

## PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the ministry) Reconsideration Decision dated November 23, 2015 which found that the appellant did not meet all of the statutory requirements of section 2 of the *Employment and Assistance for Persons with Disabilities Act* for designation as a Person With Disabilities (PWD). The ministry found that the appellant met the age requirement and that he has an impairment that is likely to continue for at least two years. However, the ministry was not satisfied that the evidence established that:

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

## PART D – Relevant Legislation

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

## PART E – Summary of Facts

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

1. The appellant's Persons With Disabilities ("PWD") Application comprised of:
  - The Applicant Information and Self-report ("SR") completed by the appellant and dated May 21, 2015;
  - The Physician Report ("PR") dated June 1, 2015 and prepared by the appellant's general practitioner ("GP") of 10 years and who treated the appellant between 2 and 10 times in the 12 months prior to completing the PR; and
  - The Assessor Report ("AR") dated June 9, 2015 and prepared by a social worker ("SW") who met the appellant for the first time on the day the AR was completed;
2. The appellant's Request for Reconsideration ("RFR") dated October 8, 2015 and enclosing a CD that purported to contain four X-ray images of the appellant's neck taken on May 25, 2015; and
3. The appellant's amended Request for Reconsideration ("Amended RFR") dated October 28, 2015 to which is attached the following:
  - Written submissions prepared by an advocate ("Advocate Submissions") and dated November 12, 2015;
  - Written submissions prepared by the appellant ("Appellant Submissions") and dated November 12, 2015;
  - A questionnaire completed by the GP and dated November 11, 2015 ("Questionnaire").

### ***Admissibility of Additional Evidence***

#### ***Oral Evidence***

The appellant gave oral evidence at the hearing. His evidence included comments on his physical health, his history and attendance with his GP and the SW and the impact that his condition has had on his ability to perform tasks of DLA. As the appellant's physical health and its impact on his ability to perform tasks of DLA was described in the PWD application and other documents previously submitted, the panel finds that the appellant's oral evidence is admissible as it is in support of the information and records that were before the minister when the decision being appealed was made pursuant to section 22(4)(b) of the *Employment and Assistance Act*.

#### ***Diagnoses***

In the PR, the appellant is diagnosed by the GP with the following:

1. Degenerative Joint Disease ("DJD") – Neck and upper thoracic – date of onset 1970; and
2. Arthritis of shoulder and knee – date of onset 2010.

#### ***Physical Impairment***

In the SR, the appellant writes that he hit his head in the early 1970's which resulted in his suffering a broken rib and a compressed spine although after a few years of physiotherapy he was relatively better and could conduct heavy physical activity. Later in life, the appellant developed arthritis in his heels, knees, back, hips, shoulders and neck. More recently, the appellant writes that he has experienced what are known as "bulging joints" which he states is another name for Facet Joint Syndrome or Osteoarthritis. He says that he has experienced this in his neck area as a result of his old neck injury and arthritis.

In the nine months prior to completing the SR, the appellant writes that his health has deteriorated with arthritis symptoms in his wrist and knees and constant pain in his neck with shooting pain running down his spine all the way to his toes. The appellant writes that he could no longer walk more than 2 or 3 blocks without needing a rest, that he could not carry grocery bags or any item that weighs more than 3 kg and that he could not stand for more than 10 minutes. Additionally, the appellant writes that almost 10 years prior he was diagnosed with tinnitus which causes a constant buzzing in his right ear which sometimes interferes with his ability to sleep.

In the PR, the GP comments that the appellant experiences progressive pain in his neck, shoulders and knees that interferes with his ability to do certain types of jobs and perform DLA. The GP comments further that the appellant's condition is permanent with variable severity and symptoms. With respect to functional skills, the GP notes that the appellant can walk 2-4 blocks unaided on a flat surface, climb 5 or more steps unaided, lift 5 to 15 lbs, remain seated for 1-2 hours "with pain" and that he has no difficulties with communication.

