

## PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (“ministry”) reconsideration decision dated April 20, 2016 in which the ministry found the appellant was not eligible for designation as a Person With Disabilities (“PWD”) because he did not meet all of the criteria in Section 2(2) of the *Employment and Assistance for Persons with Disabilities Act* (“EAPWDA”). The ministry was satisfied that the appellant has reached 18 years of age and that his impairment is likely to continue for at least 2 years. However, based on the information provided in the PWD Designation Application (“PWD application”) and Request for Reconsideration, the minister was not satisfied that:

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

## 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 reconsideration consisted of the following:

1. A PWD application comprised of the Applicant Information and Self-report signed by the appellant on October 21, 2015, as well as a Physician Report (“PR”) dated October 30, 2015 and Assessor Report (“AR”) dated November 30, 2015 both completed by a general practitioner (“the physician”). In the PR, the physician did not indicate how long the appellant has been his patient and reported that he has seen the appellant once in the past 12 months with the comment, “corroborated with specialist’s letter” [rheumatologist]. In the AR, the physician indicated he completed the form by way of an in-office interview and file/chart information [rheumatologist]. He reported that he has had 1 visit with the appellant and provides him with primary care and supportive counselling.

The PWD application included the following information:

### ***Diagnoses***

#### PR

In the PR, the appellant was diagnosed with fibromyalgia, onset May 2012. Under Health history, the fibromyalgia is described as “moderate/severe, seen and diagnosed by specialist [rheumatologist].” Under Degree and course of impairment, the physician wrote, “fibromyalgia affecting all aspects of his life. Difficult to provide care for this ailment.”

#### Self-report

The appellant described “body pains” in both of his arms and legs and also his back and neck. He reported that his pain disturbs his sleep and causes continuous tiredness and frequent headaches.

### ***Functional Skills***

#### PR

The physician provided the following information regarding any functional limitations:

- The appellant can walk 1 to 2 blocks unaided on a flat surface;
- Climb 5+ steps unaided;
- Lift 5 to 15 pounds;
- Remain seated for less than 1 hour;
- Has no difficulties with communication (other than lack of fluency in English);
- Has significant deficits with cognitive and emotional function in the areas of Memory, Emotional disturbance, Motivation, and Attention with the comment, “fibromyalgia affecting all of the above.”

#### AR

The physician provided the following information for Mental or Physical Impairment (Abilities):

- Ability to Communicate: Speaking, Reading, Writing and Hearing are good.
- Mobility and Physical Ability: The appellant requires periodic assistance from another person in all areas: Walking indoors, Walking outdoors, Climbing stairs, Standing, Lifting, and Carrying/holding.

The physician commented, "Depending on severity that particular day, fibromyalgia can vary in severity depending upon symptoms."

The physician reported the following impacts for the 14 areas of Cognitive and Emotional Functioning:

- No impact in 5 areas: Insight and judgement, Motor activity, Language, Psychotic symptoms, and Other neuro-psychological problems.
- Minimal impact in 3 areas: Consciousness, Impulse control, and Memory.
- Moderate impact in 4 areas: Emotion, Attention/concentration, Executive, and Other emotional or mental problems.
- Major impact in 3 areas: Bodily functions, Emotion, and Motivation.
- Comments: "Affecting mood – poor energy/aches and pains/poor motivation/decreased libido."

### Self-report

The appellant reported that his pain causes mood disorders and sometimes affects his communication with people. He has weak concentration, attention deficits, and weak memory which affect his work and daily life. He cannot carry loads over 2 pounds because his arms ache and he cannot walk more than 3 blocks or stand for more than 1 hour because his legs ache. He further reported that he cannot sit still for more than 45 minutes or do desk work, computer work, or watch TV or a movie because he must move about and change his sitting position very often. He cannot touch his back because his arms ache when he moves them. He cannot ride a bike or play ball games and his pain affects his sexual activities and causes decreased sexual ability.

### ***Daily Living Activities (DLA)***

#### PR

The physician checked *No*, the appellant has not been prescribed medication/treatment that interferes with his ability to perform DLA.

The physician checked *Yes*, the impairment directly restricts the appellant's ability to perform DLA and indicated that the following activities (in a list of 10 activities) are restricted:

#### *Periodically restricted*

- Personal self-care, Meal preparation, Basic housework, Mobility inside the home, Mobility outside the home, and Use of Transportation. Under *if Periodic, please explain* the physician wrote, "some days, symptoms can be severe and unrelenting."

#### *Continuously restricted*

- Daily shopping and Social functioning. Under *if Social functioning is impacted please explain* the physician wrote, "Down in his mood/confidence".

