

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the ministry) reconsideration decision dated May 13, 2015 which found that the appellant did not meet four 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. However, the ministry was not satisfied that the evidence establishes that:

- the appellant's impairment is likely to continue for at least two years;
- 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 Persons With Disabilities (PWD) Application comprised of the applicant information dated December 29, 2014, with no self-report provided by the appellant, and a physician report (PR) and assessor report (AR) both dated December 30, 2014 and completed by a general practitioner who has known the appellant “many years.”

The evidence also included the following documents:

- 1) Fax dated February 19, 2015 from the ministry to the general practitioner requesting that the incomplete sections of the PWD application be completed, with a handwritten note indicating that the attached pages were completed February 24, 2015.
- 2) Completed page from PR and 6 pages of AR; and,
- 3) Request for Reconsideration dated April 15, 2015.

Diagnoses

In the PR, the appellant was diagnosed by the general practitioner with chronic depression, alcoholism, left lateral popliteal nerve palsy with foot drop with an onset of December 2014, neck pain and headaches with an onset in December 2014. The general practitioner noted that the appellant “has agreed to go to A.A. [Alcoholics Anonymous] and will start anti-depressants soon.” Asked to describe the appellant’s mental or physical impairments that impact his ability to manage daily living activities, the general practitioner wrote in the revised page from the PR: “Difficulty with coping with life because of depression and substance abuse.”

Duration

- In the PR, the appellant’s general practitioner did not indicate either “yes” or “no” in response to the question whether the appellant’s impairment is likely to continue for two years or more. The general practitioner wrote: “prognosis depends on patient’s ability to stop drinking.”

Physical Impairment

In the PR and AR, including the revised pages, the general practitioner reported that:

- In terms of health history, the appellant has “recent onset of severe neck pain and headaches secondary to cervical spondylosis; recent onset left foot drop.”
- The appellant does not require any prosthesis or aid for his impairment.
- In terms of functional skills, it is unknown how far the appellant can walk unaided, he can climb 5 or more steps unaided, he can lift 2 to 7 kg. (5 to 15 lbs.) and it is unknown how long he can remain seated.
- The appellant is not restricted with mobility inside or outside the home. The general practitioner wrote: “foot drop is showing early signs of improvement. Neck pain and headaches require time for improvement.”
- The appellant is assessed as independent with all aspects of mobility and physical ability, specifically with walking indoors and walking outdoors, climbing stairs, standing, lifting and carrying and holding. The general practitioner wrote: “Neck pain and left foot drop make some physical activity difficult; both of these will likely improve with time.”
- No assistive devices are indicated in the section of the AR relating to assistance provided.

Mental Impairment

In the PR and AR, including the revised pages, the general practitioner reported:

- In terms of health history, the appellant has “chronic depression and alcohol abuse- unable to work.”
- The appellant has no difficulty with communication.
- The appellant has significant deficits with cognitive and emotional function in 2 of the 11 listed areas, specifically: emotional disturbance and motivation, with no comment added by the general practitioner.
- The appellant is continuously restricted with social functioning, described as: “depression and alcohol abuse- has difficulty with social interactions.”
- In the additional comments, the appellant “has agreed to go to A.A.; he may have to go to De-Tox if he gets DTs [delirium tremens].”
- The appellant has a good ability to communicate in all areas, specifically speaking, reading, writing and hearing.
- There is one major impact to the appellant’s cognitive and emotional functioning in the area of impulse control and moderate impacts in the areas of emotion, attention/concentration, executive, and motivation. There are no impacts assessed for the remaining 9 areas of functioning. The general practitioner commented that the appellant is “still depressed.”
- With respect to social functioning, the appellant requires continuous support/supervision in all areas, specifically: with making appropriate social decisions, developing and maintaining relationships, interacting appropriately with others, dealing appropriately with unexpected demands and securing assistance from others. The general practitioner wrote: “needs to go to A.A.”
- The appellant has marginal functioning in both his immediate and extended social networks, with no further comment added by the general practitioner.
- Asked to describe the support/supervision required by the appellant that would help to maintain him in the community, the general practitioner wrote “A.A.”