In the AR, the SW comments that the appellant's physical health includes "Degenerative Joint Disease: Neck and Upper Thoracic, Arthritis of Shoulder & Knee, Tinnitis [sic]." The SW notes that the appellant's ability to communicate by speaking and reading are satisfactory but that his ability to write is poor ("Hand-writing painful – needs keyboard") and his hearing is also poor ("Constant buzzing in ears"). The SW adds the comment that as a result of his tinnitus, it is hard for the appellant to concentrate.

The SW notes that the appellant takes significantly longer than typical with all aspects of mobility and physical ability including walking indoors and outdoors, climbing stairs ("slowly and needs a handrail"), standing ("5-8 minutes max"), lifting ("10 lbs max"), carrying and holding ("10 lbs max"). The SW adds that the appellant requires periodic assistance from another person with lifting, carrying and holding and comments that "all moving about takes at least 3 times longer due to "severe pain which increasing [sic] with every movement."

In the Amended RFR, the appellant writes that the situation with his neck has worsened and that he cannot raise his right arm higher than his shoulder. In the Appellant Submissions he writes that his situation has become worse from the beginning of the current year.

In the Questionnaire, the GP provides written answers to the questions posed to him. The first question asks whether the appellant has a severe physical impairment when considering the impact of his medical conditions on his daily life. In response, the GP writes that the appellant has chronic neck pain secondary to cervical spondylosis, chronic right shoulder pain secondary to impingement and that he is in constant pain which impacts his daily life severely. The GP also agrees that the appellant's level of activity is significantly reduced due to his impairment.

### ***Mental Impairment***

In the PR, the GP has not diagnosed the appellant with a mental disorder and has not indicated that the appellant has any significant deficits with cognitive and emotional function.

In the AR, the SW has written "N/A" in response to the question of whether the appellant's cognitive and emotional functioning is impacted and did not provide an assessment of his social functioning.

### ***Daily Living Activities***

In the SR, the appellant writes that he is restricted in a number of DLA. He says that he cannot carry grocery bags that exceed 3 kg, getting in and out of buses has become very difficult, washing dishes or using a vacuum cleaner has become a tremendous burden and it takes longer than before to shower or bathe (almost 45 minutes).

In the PR, the GP comments that the appellant's progressive pain interferes with his DLA and then indicates

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that the appellant's impairment does not restrict his ability to perform any of the listed DLA and adds the comment that he does shopping "in small loads." The GP further notes that the appellant has not been prescribed any medications or treatments that interfere with his ability to perform DLA. The GP comments in the PR that his medical conditions interfere with his DLA and that he has more difficulties with DLA that are of a "heavy" nature.

In the AR, the SW comments on the assistance required by the appellant in relation to the impairment that directly restricts his ability to manage his DLA as follows:

- Personal Care: The appellant is independent feeding himself and regulating his diet but takes significantly longer than typical while dressing, grooming, bathing, toileting and transfers in and out of bed and on and off of chairs.
- Basic Housekeeping: The SW notes that laundry and basic housekeeping take the appellant significantly longer than typical.
- Shopping: The SW notes that each of the tasks of shopping takes the appellant significantly longer than typical and that he requires periodic assistance from another person with carrying purchases home ("10-15 lbs max").
- Meals: The SW notes that the appellant is independent when meal planning but takes significantly longer than typical with food preparation, cooking and safe storage of food with the added comment for these three tasks, "slow due to pain."
- Paying Rent and Bills: The SW notes that the appellant is independent with budgeting and paying rent and bills but takes significantly longer than typical with banking with the added comment "slow due to pain."
- Medications: The SW indicates that the appellant is independent taking medications as directed and with safe handling and storage of medications but takes significantly longer than typical when filling and re-filling prescriptions adding the comment "slow due to pain."
- Transportation: The SW notes that the appellant is independent when using transit schedules and arranging transportation but that he takes significantly longer than typical getting in and out of a vehicle and using public transit and that when doing so, he must have a seat which is indicated by the SW to consist of the use of an assistive device.
- Social Functioning: The SW does not provide any comments with respect to the appellant's social functioning or social networks.

