

PART C – Decision under Appeal

The decision under appeal is the reconsideration decision of the Ministry of Social Development and Social Innovation (the ministry) dated 12 August 2015 that denied the appellant designation as a person with disabilities (PWD). The ministry determined that the appellant did not meet all of the required criteria for PWD designation set out in the *Employment and Assistance for Persons with Disabilities Act*, section 2. Specifically, the ministry determined that the information provided did not establish that the appellant has a severe mental or physical impairment that in the opinion of a prescribed professional

(i) directly and significantly restricts her ability to perform daily living activities (DLA) either continuously or periodically for extended periods; and,

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

The ministry determined that the appellant satisfied the other 2 criteria: she has reached 18 years of age and her impairment in the opinion of a medical practitioner is likely to continue for at least 2 years.

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 reconsideration consisted of the following:

1. The appellant's PWD Designation Application dated 05 June 2015. The Application contained:
 - A Physician Report (PR) dated 10 July 2014, completed by the appellant's general practitioner (GP) who has known the appellant for 11 years and seen her 2 - 10 times over the past year
 - An Assessor Report (AR) dated 09 April 2015, completed by the same GP.
 - A Self Report (SR) completed by the appellant.
2. The appellant's Request for Reconsideration, dated 14 July 2015, to which was attached a submission from the appellant's advocate and 3 Internet articles on fibromyalgia.

In the PR, the GP lists the following diagnoses related to the appellant's impairment: fibromyalgia (onset 1996) and anxiety/depression (mood disorder) with onset unknown. The GP reports that the appellant's impairment will likely continue for 2 years or more (longstanding: chronic condition).

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:

"The appellant finds that her condition is progressive. Used to be able to work in restaurants and retail but is now bothered by increased (sic) and fatigue; finds it difficult looking after self and children (ADLs affected). Tried to work in daycare situation but unable to do that."

As to functional skills, the GP reports that the appellant can walk 1-2 blocks unaided, climb 2-5 steps unaided, is limited to lifting 15 – 35 lbs. and is limited to remaining seated for less than one hour.

The GP indicates that the appellant has not been prescribed any medication and/or treatments that interfere with her ability to perform DLA. The GP also indicates that the appellant does not require any prostheses or aids for her impairment.

Mental impairment

PR:

Under health history, the GP writes:

"Gets overwhelmed when surrounded by large group of people; not able to do restaurant work. Avoids situations when in crowds. Snaps at the children when there is constant demand on her attention."

The GP assesses the appellant as having no difficulties with communications.

GP indicates that the appellant has significant deficits with cognitive and emotional function in the

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areas of emotional disturbance, motivation, and motor activity, commenting: "Definitely mood issues. Very agitated today: twitching".

Ability to perform DLA

PR:

The GP indicates the appellant is restricted the following DLA periodic basis: meal preparation, basic housework, daily shopping, mobility inside the home, mobility outside the home. The GP also indicates that the appellant is restricted in social functioning, giving no indication as to whether that is continuous or periodic. The GP comments: "Has good & bad days. On worse days just lying in bed: not able to do ADLs"

Regarding social functioning, the GP comments: "isolates self; not much social function; not many friends; lost contact with father of children; separated."

AR:

The GP reports that the appellant lives with her 2 children.

The GP lists the appellant's mental or physical impairments that impact her ability to manage DLA as chronic pain issues; anxiety and depression

GP assesses the appellant's ability to communicate as good for speaking, reading, writing and hearing.

Regarding mobility and physical ability, the GP assesses the appellant as independent but taking significantly longer than typical in all of the following areas, with comments as shown:

- Walking indoors – "some days hurts to walk."
- Walking outdoors – "some days hurts to walk."
- Climbing stairs – "stops after doing few – aggravates hip."
- Standing – "at times only able to stand for short periods."
- Lifting and carrying and holding – "neck & shoulder hurts when holding weight as low as 20 lbs."

The GP comments: "has hard time doing hills – pain."