Daily Living Activities (DLA)

In the PR and AR, including the revised pages, the general practitioner indicated that:

- The appellant has not been prescribed any medication and/or treatments that interfere with his ability to perform daily living activities.
- The appellant is not restricted with any listed DLA except social functioning. He is not restricted with personal self care, meal preparation, management of medications, basic housework, daily shopping, mobility inside and outside the home, use of transportation, and management of finances.
- The appellant is independent with moving about indoors and outdoors.
- The appellant is independent with all of the tasks of several listed DLA, including personal care, basic housekeeping, shopping, meals, medications, and transportation.
- For the “pay rent and bills” DLA, the appellant requires periodic assistance with the tasks of budgeting and paying rent and bills and is independent with his banking. There is no explanation or description provided by the general practitioner.

Need for Help

In the PR, asked to describe the assistance needed with DLA, the general practitioner wrote: “none.” In the AR, the general practitioner reported that, with respect to the assistance provided by other people, the appellant receives assistance from community service agencies. Regarding help required where none is available, the general practitioner wrote: “money- patient is homeless.” In the section of the AR for identifying assistance provided through the use of assistive devices, the general

practitioner has not identified any of the listed items as applying to the appellant.

Appellant's additional information

In his Notice of Appeal dated May 27, 2015, the appellant expressed his disagreement with the ministry's reconsideration decision and wrote that due to the circumstances, it is very likely his impairment will continue for two years or more from today. His mental impairments are severe and significantly restrict his ability to perform DLA. He is receiving help to assist in recovering his ability to perform DLA which are severely restricted by his impairment.

At the hearing, the appellant stated that:

- A number of circumstances have brought him to this point. He has been dealing with these issues for 2 years, and perhaps for 3 years.
- The general practitioner who completed the PR and the AR has been his doctor for about 30 years.
- He has recently been attending counseling and they have been "getting somewhere." Even with counseling, he still wakes up 1 to 2 times per night.
- He does not drink anymore.
- In the course of previous employment, he had to deal with a very bad motor vehicle accident where the parties suffered extensive injuries. What he witnessed had such an effect on him that even now if he is on the street or in his apartment, he feels very sensitive about his surroundings and especially noises that are not usual. If he hears sirens or someone screaming, he knows that he will not be sleeping that night.
- Sometimes he does not want to go out because he has had to administer first aid so many times and he does not want to deal with it. He feels upset afterwards.
- He also reported illegal activity at his previous employment, which has resulted in him being "black-listed" from his trade and this still haunts him. He is upset because cannot get work in the trade that was trained for.
- Since this is not a physical impairment, he does not have X-Rays and he cannot prove it with a picture. His back is not broken and he can "walk and talk" but he still has a difficult time functioning.
- He is taking steps to improve himself. He goes to community meals twice a week and he has also been volunteering.
- Several medical professionals recommended that he apply for PWD designation. He is just doing what he has been told to do. He is now feeling that his problems are more serious than he was previously willing to admit.
- As far as his DLA are concerned, he does not have any money so there is nothing to "manage" and he cannot shop for personal needs. He can use the bus and drive, but he cannot keep his place clean. He does not have a physical disability so there is no problem with taking public transport. He can move around indoors and outdoors. He can shave and shower and does not need help with that. He does not use medications or drugs.
- For paying rent and bills, his rent and the hydro bill are both paid directly by the ministry so he does not pay anything himself. He was living in his car for a few months but he is now in B.C. Housing.
- He is relatively well-educated and understands about the importance of balanced meals and, if he could apply himself, he would make meals for himself but his "head is somewhere else."
- His doctor has recommended anti-depressant medications but he knows that this will not fix the problem.

- His life consists of going to the drop-in center, checking his email, going to the library. He has been taking steps and trying to get his life back to as normal a state as possible.
- He had a psychological assessment done which required that he go through testing with a doctor and it took about 8 hours to complete. The Vocational Psychological Assessment concluded in November 2014 that he has PTSD [post traumatic stress disorder] and depression due to a few things that have happened. His motor skills are okay, but his focus is “not okay.” His mind wanders and he had to have questions repeated.
- He cannot find a job and that interferes with his ability to live a productive life.