The SW adds the comments that all moving about and attempting tasks takes the appellant "at least" 3-5 times longer due to pain and restricted range of motion and that as a result of his impairments and without the assistance of another person, DLA either do not get done regularly or adequately.

In response to questions posed in the Questionnaire, the GP writes that the appellant has told him:

- That his pain interferes with his ability to complete DLA "in a timely fashion";
- That "it takes him longer";
- That he is "severely restricted in his [DLA] all the time"; and
- That he takes longer to perform DLA and relies on friends for heavy tasks such as laundry, cleaning and groceries.

The GP also writes that the appellant's pain "significantly impacts his daily ability all the time."

### ***Need for Help***

In the PR, the GP notes that the appellant does not require any prostheses or aids for his impairment and adds that the appellant needs help with heavy work. In the AR, the SW indicates that the appellant requires assistance from another person with DLA but has no one to help him "due to social isolation." In the Questionnaire, the GP writes that the appellant is reliant on friends to help with tasks of DLA that are heavy in nature such as laundry, cleaning and groceries.

### **Evidence On Appeal**

#### **Appellant's Evidence At Hearing**

At the hearing, the appellant stated that when he initially met with the GP to have him prepare the PR, they met for approximately 5-10 minutes and during that meeting the GP had the appellant attend another office to obtain a DVD which contained 4 x-rays of the appellant's neck. No x-ray report was provided to the appellant at that time. The appellant stated that the GP had access to the x-ray results at the time the PR was prepared. The appellant compared this meeting to the second meeting that he had with the GP in October 2015. He attended with the Questionnaire which was prepared by an Advocate. The appellant recalled that the GP was hesitant to complete the Questionnaire but that after a thorough 30-40 minute physical examination, he left the Questionnaire with the GP and returned to pick it up approximately 2 weeks later. The appellant added that he had been a patient of the GP for 20 years and not 10 as indicated in the PR.

The appellant discussed his one-time meeting with the SW. He stated that his GP recommended that he have someone else who was qualified prepare the AR and on the advice of his advocate he met with the SW as he didn't know anyone else who was qualified to assist him. He stated that he met with the SW for approximately 1 hour and that he provided her with a copy of the completed PR.

The appellant stated that the GP diagnosed him with tinnitus many years ago and sent him to a specialist for further examination. The appellant was of the view that this condition was a side-effect of his neck condition. He stated that he continued to experience pain in his shoulders which is progressive in nature and that his physical condition generally is getting worse. He described having a neck "collar" which he uses from time to time and he discussed the help that he currently receives with DLA. He is able to do his daily chores but it takes him longer to do so. He does receive some help from friends, sometimes getting a ride to pick up groceries, but not on a regular basis. He described heavy work as being his main limitation.

#### **Ministry's Evidence At Hearing**

At the hearing, the ministry referred to and relied on the reconsideration decision. The ministry explained that the information on the CD cannot be accepted at this time as its workers are not medically qualified to interpret X-ray films.

## 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 PWD under section 2 of the *EAPWDA*, was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the circumstances of the appellant. The ministry found that the appellant met the age requirement and that he has an impairment that is likely to continue for at least two years. However, the ministry was not satisfied that the evidence establishes that:

- the appellant has a severe mental or physical 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 criteria for being designated as a PWD are set out in Section 2 of the *EAPWDA* as follows:

### Persons with disabilities

2 (1) In this section:

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

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

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

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

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

(b) in the opinion of a prescribed professional

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

(A) continuously, or

(B) periodically for extended periods, and

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

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

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

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

(i) an assistive device,

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

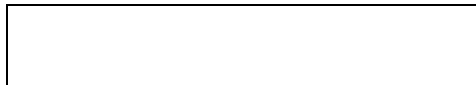
(iii) the services of an assistance animal.