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

- Personal care: independent in all aspects, but takes significantly longer than typical for dressing, bathing, transfers in/out of bed and transfers on/off of chair (at times difficult when hip very painful),
- Basic housekeeping: Independent for laundry and basic housekeeping but takes significantly longer than typical (unable to do it as often as she should, gets help from friend once in a while).
- Shopping: independent in all aspects.
- Meals: independent in all aspects, but takes significantly longer than typical for meal planning, food preparation and cooking (at times only able to make something quick & easy).
- Paying rent and bills: independent in all aspects.

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- Medications: independent in all aspects.
 - Transportation: independent for getting in and out of vehicle, but takes significantly longer than typical (drives own vehicle; stays home when hip hurts too much). No assessment is provided for using public transit schedules and arranging transportation.

Regarding cognitive and emotional functioning, the GP indicates that the appellant's mental impairment or brain injury restricts or impacts her functioning as follows:

- Major impact – emotion and motivation.
- Moderate impact – executive and memory.
- Minimal impact – attention/concentration.
- No impact – bodily functions, consciousness, impulse control, insight and judgment, motor activity, language, psychotic symptoms, and other neuropsychological problems.

The GP comments: “Above impaired mostly on basis of depression.”

With respect to social functioning the GP assesses the appellant as independent for making appropriate social decisions, developing and maintaining relationships (only has a few friends), interacting appropriately with others, dealing appropriately with unexpected demands and securing assistance from others (no help at the moment).

The GP describes the impact of the appellant's impairment on her immediate and extended social networks as marginal functioning, commenting that she tends to isolate herself.

Help provided/required

PR:

The GP indicates that the appellant does not require any prostheses or aids for her impairment. The GP states that, regarding DLA, the appellant gets help mostly from her mother.

AR:

The GP reports that the appellant receives help from a friend with laundry and her mother helps with the kids.

The GP does not indicate that the appellant routinely uses any of the listed assistive devices.

Self report

The appellant describes her disability as follows:

- constant back/hip/neck pain
- leg & arm goes numb
- constant headaches
- have to lie down a lot
- trouble sleeping

In describing how her disability affects her life, she writes:

“Sometimes the pain is so bad that I just lay around the house. I will skip meals for myself (still feed the kids). I have no motivation to just push through the pain & depression that I

will cancel appointments etc.”

Reconsideration submission

In the reconsideration submission, the appellant's advocate provides a detailed overview of the appellant's medical conditions and their impact on her daily life. To summarize:

- The appellant is a single mother with two children.
- She suffers from fibromyalgia, which results in constant pain throughout her body, with certain areas acutely affected – starting with her neck and continuing throughout her entire back and radiating down her right arm, while from her lower back the pain radiates through her right hip and down the full-length of her right leg.
- The pain felt throughout the appellant's body disrupts her nightly sleep, resulting in no quality or restorative sleep, and in the morning her mind is not sharp, she is irritable, frustrated, sometimes confused and constantly fatigued, while the pain has not subsided.
- In the mornings it will take her 3 to 4 times longer than typical to get out of bed because of pain and cramping in her right hip. Her morning routine takes five times longer to accomplish, as dressing grooming her painful.
- Some days she cannot get up because the pain is so bad; because she must use stairs to get to the family room and kitchen it is easier to stay on the bedroom level.
- Going up and down stairs requires planning and she must always use either the wall or the handrail.
- If it is a day she can get up, she keeps breakfast as simple as possible. When her son goes to school she is at home with her toddler daughter; she must conserve strength to supervise her daughter through the day. Sometimes a friend provides childcare.
- Laundry and housekeeping take 5 to 10 times longer because of constant back pain. Often these duties are left until her son or friend can assist. If she must leave her home for shopping or errands, the excursion must be carefully planned. She cannot drive more than 20 minutes, after which her back, shoulders and hip cause difficulty from being in one position for too long. At the grocery store she always uses a shopping cart. She will usually have the children assist with shopping or ask friends if available. She may go several days without medications or some food items because she is unable to leave the home. She relies on her brother to remind her when utility payments must be made, as her fatigue, pain and lack of sleep make her prone to forgetfulness.
- As to the appellant's emotional state, constant pain and fatigue lead to feelings of depression and anxiety. She is frustrated with her condition and this can make her irritable and quick to anger. She avoids all social situations, except for a couple of friends who come to help her, and she has no meaningful contacts outside of her home. She cannot go for walks or participate in sports and she cannot maintain a relationship because her physical difficulties and limitations dictate the limits of liberty.

