

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the ministry) reconsideration decision dated March 7, 2016 which found that the appellant did not meet three of the five statutory requirements of Section 2 of the *Employment and Assistance for Persons with Disabilities Act* for designation as a person with disabilities (PWD). The ministry found that the appellant met the age requirement and that his impairment is likely to continue for at least two years. However, the ministry was not satisfied the evidence establishes that:

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

PART D – Relevant Legislation

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

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

PART E – Summary of Facts

The evidence before the ministry at the time of the reconsideration decision included the appellant's Persons With Disabilities (PWD) Application comprised of the applicant information dated September 21, 2015, a physician report (PR) dated September 19, 2015 and completed by a general practitioner who has known the appellant for 6 years, and an assessor report (AR) dated September 10, 2015 and completed by a social worker who has known the appellant for approximately 5 years.

The evidence also included the following documents:

- 1) Letter dated January 21, 2016 from a physician who is a specialist in internal medicine;
- 2) Letter dated February 16, 2016 from the social worker who completed the AR;
- 3) Letter dated March 2, 2016 from the general practitioner who completed the PR; and,
- 4) Request for Reconsideration dated February 16, 2016.

Diagnoses

In the PR, the appellant was diagnosed by the general practitioner with coronary artery disease, acute MI [myocardial infarction] with onset in August 2015 and osteoarthritis in his left knee, with onset in 2009. Asked to describe the mental or physical impairments that impact the appellant's ability to manage daily living activities, the social worker wrote in the AR "...heart condition- blocked artery- possible bypass; knee osteoarthritis, degenerative disc disease, chronic pain back and knee, pinched nerve in cervical spine." There was no mental health diagnosis.

Physical Impairment

In the PR, the general practitioner reported that:

- In terms of health history, the appellant "...has long history of complaints of low back pain with normal x-rays. Also complains of left knee pain and locking with evidence of fragile cartilage but minimal arthritis. Recent heart attack which is temporarily limiting."
- The appellant requires an aid for his impairment, described as access to a left knee brace.
- In terms of functional skills, the appellant can walk 1 to 2 blocks unaided, climb 2 to 5 steps unaided, lift 7 to 16 kg. (15 to 35 lbs.), and remain seated less than 1 hour.
- The appellant is continuously restricted with mobility inside and outside the home. Regarding the degree of restriction, the general practitioner wrote: "patient moderately restricted in walking, stairs, bending, standing."

In the AR, the social worker reported that:

- The appellant is assessed as requiring periodic assistance from another person with walking indoors (note: "slower pace- 5 times slower), and requires continuous assistance from another person and uses an assistive device for walking outdoors ("5 times slower pace 1-2 blocks"), climbing stairs ("difficulty- use an elevator or takes 5 to 7 times longer"), as well as lifting and carrying and holding ("2 lbs."). He can stand but he uses an assistive device, described as a knee brace. The social worker wrote: "cumulative effects from all disabilities (illegible) even moderate physical activity increases pain."
- In the section of the AR relating to assistance provided, the social worker identified the use of a knee brace as an assistive device, and that grab bars are needed.

In the letter dated March 2, 2016, the general practitioner who completed the PR wrote that:

- He has attended the appellant intermittently since 2006 and last on February 20, 2016.
- The appellant has a couple of issues limiting his abilities.

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- First is the arthritis of the lumbar spine. This is mild on x-ray; however the appellant continues to complain of daily pain.
 - Second, the appellant complains of right knee pain which limits his walking.
 - His truly disabling problem is shortness of breath on light exertion. He is able to only walk 1 block without stopping for a rest. He wakes at night short of breath. It is unclear yet if this could be from coronary disease and amenable to surgery. He is currently treated with medication.
 - It took the appellant over 30 minutes to walk 4 blocks to his office. Given he still smokes and coronary disease, he does not expect this to improve.

In the letter dated February 16, 2016, the social worker who completed the AR wrote that:

- She has seen the appellant over the last year extensively.
- The appellant's heart attack has been significantly limiting with consistent dizzy spells, easily exhausted from minimal activity.
- His breathing is limited while doing minimal tasks such as stairs or lifting anymore than 15 lbs., which he cannot lift repeatedly.
- His pinched nerve in his neck makes his left arm go numb and it has poor circulation, and his back has chronic pain which also contributes to his difficulty lifting where he can only lift approximately 2 lbs., maybe up to 5 lbs., without dropping things.
- His pace is significantly slower and even walking up to 2 blocks he may have to take frequent rests.
- He requires continuous assistance with walking outdoors or he is unable, and he wears a knee brace to help with functionality.