Activities with no reported restrictions include Management of medications, and Management of finances. The section for Additional comments (*regarding the degree of restriction*) was left blank.

## AR

The physician provided the following information: "Low mood/ poor concentration/ poor motivation, general aches and pains" are the mental or physical impairments that impact (the appellant's) ability to manage DLA.

### *Personal Care*

- The appellant is independent with 5 of 8 areas: Bathing, Toileting, Feeding self, Transfers in/out of bed, and Transfers on/off of chair;
- He requires periodic assistance from another person for 3 areas: Dressing, Grooming, and Regulate diet.

### *Basic housekeeping and Shopping*

- He requires periodic assistance with all areas of these DLA. Under Additional comments, *including the type and amount of assistance and any safety issues*, the physician wrote, "due to mood issues secondary to fibromyalgia."

### *Meals, Pay rent and bills, Medications, and Transportation*

- He requires periodic assistance with all areas. No Additional comments were provided.

### *Social functioning*

The appellant is independent with Appropriate social decisions, Able to develop and maintain relationships, and Interacts appropriately with others. He requires periodic assistance with Able to deal appropriately with unexpected demands and Able to secure assistance from others. The physician reported marginal functioning in the appellant's immediate social network, and marginal functioning as well as very disrupted functioning in his extended social network with the comment, "depending upon symptom severity." The physician did not provide Additional comments (*including identification of any safety issues*).

Under Additional Information (*relevant to the nature/extent of the impairment and its effect on DLA*) the physician wrote, "(appellant's age), diagnosis of fibromyalgia syndrome."

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

## PR

- The physician check marked *No*, the appellant does not require any prostheses or aids for his impairment.
- Under Additional comments (*relevant to understanding the significance of the person's medical condition*), the physician wrote, "requires mother's assistance."
- The physician left blank the section under Daily Living Activities, where asked to describe *what assistance does your patient need*.

## AR

- The physician indicated the appellant lives with family.
- The physician left blank the section for Support/supervision required that would help maintain (the appellant) in the community and no safety issues were identified.
- Under Assistance provided by other people, the physician checked that help is provided by family and left the Comments section blank.
- Under Assistance provided through the use of assistive devices, the physician wrote, "nil."
- The physician checked *No*, the appellant does not have an assistance animal.

## Self-report

The appellant reported that sometimes his mother has to help him wash his hair or put on his pullover because he cannot raise his arms when they ache.

**2.** A Request for Reconsideration ("RFR") signed by the appellant on April 5, 2016 in which he stated his argument regarding eligibility for PWD. The panel will address the arguments of both parties in *Part F – Reasons*.

The following documents were filed with his RFR:

**(a)** Part E of the PWD application, PR: *Daily Living Activities* ("DLA report of May 5, 2016"). The physician indicated, via check marks on the form, that all DLA except Mobility inside the home and Social functioning are continuously restricted. The physician commented, "significant, ongoing restrictions as a result of impairment" and "needs significant ongoing help with encouragement of self-care, meal preparation (decreased energy)/ reminders to take meds and pay bills; [illegible], shopping rests on hands, check in daily with someone who cares." The physician did not fill in any check marks for Social functioning but provided the comment, "withdrawn/isolated – illness plus shame of learning disability." For the other listed DLA, the physician commented:

- Personal self-care: "rotten teeth";
- Meal preparation: "forgets";
- Management of medications: [no comment provided];
- Basic housework: "decreased executive";
- Daily shopping: "decreased judgment, decreased standing";
- Mobility outside the home: "2 blocks";
- Use of transportation: "needs seat";
- Management of finances: "forgets".

**(b)** A Vocational/ Psychological Assessment dated September 24, 2015 and completed by a registered psychologist and her practicum student. The appellant was referred by his employment case manager in order to assist him in determining his future vocational options. The report contains the following information about the appellant's impairments:

- The case manager reported that the appellant has a learning disability and his mother reported that he always required extra help in school but did not always receive it. The appellant reported that he was never formally diagnosed with a learning disorder and this assessment concluded that the nature of his learning difficulties remains unclear.
- The appellant's mother reported that he "does not experience any difficulties with independently performing tasks of daily living"; however, he has difficulties with memorization

[Redacted]

and becoming easily distracted, occasional difficulties with anger management, and he continues to experience pain in his shoulders and joints due to fibromyalgia. The assessment tools indicate he has difficulty with processing speed and working memory and he has some difficulties maintaining his concentration and attention.