Admissibility of Additional Information

The ministry did not raise an objection to the appellant’s oral testimony. The panel considered the testimony as additional information that corroborates the extent of the appellant’s impairment as diagnosed in the PWD application, which was before the ministry at reconsideration. Therefore, the panel admitted this additional information as being in support of information and records that were before the ministry at the time of the reconsideration, in accordance with Section 22(4)(b) of the *Employment and Assistance Act*.

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

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 that, in the opinion of a medical practitioner, is likely to continue for at least 2 years. The ministry also found that his 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 person with disabilities (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) and (2) of the EAPWDR provide definitions of DLA and prescribed professionals 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.

(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.

Duration

The appellant's position is that he has been dealing with these issues for 2 years, and perhaps for 3 years. In his Request for Reconsideration, the appellant argued that it has not been clarified whether his impairment is expected to cease within 2 years and there is no evidence that stopping drinking will have any effect on his disability.

The ministry's position is that the appellant's general practitioner has not confirmed that the appellant's impairment will continue for two years or more.

Panel Decision

Section 2(2)(a) of the EAPWDR requires that there must be the opinion of a medical practitioner indicating that the appellant's impairment is likely to continue for at least two years. In response to the question in the PR whether the appellant's impairment is likely to continue for two years or more, the general practitioner did not indicate either "yes" or "no" in response to the question whether the appellant's impairment is likely to continue for two years or more. The general practitioner wrote: "prognosis depends on patient's ability to stop drinking." While the appellant argued that there is no evidence that stopping drinking will impact his disability, the ministry must be satisfied that the opinion of the medical practitioner is that the impairment is likely to continue for at least 2 years. When the

ministry requested further information from the general practitioner by fax dated February 19, 2015, he had an opportunity to provide clarifying information regarding the degree and course of the appellant's impairment and he did not do so. The panel finds that the ministry's determination that the medical practitioner had not confirmed that the appellant's impairment will continue for two or more years from the date of the application was reasonable.

Severe Physical Impairment

The appellant did not directly advance a position that he has a severe physical impairment, but his doctor diagnosed left lateral popliteal nerve palsy with foot drop as well as neck pain and headaches with an onset in December 2014.

The ministry's position is that the evidence from the general practitioner does not demonstrate a severe physical impairment. The ministry argued that the general practitioner commented that the appellant is unable to work as a result of his medical conditions but the PWD application is not intended to assess employability or vocational ability and employability is not an eligibility criterion for designation as a PWD. The general practitioner indicated that the appellant is independent in all aspects of his mobility and physical abilities and, although his neck pain and foot drag (sic) can make some physical activities difficult, both issues will likely improve with time.

Panel Decision

The general practitioner, who has known the appellant for about 30 years, diagnosed the appellant with left lateral popliteal nerve palsy with foot drop and neck pain and headaches, all with an onset in December 2014. The general practitioner wrote that the appellant has "recent onset of severe neck pain and headaches secondary to cervical spondylosis; recent onset left foot drop." The general practitioner wrote: "foot drop is showing early signs of improvement; neck pain and headaches require time for improvement." At the hearing, the appellant stated that he "does not have a physical disability" and he did not mention impacts to his mobility as a result of foot drop or with his physical abilities due to neck pain or headaches.

In the PR, the general practitioner reported that it is unknown how far the appellant can walk unaided, he can climb 5 or more steps unaided, he can lift 5 to 15 lbs., and it is unknown how long he can remain seated. The general practitioner also indicated that the appellant does not require any prosthesis or aid for his impairment. In the revised PR and AR, the general practitioner reported that the appellant is not restricted with mobility inside or outside the home and he is assessed as independent with all aspects of mobility and physical ability, specifically with walking indoors and walking outdoors, climbing stairs, standing, lifting and carrying and holding. Also, as discussed in more detail in these reasons for decision under the heading "Restrictions in the Ability to Perform DLA", the limitations to the appellant's physical functioning have not translated into significant restrictions to his ability to manage DLA.

Although the general practitioner's comments regarding an inability to work appeared to relate more to the appellant's conditions connected to a mental impairment, 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. Given the absence of 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 he has a severe mental impairment due to the impacts from chronic depression and PTSD and that he no longer drinks alcohol. The appellant argued that the Vocational Psychological Assessment concluded in November 2014 that he has PTSD and depression due to a few things that have happened, including witnessing a traumatic motor vehicle accident. The appellant argued that the Assessment determined that his motor skills are okay, but his focus is "not okay," that his mind wanders and he has to have questions repeated. The appellant pointed out that he has recently been attending counseling and, even with counseling, he still wakes up 1 to 2 times per night. The appellant argued that the general practitioner prescribed anti-depressant medications but he does not take medications because he knows that it will not solve the problem.