The appellant's Notice of Appeal is dated 26 August 2015. She gave as reasons: “I believe my disability is of a severe physical nature with associated mental impact, that my daily activities are significantly restricted, and, I do require significant help/supervision of another person to perform my daily living activities.”

Information submitted on appeal



Before the hearing, the appellant submitted the following:

- A “To whom it may concern” letter of support dated 09 September 2015 from a friend of the appellant. The friend describes how she, on more than a few accounts, has assisted the appellant with many things in and out of her home simply because the pain that she experiences does not allow her to accomplish them herself efficiently, or in a physically healthy manner. Although the appellant is able to properly care for her children, on her worst days things such as laundry, running errands or walking down the stairs can be difficult or scary. The appellant experiences frequent falls down sets of stairs due to her back and hip issues. When this happens she is unable to do things around the house due to the resulting physical pain, as well as the fear that she may fall again. The friend goes on to describe the appellant’s struggles with anxiety and depression. In the appellant’s anxiety is at its worst, the friend visits to give her the support she needs.
- A “To whom it may concern” letter from the appellant’s GP, dated 09 September 2015, who writes:

“This is to state that [the appellant] is well known to me. She has a chronic pain syndrome on the basis of fibromyalgia and this has been affecting her for the better part of 20 years. I recently asked her to do a brief pain inventory and pain disability Index and after reviewing this I find that she is always in pain and that she is only getting about 30% relief of this pain using opiate analgesics. Pain is significantly interfering with most aspects of her life – ADLs, mood, walking, going up and down stairs, work, housework, relations with other people, sleep and enjoyment of life.

“I was also asked to elaborate on the frequency and severity of this pain. As noted in the preceding paragraph she is always suffering from pain. About once a week this pain is so severe she hardly gets out of bed or off the couch and this pain can linger for a day or more. During these episodes she needs assistance and she usually gets this from some friends or her mother.”

The hearing

At the hearing, the appellant's advocate referred to the reconsideration submission. He stated that had prepared this on the basis of an extensive interview with the appellant, with the aim of describing as best he could how the appellant's impairments affect her daily functioning.

The appellant explained the 9-month time difference between the GP completing the PR and the AR. When she first went to see her GP about the application form, she was under the impression that he would complete the PR and that it would be up to her to find somebody else to complete the AR. She was unable to find someone to do that, and was advised by the ministry that she could have the GP complete the AR. When she took it into him, he was in a rush and did not spend much time questioning her about the assessments to be made on the form.

The appellant described how the past weekend was typical. Because of her pain she was barely able to walk and a friend came over to look after the children and do some housekeeping. She explained that when she wakes up in the morning she never knows how bad the pain will be. Her medications are not much help, but when the pain is really bad she does not go to the hospital because she feels



that there is not much they could do for her. She said that her right hip will frequently give out and this has caused numerous falls down the stairs. She does her best in feeding her children; while they never go hungry, their meals may not be the most nutritious – sometimes just waffles that can easily be warmed in the toaster. She stated that on some days the pain in her right leg is so bad that she cannot drive, as it is that leg that must function properly to drive safely. She explained that the friend who wrote the letter of support lives a few doors away; they are in regular contact by texting and the friend will come over and help out when needed, subject to work and other commitments.

The appellant explained while she has been diagnosed with both depression and anxiety, her GP has prescribed medication only for her depression, out of concern that any anti-anxiety medications would not work well with her pain medications.

In answer to a question, the appellant stated that severe bouts of pain sometimes occur more frequently than indicated by her GP, as a result of falling down the stairs, which may occur once or twice a week.

Admissibility of new Information

With the exception noted below, the panel finds that the new information provided in the GPs letter, the letter of support from her friend and the appellant's testimony at the hearing is in support of the information and records before the ministry at reconsideration. The information from the GP concerning the appellant's constant pain tends to corroborate the appellant's description in her self report. The information from the GP regarding the frequency of the appellant's severe bouts of pain about once a week tends to substantiate numerous references in the material before the ministry concerning this happening "some days" or "sometimes." Therefore the panel admits this information as evidence pursuant to section 22(4) the *Employment and Assistance Act*.