- The appellant reported that he has a good relationship with his mother and the assessment tools indicated no psycho-social impairment and only minimal mental health symptoms, despite low energy and fatigue likely associated with his self-reported pain.
- His current health concerns are headaches approximately once a month and pain in his neck, shoulder, and hand. His pain ranges from 5-7 on a scale of severity and there are times when he does not experience any pain. He did not report any functional limitations associated with his pain but he sometimes feels fatigued 1-2 times per week. His pain is aggravated when he uses the computer or lifts something for a long period of time. He has had physiotherapy and did not report taking any prescription medications.
- He goes grocery shopping with his mother and she usually cooks for him. He reported no difficulties with using public transportation, making purchases, or managing his own bank account.
- He had some difficulty understanding instructions and the assessment indicates that his low results on intellectual tests are likely due to his reduced English language competency, different cultural background, and education outside of North America.

#### *Additional submissions*

Subsequent to the reconsideration decision, the appellant filed his Notice of Appeal dated April 22, 2016 in which he stated his argument and affirmed “severe body pain” that affects his life and work. The appellant attended the hearing with an interpreter, and his mother as a support person, and testified that his condition is worse than when his doctor filled out the PWD reports.

In response to questions, the appellant stated he does not have the specialist’s [rheumatologist] letter that is referenced in the reconsideration record, but that letter is just a diagnosis of fibromyalgia. He testified that the specialist would not assess how many pounds he could lift, etc. and it is hard to find an appropriate doctor who can diagnose his symptoms and confirm his restrictions.

At the hearing, the ministry sympathized with the appellant’s situation and explained that the decision is based on the information before the minister at the time of the original decision and reconsideration. The panel accepts all of the oral testimony as argument in support of the information in the reconsideration record and will address the parties’ positions in the next section - Reasons for Panel Decision.

## PART F – Reasons for Panel Decision

The issue in this appeal is whether the ministry's reconsideration decision of April 20, 2016, which found that the appellant was not eligible for PWD designation, was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the circumstances of the appellant. Based on the information provided in the PWD application and RFR, the ministry was not satisfied that the following criteria in EAPWDA section 2(2) were met: the appellant has a severe mental or physical impairment; and the impairment, in the opinion of a prescribed professional, directly and significantly restricts his ability to perform DLA either continuously or periodically for extended periods; and, as a result of these restrictions, he requires help to perform those activities.

The eligibility criteria for PWD designation are set out in section 2(2) of the EAPWDA as follows:

- (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 “daily living activities” referred to in EAPWDA section 2(2)(b) are defined in section 2 of the EAPWDR:

### **Definitions for Act**

**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;

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;

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- (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.

### ***Severe mental or physical impairment***

The diagnosis of a serious medical condition does not in itself determine PWD eligibility or provide evidence of a severe impairment. To satisfy the requirements in section 2(2) of the EAPWDA, evidence of how, and the extent to which, a medical condition restricts daily functioning must be considered. This includes the evidence from the appellant and from a prescribed professional regarding the nature of the impairment and its impact on the appellant's ability to manage the DLA listed in section 2(1) of the EAPWDR. However, section 2(2)(b) of the EAPWDA clearly sets out that the fundamental basis for the analysis of restrictions is the evidence from a prescribed professional - in this case, the physician.

#### *Appellant's position - Severe mental impairment*

The appellant argued that his fibromyalgia causes pain that affects his mood, concentration, communication, and memory resulting in a learning disability which he also had when he was in school. He submits that he has a hard time with pain, and when his memory is affected, he can forget when he last took a medication. He told his case manager about his learning disability and he reports that he did not finish high school because he was bullied and did not want to go to school. Then he was fired at work because his concentration was very weak.

#### *Ministry's position - Severe mental impairment:*

In the reconsideration decision, the ministry argued the appellant does not have a severe mental impairment based on the information provided by the physician and the psychologist. The ministry noted that the appellant has not been diagnosed with a mental disorder but his fibromyalgia is reported to have a major impact on emotion and motivation and a moderate impact on attention and executive thinking. The ministry argued that the low scores for intellectual functioning in the Vocational/Psychological Assessment appear to be directly linked to a language barrier and the appellant has not been diagnosed with a learning disability. The ministry further noted that employability is not a criterion in determining PWD eligibility.

#### *Panel's decision – Severe mental impairment*

The panel finds that the ministry reasonably determined the appellant does not have a severe mental impairment based on the information provided. Not only is there no diagnosis of a mental impairment or learning disability, the physician did not provide sufficient detail in the PR or AR to confirm that cognition/social functioning is severely impacted by fibromyalgia. For example, in the PR, Social functioning is continuously restricted but the only comment provided is "down in his mood/confidence". Similarly, in the AR, while moderate and major impacts are reported for nearly half (6 out of 14) of the listed areas of Cognitive and Emotional Functioning, the only comments indicate "mood issues secondary to fibromyalgia" and these comments do not confirm that fibromyalgia results in a severe mental impairment. Furthermore, no safety issues or supports to maintain the appellant in the community are reported.