In the letter dated January 21, 2016, a physician who is a specialist in internal medicine wrote that:

- The appellant suffered a severe medical illness in August 2015 and has since had multiple sequela.
- Psychosocial stress is detrimental to his health and whenever possible these instances should be minimized.

Mental Impairment

In the PR, the general practitioner reported:

- The appellant has no difficulties with communication and no significant deficits with cognitive and emotional function.
- The appellant is not restricted in his social functioning.

In the AR, the social worker indicated that:

- The appellant has a satisfactory ability to communicate in speaking, reading (note: "difficulty reading and comprehending more than basics") and hearing, and poor ability with writing.
- The section of the AR relating to impacts to cognitive and emotional functioning has not been completed.
- The section of the AR for setting out impacts to social functioning has also not been completed.

Daily Living Activities (DLA)

In the PR, the general practitioner indicated that:

- The appellant has not been prescribed medications and/or treatments that interfere with his

ability to perform daily living activities.

- The appellant is not restricted with some of the listed DLA, specifically: personal self-care, management of medications, use of transportation, management of finances and social functioning.
- The appellant is continuously restricted with some of the listed DLA, specifically: meal preparation, basic housework, and mobility inside and outside the home.
- The appellant is periodically restricted with daily shopping, described as “patient only shops occasionally.”

In the AR, the social worker reported that:

- The appellant requires periodic assistance and takes significantly longer than typical with walking indoors and requires continuous assistance and uses an assistive device for walking outdoors, having a 5 times slower pace.
- For personal care, the appellant is independent with bathing, toileting, feeding self and regulate diet, and requires periodic assistance with dressing (note: “10 minutes longer, difficulty bending, sitting, socks or shoes or pants”), grooming, and transfers on/off of chair. The appellant requires continuous assistance with transfers in/out of bed (“10 minutes to get out of bed”).
- The appellant requires continuous assistance from another person with laundry and periodic assistance with basic housekeeping (“roommate assists or it will take applicant 5 to 7 times longer”).
- Regarding shopping, the appellant requires periodic assistance with going to and from stores and it takes him significantly longer than typical (note: “support continuously”, periodic assistance with making appropriate choices and paying for purchases for which he also uses an assistive device (“poor money management, difficulty purchasing, uses a knee brace”), and continuous assistance with carrying purchases home (“unable”). There is no assessment for the task of reading prices and labels. The social worker commented that the appellant “has significant disabilities that cumulatively are very (illegible) restricting DLA’s- difficulty with mobility due to chronic pain (knee and back)- heart complications (difficulty breathing).”
- For meals, the appellant requires periodic assistance from another person with meal planning and periodic assistance and takes significantly longer with food preparation and cooking (“...occasional numbness in hands- weak, drops things; either roommate assists or applicant takes approximately 5 times longer”). The appellant is independent with the task of safe storage of food.
- Regarding paying rent and bills, the appellant is independent with banking and requires periodic assistance from another person with budgeting and paying rent and bills (“poor money management skills; roommate helps deposit, direct deposit”).
- For managing medications, the appellant is independent with filling/refilling prescriptions and with safe handling and storage but requires periodic assistance with taking as directed, described as “reminded by roommate, needs pills to survive.”
- Regarding transportation, the appellant requires periodic assistance and takes significantly longer than typical with each task, specifically getting in and out of a vehicle, using public transit (“difficulty walking, uses knee brace”), and with using transit schedules and arranging transportation (“needs- illegible- help comprehending”). The social worker described the appellant’s medications and wrote that the appellant is “overwhelmed easily, needs periodic support from roommate.”

Need for Help

In the AR, the social worker reported that, with respect to the assistance provided by other people, the appellant receives help from friends, described as “roommate helps periodically.” In the section of the AR for identifying assistance provided through the use of assistive devices, the social worker identified use of a knee brace and the need for grab bars.

Additional information

In his Notice of Appeal dated March 16, 2016, the appellant expressed his disagreement with the ministry’s reconsideration decision and wrote that he has a significant disability.

At the hearing, the appellant provided an additional document, being an Angiographic Report dated October 16, 2015. The Report is a graphic representation of the heart with areas of the arteries being shaded to indicate blockages. The report indicates that the appellant has an ejection fraction of 37%.