The panel does not admit as evidence the information by the appellant and her friend concerning her history of falling down stairs, as there was no reference to this in the records before the ministry at reconsideration.

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, in the opinion of a medical practitioner, 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 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),

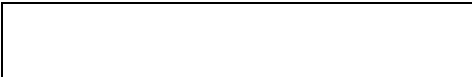
- (a) a person who has a severe mental impairment includes a person with a mental disorder, and
- (b) a person requires help in relation to a daily living activity if, in order to perform it, the person requires
 - (i) an assistive device,
 - (ii) the significant help or supervision of another person, 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 information provided by the GP in the PR and found that the appellant experiences limitations to her physical function due to pain in her neck, shoulders and hip. However, the ministry determined the assessments provided by the medical practitioner speak to a moderate rather than a severe physical impairment.

The position of the appellant is that the evidence of significant limitations in her physical functioning due to the constant pain in her neck, shoulders and hip arising from her fibromyalgia clearly demonstrates that she has a severe physical impairment.

Panel decision

A diagnosis of a serious medical condition 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.

In the reconsideration submission, the appellant’s advocate, on the basis of a lengthy interview with her, has provided a broad overview of the impacts of her fibromyalgia on her physical functioning. The appellant described some of these impacts at the hearing as well. However, the panel notes that this overview describes many impacts as occurring “sometimes” or “some days,” without offering any information as to the frequency of these occurrences. By comparison to the detail provided by the advocate, the panel finds it difficult to develop a similar picture of the impacts of the appellant’s fibromyalgia from the information provided by the appellant’s GP in the PR and AR.

In the PR, GP assesses the appellant as being able to walk 1-2 blocks unaided and climb 2 – 5 steps unaided lift 15 to 35 pounds and remain seated for less than one hour. Under health history, where the GP is asked to indicate the severity on the medical conditions relevant to the impairment, the GP writes only that: “[The appellant] finds that her condition is progressive. Used to be able to work in restaurants and retail but is now bothered by increased (*sic*) and fatigue; finds it difficult looking after self and children (ADLs affected). Tried to work in daycare situation but unable to do that.” In the PR, the GP indicates the appellant is restricted in meal preparation, basic housework, daily shopping, mobility inside the home and mobility outside the home, all on a periodic basis. He explains periodic as “Has good & bad days. On worse days just lying in bed: not able to do ADLs,” without providing information as to the frequency and duration of good and bad days. In assessing mobility and physical ability in the PR, GP assesses the appellant as independent but taking much longer than typical, noting only “some days unable to walk,” without explaining why or how frequently this is the case. In terms of climbing stairs, the GP makes the same assessment, commenting: “stops after doing few – aggravates hip.” As to the other DLA requiring physical effort, the GP assesses the appellant as independent in all of them, taking longer than typical for some aspects (see also below under Direct and significant restrictions in the ability to perform DLA), again without providing any information as to how much longer.

In his letter submitted on appeal, the GP confirms that the appellant’s pain is constant, only alleviated by a moderate degree by analgesics, and “About once a week this pain is so severe she hardly gets out of bed or off the couch and this pain can linger for a day or more.” In the panel’s view, without a more detailed description of the impact of the appellant’s pain on the other days, being almost bed-ridden once a week – 4 times a month – is not sufficient to establish a severe physical impairment.

The panel considers it reasonable that the ministry would rely on the independent and professional information provided by the medical practitioner – the GP – in making its determination, and finds that, given the lack of information provided, the ministry was reasonable in determining that a severe physical impairment had not been established.

Mental impairment

The position of the Ministry, as set out in the reconsideration decision, is that the information provided does not establish that the appellant has a severe mental impairment.

The appellant's position is that the GP has diagnosed her with anxiety and depression and his assessments clearly demonstrate that she has a severe mental impairment.