The ministry's position is that there is insufficient evidence to establish that the appellant has a severe mental impairment as required by Section 2(2) of the EAPWDA. The ministry argued that while the general practitioner reported that there are significant deficits in several areas of the appellant's cognitive and emotional functioning, the impacts are assessed as moderate. The ministry argued that the general practitioner indicated that the appellant does not have any difficulty with communication.

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 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 long-time general practitioner.

The general practitioner diagnosed the appellant with chronic depression, alcoholism and wrote that the appellant "has agreed to go to A.A. and will start anti-depressants soon." At the hearing, the appellant stated that he is no longer drinking and he does not want to take medications because he knows they will not solve his problems. Although the appellant argued that he was diagnosed with PTSD in the Vocational Psychological Assessment conducted in November 2014, the report was not available to the panel and this was not diagnosed by the appellant's long-time physician. Asked to describe the appellant's mental or physical impairments that impact his ability to manage daily living activities, the general practitioner wrote: "difficulty with coping with life because of depression and substance abuse." In the PR, the general practitioner reported that the appellant has significant deficits with cognitive and emotional function in 2 of the 11 listed areas, specifically: emotional disturbance and motivation, with no comment added by the general practitioner. The general practitioner indicated in the revised AR that there is one major impact to the appellant's cognitive and emotional functioning in the area of impulse control. There are moderate impacts reported in the areas of emotion, attention/concentration, executive, and motivation and there are no impacts assessed for the remaining 9 areas of functioning. The general practitioner commented that the appellant is "still depressed."

Considering 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 clearly indicate that the appellant is significantly restricted in either. With respect to decision making, the general practitioner reported in the revised AR that the appellant is independent with the decision-making components of the DLA of personal care (regulate diet), daily shopping (make appropriate choices), meal preparation (meal planning and safe storage of food), managing his medications (taking his medication as directed and safe handling and storage), and transportation (using transit schedules and arranging transportation). The general practitioner indicated that the appellant requires periodic assistance from another person with the decision-making components of the “pay rent and bills” DLA (including budgeting), but did not include an explanation or description to allow the ministry to determine that the assistance is required for extended periods of time. While the general practitioner also reported in the revised AR that the appellant requires continuous support/supervision with making appropriate social decisions, he wrote that the appellant “needs to go to A.A.” and the appellant reported at the hearing that he no longer drinks. Asked to describe the support/supervision required which would help to maintain the appellant in the community, the general practitioner reiterated “A.A.”

Regarding the DLA of social functioning, the appellant is assessed in the revised PR as continuously restricted with social functioning and wrote “depression and alcohol abuse- has difficulty with social interactions.” However, asked to describe the assistance required with daily living activities, the general practitioner wrote “none.” In the revised AR, the general practitioner indicated that the appellant requires continuous support/supervision in all areas, including with developing and maintaining relationships, interacting appropriately with others and securing assistance from others and wrote “needs to go to A.A.” The appellant maintains marginal functioning in his immediate and extended social networks and the general practitioner did not add any comments in this section of the AR. In the additional comments to the PR, the general practitioner reported that the appellant “has agreed to go to A.A” and “he may have to go to De-Tox if he gets DTs,” thereby emphasizing the effect of the appellant’s alcohol abuse on his functioning. At the hearing, the appellant stated that he has recently been attending counseling and they have been “getting somewhere,” and that he no longer drinks but he did not refer to having attended a meeting of A.A. The general practitioner reported in the PR that the appellant has no difficulty with communication and, in the AR, that the appellant has a good ability to communicate in all areas.

Given the assessment of mostly moderate impacts to the appellant’s cognitive and emotional functioning and the absence of detail regarding the support/supervision required with the social functioning DLA, 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 his physical and mental impairments directly and significantly restrict his ability to perform DLA on an ongoing basis such that he requires the significant assistance of another person, including counseling.