At the hearing, the appellant and his advocate stated that:

- The appellant had two heart attacks, on August 11 and 15, 2015 and it took until October 2015 for the appellant to get an angiogram.
- The appellant’s cardiologist provided the Angiographic Report and said that it is not in the appellant’s benefit to put in a stent at the point that there is an 80% blockage because there was also a blockage of 90% that is deep in his heart, where they cannot put in a stent. The procedure to open the arteries [angioplasty] could not be performed and, therefore, they have to try to control his condition through medications.
- The appellant is on 5 different kinds of medications. He was on high blood pressure medications but then they stopped that because his blood pressure went too low. They have been trying to regulate the medications but it has not yet stabilized.
- The appellant has to live with the blockages which means when he tries to do anything he gets shortness of breath and pain in his chest.
- He cannot walk a block and a half without his legs feeling “achy” and he has to sit down or he will fall down.
- He cannot take stairs anymore. He used to be able to go up the 4 flights of stairs to where they live but he tried 4 or 5 steps and “it didn’t work” and he had to keep stopping. It would take him 3 times longer because of all the breaks. He prefers to take the stairs but most of the time takes the elevator.
- Even bending over bothers him. They are surprised by how much of an impact the blockages are having on the appellant’s ability. The change is very dramatic.
- He takes aspirins every time he gets chest pain and has gone through a whole bottle in about 3 weeks.
- The appellant does not have a family doctor. The general practitioner works in a walk-in clinic and never sat down and talked to the appellant. He does not really know about the impacts from his heart condition. He did not know that the appellant is taking several medications for his heart, and he only looked at the appellant’s back and his knee. He suggested that his heart would be better if the appellant quit smoking.
- The appellant is now seeing the specialist for his heart every 3 months but they were not able to get in before the hearing to see the doctor who dealt with his heart to get more information.
- The appellant cannot go shopping or do the laundry because he gets pains in his chest and starts to “look green.” Getting dressed or cooking dinner are also a problem.
- The appellant definitely cannot lift 35 lbs. The advocate was present at the angiograph and

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the doctor told the appellant that he was not to do any lifting. Even trying to lift groceries to put them into the cupboards leads to “seeing stars” and he has to stop. Any repeated movements cause pains in his chest. He cannot walk very far. He cannot help carry the groceries.

- The appellant used to do the housework but now he cannot do these chores. He cannot walk to the bank unless he was to take an hour and a half to do so.
- The reason he can only sit for less than 1 hour is because of deteriorating disc in his back which makes sitting uncomfortable.

The ministry relied on the reconsideration decision, as summarized at the hearing. At the hearing, the ministry stated that more information from the specialist regarding the appellant’s heart condition and the impacts would have been helpful since this was identified as his most limiting condition.

Admissibility of Additional Information

The ministry did not object to the admissibility of the Angiographic Report. The panel considered the Report dated October 16, 2015 and the oral testimony on behalf of the appellant as 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 *EAA*.

PART F – Reasons for Panel Decision

The issue on 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 evidence does not establish that the appellant has a severe mental or physical impairment and that his daily living activities (DLA) are, in the opinion of a prescribed professional, directly and significantly restricted either continuously or periodically for extended periods. Also, 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:

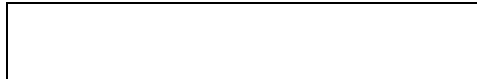
Definitions for Act

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.

Severe Physical Impairment

The appellant's position is that a severe physical impairment is established by the shortness of breath and pain in his chest due to his coronary artery disease and the chronic pain as a result of the osteoarthritis in his left knee, degenerative disc disease, and the pinched nerve in his cervical spine. The appellant argued that the general practitioner did not appreciate the significant impacts he is experiencing to his mobility and physical abilities as a result of the blockages in his heart.

The ministry's position, as set out in the reconsideration decision, is that there is insufficient evidence to establish that the appellant has a severe physical impairment. The ministry wrote that the social worker did not have an opportunity to review the PR prior to completing the AR and that she relied on office interviews with the appellant and his roommate to complete the AR. The ministry wrote that the assessments of functional skills by the general practitioner and by the social worker are not consistent and while the ministry acknowledged that the appellant is limited with his ability to walk long distances, a severe impairment of his physical functioning was not established.

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 general practitioner and the social worker.

In the PR, the general practitioner, who had known the appellant for 6 years, diagnosed the appellant with coronary artery disease, with onset in August 2015, and osteoarthritis in his left knee, with onset in 2009. In terms of health history, the appellant “...has long history of complaints of low back pain with normal x-rays,” he “complains of left knee pain and locking with evidence of fragile cartilage but minimal arthritis” and he had a “recent heart attack which is temporarily limiting.” In the AR, when asked to describe the mental or physical impairments that impact the appellant’s ability to manage daily living activities, the social worker wrote “...heart condition- blocked artery- possible bypass; knee osteoarthritis, degenerative disc disease, chronic pain back and knee, pinched nerve in cervical spine.” In his letter dated March 2, 2016, the general practitioner wrote that he has attended the appellant “intermittently since 2006” and that he has “a couple of issues limiting his abilities.” The general practitioner referred to arthritis of the lumbar spine which is “mild on x-ray” and that the appellant “complains of right knee pain which limits his walking.”