Panel decision

The GP has diagnosed the appellant with anxiety and depression. He has identified significant deficits with cognitive and emotional function in the areas of emotional disturbance, motivation and motor activity, commenting: "Definitely mood issues; very agitated today; twitching." Under health history, he explains the severity of the appellant's mental impairment by writing: "Gets overwhelmed when surrounded by large group of people; not able to do restaurant work. Avoids situations when in crowds. Snaps at the children when there is constant demand on her attention." The GP assesses the appellant's mental impairment as having a major impact on emotion and motivation and a moderate impact in the areas of executive and memory, commenting that her impairment is mostly on the basis of depression.

In terms of the impact of the appellant's mental health condition on her ability to perform DLA, the GP indicates in the PR that the appellant's social functioning is restricted, without an assessment as to whether this is continuous or periodic, and comments "isolates self; not much social function; not many friends; lost contact with father of children; separated." In the AR, the GP assesses the appellant as independent in all listed areas of the social functioning DLA (See Direct and significant restrictions on the ability to perform DLA, below).

The GP provided little further narrative in support of the determination of severe mental impairment. For instance, no explanatory details are provided regarding the major impact on motivation, and there is nothing to indicate in the assessments of DLA requiring physical effort that motivation is a factor in taking significantly longer than typical. Similarly for memory, the GP does not confirm that the appellant requires the help of her brother in reminding her to pay her utility bills, as described in the reconsideration submission.

Considering that there is no information to suggest the appellant has ever been referred to a psychiatrist and taking into account the lack of detail that would support the GP's assessments of major impacts of her mental health condition on daily functioning, the panel finds that the ministry was reasonable in determining that a severe mental impairment had not been established.

Direct and significant restrictions in the ability to perform DLA.

In the reconsideration decision, the ministry acknowledged that the appellant has certain limitations resulting from pain which as a result makes her stay in bed or take longer than typical to perform DLA. However, frequency and duration of these periods are not described in order to determine if they represent a significant restriction to her overall level of functioning. The ministry found that the assessments provided by the GP are indicative of a moderate level of restriction. The position of the

ministry is that the information provided by the GP does not establish that a severe impairment significantly restricts DLA continuously or periodically for extended periods.

The position of the appellant is that there is ample evidence to demonstrate that, as a result of her constant pain and anxiety and depression, she is significantly restricted in their ability to perform DLA on an ongoing basis

Panel findings

The panel notes that, according to the legislation, the direct and significant restriction in the ability to perform DLA must be a result of a severe impairment, a criterion that has not been established in this appeal. 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 the AR, GP assesses the appellant as independent, with some restrictions noted, for all DLA applicable to a person with a physical or mental impairment. Regarding the DLA of moving about indoors and outdoors, the GP comments that on some days she is unable to walk, but as noted above under severity of physical impairment, no information is provided as to how often this occurs. The GP assesses the appellant as taking significantly longer than typical in some aspects of personal care, (the GP comments that at times difficult and very painful), basic housekeeping (she is unable to do it as often as she should; gets help from friend once in a while), meals (at times only able to make something quick & and easy) and getting in and out of the vehicle (stays home when hip hurts too much). Again, the GP is not provided any detail in the AR that would shed some light on how often these restrictions occur. In his letter submitted on appeal, it is unclear whether these restrictions occur more frequently than once a week.

Regarding the DLA applicable to a person with severe mental impairment – make decisions about personal activities, care or finances; and relate to, communicate or interact with others effectively – in the AR the GP assesses the appellant as independent in making appropriate social decisions, developing and maintaining relationships (only has a few friends), interacting appropriately with others, dealing with unexpected demands and securing assistance from others. He assesses relationships with immediate and extended social networks as marginal functioning, commenting: "Tends to isolate herself."

Considering that a severe impairment has not been established and taking into account that the GP has assessed the appellant as independent in all DLA, albeit with some restrictions on an unspecified frequency and duration, the panel finds the ministry was reasonable in determining that there was not enough evidence to establish that the appellant's impairments directly and significantly restrict her 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 she requires the support and assistance from her friends and children in managing her 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. Since it has not been established that DLA are directly and significantly restricted, the panel finds that the ministry was reasonable in finding that 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.