The ministry’s position is that the information from the prescribed professionals does not establish that the appellant’s impairments significantly restrict his DLA either continuously or periodically for extended periods of time. The ministry argued that although the general practitioner assessed the appellant as requiring periodic assistance from another person with tasks of the “pay rent and bills” DLA, the general practitioner does not provide any comments or descriptions to indicate how often the appellant requires assistance. The ministry argued that there is insufficient information to

demonstrate that the appellant requires this assistance for extended periods of time. The ministry argued that the general practitioner reported continuous support/supervision required for aspects of social functioning with the explanation that the appellant needs to attend A.A. meetings, and he is independent with all other tasks of DLA.

Panel Decision

Section 2(2)(b) of the EAPWDA requires that the ministry be satisfied that a prescribed professional has provided an opinion that an applicant's severe impairment directly and significantly restricts his 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, the prescribed professional completing these forms has the opportunity to indicate which, if any, DLA are significantly restricted by the appellant's impairments continuously or periodically for extended periods.

In the appellant's circumstances, the general practitioner reported that the appellant has not been prescribed medications and/or treatments that interfere with his ability to perform daily living activities. In the revised AR, the general practitioner reported that the appellant is independent moving about indoors and outdoors, with the comment: "neck pain and left foot drop make some physical activity difficult; both of these will likely improve with time." As previously discussed, the appellant emphasized his mental impairment at the hearing and stated that he is sometimes reluctant to go outdoors due to his sensitivity to sounds, but he also discussed going out into the community twice a week for meals and once a week for volunteering.

In the revised PR, the general practitioner indicated that the appellant is not restricted with any listed DLA (personal self care, meal preparation, management of medications, basic housework, daily shopping, mobility inside and outside the home, use of transportation, and management of finances) except social functioning. In the revised AR, the general practitioner reported that the appellant is independent with all of the tasks of the DLA personal care, basic housekeeping, shopping, meals, medications, and transportation. At the hearing, the appellant stated that he does not have a physical disability so there is no problem with taking public transport and he can move around indoors and outdoors. He can shave and shower and does not need help with that. He does not use medications or drugs. He is relatively well-educated and understands about the importance of balanced meals and, if he could apply himself, he would make meals for himself but his "head is somewhere else." As a result, he also cannot keep his place clean. He cannot find a job and that interferes with his ability to live a productive life.

For the "pay rent and bills" DLA, the general practitioner indicated that the appellant requires periodic assistance with the tasks of budgeting and paying rent and bills and is independent with his banking. At the hearing, the appellant stated that he does not have any money so there is nothing to "manage" and he, therefore, cannot shop for personal needs. He also pointed out that his rent and the hydro bill are both paid directly by the ministry so he does not pay any bills himself. As there is no explanation or description provided by the general practitioner, as the prescribed professional, regarding the nature and extent of the assistance required with this DLA, the panel finds that the ministry reasonably determined there is insufficient information to conclude that the assistance is required for extended periods of time.

As previously discussed, the evidence of the prescribed professional does not clearly indicate that the appellant is significantly restricted in either DLA specific to mental impairment, namely decision

making or social functioning, and employability is not listed among the prescribed daily living activities in section 2 of the EAPWDR. Therefore, the panel finds that the ministry was reasonable to conclude that the evidence is insufficient to show that the appellant's overall ability to perform his DLA is significantly restricted either continuously or periodically for extended periods, pursuant to Section 2(2)(b)(i) of the EAPWDA.

Help to perform DLA

The appellant's position is that his physical and mental impairments significantly restrict his daily living functions such that significant assistance is required.

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. The ministry argued that the general practitioner does not indicate that the appellant uses an assistive device and the appellant does not require the services of 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 PR, asked to describe the assistance needed with DLA, the general practitioner wrote: "none." The general practitioner reported in the AR that, with respect to the assistance provided by other people, the appellant receives assistance from community service agencies. Regarding help required where none is available, the general practitioner wrote: "money- patient is homeless." At the hearing, the appellant stated that he was living in his car for a few months but he now has an apartment in B.C. Housing. In the section of the AR for identifying assistance provided through the use of assistive devices, the general practitioner has not identified any of the listed items as applying to the appellant.

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 pursuant to Section 2(2) of the EAPWDA was reasonably supported by the evidence, and therefore confirms the decision.