The general practitioner wrote that the appellant’s “truly disabling problem” is shortness of breath on light exertion. He reported that the appellant is able to only walk 1 block without stopping for a rest and that “It is unclear yet if this could be from coronary disease and amenable to surgery.” The general practitioner wrote that it took the appellant over 30 minutes to walk 4 blocks to his office and, given the appellant still smokes, he does not expect this to improve. In the PR, the general practitioner reported that the appellant can walk 1 to 2 blocks unaided, climb 2 to 5 steps unaided, lift 15 to 35 lbs., and remain seated less than 1 hour. The general practitioner indicated that the appellant is continuously restricted with mobility inside and outside the home but, regarding the degree of restriction, he wrote that the restriction in “walking, stairs, bending, standing” are moderate. While the appellant stated at the hearing that he cannot walk a block and a half without his legs feeling “achy” and he has to sit down or he will fall down, he cannot take more than a couple of stairs without stopping, that he cannot lift more than 15 lbs. once and only around 2 lbs. more than once, the general practitioner did not address any of the appellant’s functional skills other than walking in his letter dated March 2, 2016.

The social worker who completed the AR wrote in the letter dated February 16, 2016, that she has seen the appellant extensively over the last year and that his heart attack has been significantly limiting with consistent dizzy spells, and he is easily exhausted from minimal activity. While the social worker may have had more ongoing contact with the appellant, the panel finds that the ministry reasonably put more weight on the evidence from the general practitioner given that he has known the appellant for 6 years and provided updated information in his letter dated March 2, 2016. At the hearing, the appellant’s advocate stated that they were not able to see the doctor who has the most knowledge of the appellant’s heart condition prior to the hearing. The physician who is a specialist in internal medicine wrote in his letter dated January 21, 2016 that the appellant suffered a severe medical illness in August 2015, he has since had multiple sequela and psychosocial stress is detrimental to his health and should be minimized, but he did not elaborate on the effects of the condition.

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 directly and significantly restricted his ability to perform his DLA either continuously or for extended periods, as required by the EAPWDA.

Given that the general practitioner assessed the appellant’s mobility and physical ability to be in the moderate range, the absence of information from the physician who is treating the appellant’s heart condition, and the lesser weight placed on the evidence of the social worker, the panel finds that the ministry reasonably determined that there was insufficient evidence of a severe impairment of physical functioning. Therefore, 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 did not advance a position that he has a severe mental impairment.

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 wrote that the general practitioner did not diagnose a mental impairment or brain injury and the social worker has not completed the sections of the PWD application to assess impacts to cognitive and emotional or social functioning.

Panel Decision

The general practitioner did not diagnose the appellant with a mental disorder and he indicated that there are no significant deficits with cognitive and emotional function. As well, the section of the AR relating to impacts to cognitive and emotional functioning has been left incomplete by the social worker.

Regarding the DLA of social functioning, the general practitioner reported that he is not restricted and the section of the AR for assessing impacts has been left blank by the social worker. The general practitioner reported that the appellant has no difficulties with communication, but the social worker indicated the appellant has a satisfactory ability to communicate in speaking, reading (note: “difficulty reading and comprehending more than basics”) and hearing, and poor ability with writing.

Given the absence of a mental health diagnoses and insufficient evidence from the general practitioner and the social worker of impacts to the appellant’s cognitive and emotional and social functioning, 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 impairment directly and significantly restricts his ability to perform DLA on an ongoing basis to the point that he requires the significant assistance of another person, specifically his roommate.

The ministry’s position is that the information from the prescribed professional does not establish that the appellant’s impairment significantly restricts his DLA either continuously or periodically for extended periods of time. The ministry wrote that the general practitioner indicated that the appellant

is not restricted with the majority of listed DLA and that much of the information provided by the social worker in the AR is not consistent with the assessment by the general practitioner.

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 and the social worker are the prescribed professionals. 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 professionals completing these forms has the opportunity to indicate which, if any, DLA are significantly restricted by the appellant's impairments either continuously or periodically for extended periods.