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

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

### Definitions for Act

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



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

- (i) prepare own meals;
- (ii) manage personal finances;
- (iii) shop for personal needs;
- (iv) use public or personal transportation facilities;
- (v) perform housework to maintain the person's place of residence in acceptable sanitary condition;
- (vi) move about indoors and outdoors;
- (vii) perform personal hygiene and self care;
- (viii) manage personal medication, and

(b) in relation to a person who has a severe mental impairment, includes the following activities:

- (i) make decisions about personal activities, care or finances;
- (ii) relate to, communicate or interact with others effectively.

### **Positions of the Parties**

At the hearing, the appellant referred the panel to the Advocate Submissions as being his position on appeal. In those submissions, the Advocate refers to the Questionnaire and the AR in support of his position that the appellant has a severe physical impairment which significantly restricts his ability to perform his DLA for which he requires help from others.

In his Notice of Appeal dated December 1, 2015, the appellant writes that based on the evidence, it was not reasonable for the ministry to deny his application for the PWD designation.

The ministry takes the position that the appellant is ineligible for designation as a Person With Disabilities as set out in the Reconsideration Decision.

### **Severity of impairment**

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

A diagnosis of a serious medical condition or conditions does not in itself determine PWD eligibility or establish a severe impairment. An "impairment" is a medical condition that results in restrictions to a person's ability to function independently or effectively.

To assess the severity of an impairment one must consider the nature of the impairment and the extent of its impact on daily functioning. In making its determination, the ministry must consider all the relevant evidence, including that of the appellant. However, the legislation is clear that the fundamental basis for the analysis is the evidence from prescribed professionals – in this case, the GP and the SW.

### **Severity of mental impairment**

The appellant has not advanced an argument that he has a severe mental impairment.

The ministry takes the position that the evidence does not support a finding that the appellant suffers from a

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severe mental impairment because the information provided indicates the appellant has no difficulties with communication, no significant deficits with cognitive and emotional functioning, and he is not restricted with social functioning.

*Panel Decision*

The appellant does not indicate in the SR that he suffers from a mental disorder of any kind. Similarly, neither he nor his advocate advance an argument in their respective submissions that he suffers from a severe mental impairment.

In the PR, the GP has not diagnosed the appellant with a mental disorder and he has indicated that he does not experience any significant deficits with communication, cognitive and emotional function and social function as noted by the ministry.

In the AR, when posed with the question of whether the appellant experiences any impact on his cognitive and emotional functioning the SW writes "N/A".

Based on the evidence as set out above, the panel finds that the ministry was reasonable in its determination that the evidence did not support a finding that the appellant suffers from a severe mental impairment as provided by section 2(2) of the *EAPWDA*.

**Severity of physical impairment**

The appellant takes the position that his diagnosed physical conditions and the medical evidence support a finding that he has a severe physical impairment. He argues that his condition has worsened over the last 12 months and that the aforementioned DVD and the included x-rays confirm his condition as noted in the Questionnaire, PR and AR. He argues that the ministry ought to have considered the DVD and the included x-rays in making a determination as to the severity of his impairment.

The ministry takes the position that the evidence of the appellant, the GP and the SW does not support a finding that the appellant has a severe physical impairment and that the author of the Reconsideration Decision was not qualified to interpret x-ray films and as such, and without an explanation by a doctor, it was not possible to consider them in reaching the decision. The ministry argued that a severe impairment is not established because no assistive device is required, taking 3 times longer with movement is not indicative of a severe impairment, and the frequency or duration of the periodic assistance is not described by the SW.

