’s circumstances, the general practitioner reported in the PR that the appellant has been prescribed medications that interfere with her DLA, but there is no further description of how the medications impact the appellant’s DLA. At the hearing, the appellant stated that her medications allow her to cope sufficiently to care for herself and, as a single parent, for her young children. In the PR, while the general practitioner indicated that it is unknown whether the appellant’s impairment restricts her ability to perform DLA, he also assessed the appellant as not being restricted with any of the listed DLA, specifically: personal self care, meal preparation, management of medications, basic housework, daily shopping, mobility inside and outside the home, use of transportation, management

of finances, and social functioning.

In the AR, the general practitioner reported that the appellant is independent with the DLA of personal care, basic housekeeping, meals, and transportation. The appellant is also independently able to perform most tasks of the DLA shopping and medications. The general practitioner indicated that the appellant requires continuous assistance with the tasks of making appropriate choices and carrying purchases home as part of the shopping DLA, while the appellant stated at the hearing that she does not currently require assistance with either. Making appropriate choices was difficult for her when she had problems with impulse control and, since losing her driver's license, she has to carry all the purchases home by herself now. The appellant is assessed by the general practitioner as requiring periodic assistance with the task of taking her medications as directed and with the DLA of paying her rent and bills; however, no further description or explanation is provided of the frequency or extent of the assistance needed. The appellant explained at the hearing that her general practitioner prescribes her medications and her mother provides occasional financial assistance. As discussed under the severity of mental impairment, 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.

The panel finds that the evidence demonstrates that the appellant manages, with her medications, 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 her dog to perform DLA.

The ministry's position is that because it has not been established that DLA are significantly restricted, it cannot be determined that significant help is required from other persons. The ministry argued that while the appellant wrote that her pet dog helps her, the animal does not have a service title to qualify as an assistance animal.

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.

In the AR, the general practitioner reported that the help required for DLA is provided by family and community service agencies. At the hearing, the appellant described the occasional financial assistance provided by her mother as well as the weekly counseling provided through mental health services. In the section of the AR relating to assistance provided through the use of assistive devices, the general practitioner did not identify any of the listed items as being applicable.

In the PR, in response to a request to describe the assistance the appellant needs with DLA, the general practitioner wrote: "patient has better function and mental wellness from presence of her dog." Regarding the assistance provided by assistance animals, both "yes" and "no" have been marked as applicable. Asked to specify either the nature of the assistance provided by the animal or the need, the comment is: "pet dog helps her greatly but has no service title which I would [illegible] see if I can get him the title." The panel finds that the appellant does not dispute that her dog does not currently qualify as an assistance animal.

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.