In the appellant's circumstances, the general practitioner reported that the appellant has not been prescribed medications and/or treatments that interfere with his ability to perform DLA. In the PR, the general practitioner reported that the appellant is not restricted with the DLA personal self-care. In the AR, the social worker agreed that the appellant is independent with the tasks of bathing, toileting, feeding self and regulate diet, but assessed a need for periodic assistance with the tasks of dressing (note: "10 minutes longer, difficulty bending, sitting, socks or shoes or pants"), grooming, and transfers on/off of chair, and a need for continuous assistance with transfers in/out of bed ("10 minutes to get out of bed"). In the PR, the general practitioner reported that the appellant is not restricted with the DLA management of medications. In the AR, the social worker agreed that the appellant is independent with the tasks of filling/refilling prescriptions and with safe handling and storage but assessed a need for periodic assistance with taking as directed, described as "reminded by roommate, needs pills to survive." The social worker does not provide an explanation of the connection between the appellant's impairment and his need for reminders with taking medication, or a description of the duration or frequency of the periodic assistance needed.

In the PR, the general practitioner indicated that the appellant is not restricted with the DLA use of transportation. In the AR, the social worker assessed a need for periodic assistance and that the appellant takes significantly longer than typical with each task, specifically getting in and out of a vehicle, using public transit ("difficulty walking, uses knee brace"), and with using transit schedules and arranging transportation ("needs- illegible- help comprehending"). The social worker does not provide an explanation of the connection between the appellant's impairment and his difficulty comprehending transit schedules, or a description of the duration or the frequency of the periodic assistance needed. In the PR, the general practitioner reported that the appellant is not restricted with the DLA management of finances. The social worker agreed in the AR that the appellant is independent with banking and assessed a need for periodic assistance from another person with budgeting and paying rent and bills ("poor money management skills; roommate helps deposit, direct deposit"). At the hearing, the appellant's advocate stated that the appellant cannot walk to the bank unless he was to take an hour and a half to do so. The social worker does not provide an explanation of the connection between the appellant's impairment and the need for assistance managing his finances, or a description of the duration or frequency of the periodic assistance needed.

In the PR, the general practitioner indicated that the appellant is continuously restricted with the DLA meal preparation, with a moderate degree of restriction. In the AR, the social worker assessed the need for periodic assistance from another person with meal planning and periodic assistance and takes significantly longer with food preparation and cooking ("...occasional numbness in hands-

weak, drops things; either roommate assists or applicant takes approximately 5 times longer”). The appellant is independent with the task of safe storage of food. The social worker did not provide an explanation for the need for assistance with meal planning or a description of the duration or frequency of the periodic assistance needed. At the hearing, the advocate stated that cooking dinner has become difficult for the appellant as a result of his heart condition.

In the PR, the general practitioner reported that the appellant is continuously restricted with the DLA basic housework, with a moderate degree of restriction. In the AR, the social worker assessed the need for continuous assistance from another person with laundry and periodic assistance with basic housekeeping (“roommate assists or it will take applicant 5 to 7 times longer”). At the hearing, the advocate stated that when the appellant tires to do the laundry he gets pains in his chest and starts to “look green.” The general practitioner reported that the appellant is periodically restricted with the DLA daily shopping, described as “patient only shops occasionally.” In the AR, the social worker assessed the need for periodic assistance with going to and from stores, taking significantly longer than typical (note: “support continuously”), periodic assistance with making appropriate choices and paying for purchases for which he also uses an assistive device (“poor money management, difficulty purchasing, uses a knee brace”), and continuous assistance with carrying purchases home (“unable”). There is no assessment for the task of reading prices and labels and no explanation of a connection between the appellant’s impairment and his poor money management and a need for assistance with making appropriate choices.

Considering the evidence of the general practitioner and the social worker as the prescribed professionals, the panel finds that the ministry reasonably concluded that the general practitioner assessed the appellant as having no restrictions to most of his DLA. While the general practitioner reported a moderate degree of restriction to a few DLA, the social worker reported both that the appellant has “significant difficulties with DLA” and that his “roommate helps periodically.” However, the social worker did not provide sufficient detail to establish a need for periodic assistance for extended periods of time. In their more recent letters, neither the general practitioner nor the physician who is a specialist in internal medicine provided further information regarding the impact of the appellant’s heart condition on his ability to perform his DLA, other than to state that he experiences shortness of breath on light exertion and that instances of psychosocial stress should be minimized. Therefore, the panel finds that the ministry reasonably concluded 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 impairment significantly restricts his daily living functions to a severe enough extent that significant assistance is required from another person.

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. Help is defined in subsection (3) as the requirement for an assistive device, the significant help or supervision of another person, or the services of an assistance animal in order to perform a DLA.

In the AR, the social worker reported that, with respect to the assistance provided by other people, the appellant receives help from friends, described as “roommate helps periodically.” In the section of the AR for identifying assistance provided through the use of assistive devices, the social worker identified use of a knee brace and the need for grab bars.

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.