*Panel Decision*

As noted by the appellant at the hearing, the GP has been his physician for 20 years and not for 10 as indicated in the PR. It was the appellant's evidence that his meeting with the GP prior to the completion of the PR was only 5-10 minutes in duration and that the GP had the DVD and the included x-rays of the appellant's neck at that time. In the PR, the GP describes the appellant's physical condition, diagnosed as degenerative joint disease in the cervical and thoracic spine and arthritis in the shoulder and knee, as progressive in nature and he further describes the appellant as having a "variable severity of symptoms." Functionally, he describes the appellant as being able to walk 2-4 blocks and climb 5 or more steps unaided while being able to lift between 5 and 15 lbs and remaining seated for 1-2 hours with pain. Although the appellant stated that he occasionally uses a neck collar or brace, the GP reported that the appellant does not require an aid for his impairment.

In the Questionnaire, the GP is asked whether the appellant has a severe physical impairment. He answers that question as follows:



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“He has chronic neck pain [secondary] to cervical spondylosis. Also has chronic right shoulder pain [secondary] to impingement. He is in constant pain which impacts his daily life severely.”

In the AR, the SW does not indicate whether the appellant is independent or if he requires assistance with walking indoors and outdoors, climbing stairs or standing. Rather, the SW has simply noted that for each of these tasks, the appellant takes “at least 3 times longer due to severe pain.” The SW comments further that the appellant requires periodic assistance with lifting, carrying and holding with a limit of 10lbs for each. As noted by the ministry, the SW does not provide a comment on the frequency or duration of the assistance that the appellant requires.

After having reviewed the evidence as described above, the panel finds that the ministry was reasonable in its determination that the evidence does not support a finding that the appellant suffers from a severe physical impairment. Section 2(2) of the *EAPWDA* requires that the minister must be satisfied that a person has a severe mental or physical *impairment*. Here, the GP has been asked this question directly in the Questionnaire and has answered that the appellant’s constant pain “impacts his daily life severely.” While the panel finds that the evidence indicates that the appellant has a physical condition which causes him pain and has an impact on him, the evidence of his functional capacity and physical abilities is not suggestive of a severe physical impairment. The panel finds that the ministry was reasonable in its determination that the evidence did not support a finding that the appellant suffers from a severe physical impairment as provided by section 2(2) of the *EAPWDA*.

### **Restrictions in the ability to perform DLA**

The appellant argues that the evidence in the PR, AR and Questionnaire supports a finding that he is significantly restricted in his ability to perform tasks of DLA. He argues further that the only way that his GP can come to his opinion is by information that he provides to him and that the ministry improperly criticized the GP’s comments in the Questionnaire that indicated the appellant told him of his restrictions.

The ministry’s position is that it has not been established by the evidence of a prescribed professional that the appellant’s ability to perform DLA has been directly and significantly restricted by his physical or mental impairments either continuously or periodically for extended periods as required by section 2(2) of the *EAPWDA*. The ministry argued that the GP does not describe how the appellant’s pain interferes with DLA , and while the SW indicates that the majority of DLA are restricted, the ministry gave more weight to the GP’s assessments as the appellant has a long relationship with the GP. The ministry argued that it is difficult to establish significant restrictions to DLA based on the questionnaire because the GP’s statements are based on the appellant’s self-assessments as opposed to the GP’s medical assessments.

### *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 his or her DLA, continuously or periodically for extended periods. In the present case, while the appellant has provided evidence in the SR and at the hearing of the challenges that he faces with DLA, the legislation is clear that to satisfy the criteria the evidence must come from a prescribed professional. In the present case, this evidence has been provided by two prescribed professionals - the GP and the SW.

DLA are defined in section 2(1) of the *EAPWDR* and are also listed in the PR and, with additional details, in the AR. Therefore, a prescribed professional completing these forms has the opportunity to indicate which DLA, if any, are significantly restricted by the appellant’s impairments, either continuously or periodically for extended periods. Employability is not a listed criterion in the legislation and as such is not a consideration in the determination of whether an applicant’s DLA are restricted by a severe impairment.

In the PR, the appellant's GP of 20 years has indicated that the appellant's impairment does not restrict his ability to perform DLA, adding the comment that he does daily shopping in small loads and that he has difficulty and receives help with heavy work. The GP emphasized that the appellant's progressive pain in his neck, shoulders and knees interferes with his ability to do certain types of jobs. However, as noted by the ministry, employability is not a criterion for PWD eligibility.

Turning to the AR, the SW has found the appellant requires assistance with one task – carrying purchases home – and that this assistance is periodic in nature, but as noted by the ministry, information on the frequency and duration of this assistance was not provided. The SW has indicated that the appellant is independent feeding himself and regulating his diet, meal planning, budgeting, paying rent and bills, taking medications as directed, safely handling and storing medications and using transit schedules and arranging transportation. For all other tasks of DLA, there is no indication as to whether the appellant is independent or requires assistance.

In the Questionnaire, completed approximately 5 months after the PR, the GP is asked whether and how often it takes the appellant significantly longer to perform many DLA. In response, the GP writes that the appellant has told him that his pain interferes with his ability to perform DLA "in a timely fashion", that it "takes him longer" and that the appellant has told the GP that he is severely restricted in his DLA "all the time."

While the panel finds that it was acceptable and consistent with traditional doctor-patient communication for the GP to seek information from the appellant regarding his ability to perform DLA, on balance the panel finds that the ministry reasonably determined that the evidence between the PR, the AR and the Questionnaire is inconsistent and does not satisfy the legislative requirements of the *EAPWDA*.

As noted above, the GP initially found in the PR that the appellant has no restrictions in his ability to complete tasks of DLA. In the AR, the SW indicated that for most tasks it took the appellant longer than typical to complete his DLA but that for 8 of 28 listed tasks he was independent and for 19 or 28 there is no indication of whether the appellant is independent or requires assistance. Turning to the Questionnaire, the GP has provided the opinion that pain interferes with the appellant's ability to perform DLA in a timely fashion and that it takes him longer to do so. While the PG says that the appellant is severely restricted in his ability to perform DLA "all the time" this must be compared against the GP's additional comments in the Questionnaire that the appellant "takes longer to do the [DLA]" and that he is reliant on friends to help with heavier DLA such as laundry, cleaning and groceries. This degree of independence is consistent with the appellant's evidence that he is able to do his daily chores.

Given that the appellant is able to perform DLA slowly and independently for the most part despite his pain and physical limitations, the panel finds that the ministry reasonably concluded that the evidence is insufficient to demonstrate that the appellant's DLA are significantly restricted either continuously or periodically for extended periods as provided under section 2(2)(b) of the *EAPWDA*.

### **Help with DLA**

The appellant argues that he requires help with heavy tasks of 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.

### ***Panel Decision***

Section 2(2)(b)(ii) of the *EAPWDA* requires that, as a result of direct and significant restrictions in the ability to perform DLA, a person requires help to perform those activities. Section 2(3) of the *EAPWDA* provides that a person requires help in relation to a DLA if, in order to perform it, the person requires an assistive device, the

significant help or supervision of another person, or the services of an assistance animal. In other words, it is a pre-condition to a person requiring help that there be a finding that a severe impairment directly and significantly restricts a person's ability to manage his or her DLA either continuously or periodically for an extended period.

Given the panel's finding that the ministry reasonably determined that direct and significant restrictions in the appellant's ability to perform DLA have not been established, the panel further finds that the ministry's conclusion that it cannot be determined that the appellant requires help to perform DLA as a result of those restrictions, as defined by section 2(3)(b) of the *EAPWDA*, was reasonable.

**Conclusion**

Having reviewed and considered all of the evidence and relevant legislation, the panel finds that the ministry's Reconsideration Decision which determined that the appellant was not eligible for PWD designation under section 2 of the *EAPWDA* was a reasonable application of the applicable enactment in the circumstances of the appellant, and therefore confirms the decision.