In addition, the information on mental/ social DLA does not confirm a severe mental impairment. The appellant is reported as independent in most areas of the DLA of Social Functioning but requires periodic support depending on symptom severity on a particular day. Similarly, the DLA report of May 5, 2016 states only that the appellant is socially isolated. Furthermore, the Vocational/ Psychological report, as noted by the ministry, does not describe any severe impacts with cognitive, emotional, or social functioning. Based on this analysis, the panel finds that the ministry reasonably determined that a severe mental impairment under section 2(2) of the EAPWDA was not established.

*Appellant's position – Severe physical impairment*

In his RFR submission, the appellant argued that all of the information taken together confirms eligibility for PWD designation. At the hearing, he argued his fibromyalgia is severe and reported that his pain and fatigue have gotten worse since the PWD application was completed. He stated that he feels dizzy sometimes and numb in his toes and he cannot stand for more than a few minutes. He reported a strong reaction to drugs, and medication does not help his condition.

He submits that he cannot lift anything as he feels tired from the pain and he is also tired when he walks. He submits that a milk carton is too heavy for him to carry and he needs his mother to help him. He argued that the physician's information that he can lift 5-15 pounds is not correct as he can lift less than 5 pounds. In his self-report, he reported that he cannot carry loads of more than 3 pounds, walk for than 3 blocks, or sit for more than 45 minutes. He submits that at the time of the PWD application his muscles were just sore, but now they are tight and worsen if he walks even half a block, lifts anything, or stands for more than a few minutes.

He reported that he cannot exercise because of pain in his muscles. Pain affects his appetite and he cannot sleep well either. He argued that 3-4 days per week are bad days and he needs more help than because tiredness and dizziness also affect his function. He submits that he needs physiotherapy and massage but the cost is very high and the income assistance he currently receives is not enough. After paying rent, there is not much left for food and other expenses.

*Ministry's position - Severe physical impairment:*

The ministry argued that a severe physical impairment has not been established because the appellant was reported as able to walk 1 to 2 blocks unaided, climb 5+ steps, and lift 5-15 pounds. The ministry acknowledged that the appellant requires periodic assistance with these activities depending on the severity of his symptoms on a particular day and that he can remain seated for less than an hour. The ministry argued, however, that it was not reported that he takes significantly longer in any of these areas.

The ministry noted that he does not require any aids for his impairment and submits that it is unclear how much assistance he requires (from other people). The ministry argued that it is also unclear why the physician reported major impacts with bodily functions (in the AR) when a severe impairment has not been established. At the hearing, the ministry sympathized with the appellant's report of worsening function, but argued that as no confirmation from the physician was provided prior to the denial of PWD, the decision could not be changed on the basis of increased symptoms.

*Panel's decision – Severe physical impairment*

The panel finds that the ministry reasonably determined a severe physical impairment has not been established on the basis of the information provided. As argued by the ministry, the reported range of function in the PR and AR does not confirm that the appellant's fibromyalgia is severe. The only functional limitation reported by the physician, on the most severe end of the rating scale, is remaining seated for less than 1 hour and no explanation was provided. In the AR, while the appellant is reported to require assistance in all areas of Mobility and Physical Ability on days when his symptoms are more severe, there is no information on how often these days occur.

The panel notes that the physician stated in the PR (under Health history) that the appellant's fibromyalgia is "moderate/ severe". However, the only explanation provided is that the condition fluctuates, and while some days are characterized by "severe and unrelenting" symptoms, there is no information from the physician (including the recent DLA report of May 5, 2016) to corroborate the appellant's position that his physical function is getting worse, and that he mostly has bad days where he cannot lift, stand for more than a few minutes, or walk more than half a block.

While the appellant argued a financial need for PWD designation in order to pay for physiotherapy and massage treatments, the panel notes that financial need is not a criterion for PWD eligibility under the EAPWDA. Based on the totality of the evidence, the panel finds that the ministry reasonably determined that a severe physical impairment under EAPWDA section 2(2) was not established.

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

*Appellant's position*

In his self-report, the appellant submits that his pain sometimes causes him communication difficulties and sometimes he cannot raise both arms and he therefore requires help with personal care (washing his hair and putting on his pullover). In his RFR submission, he argued that the physician's DLA report of May 5, 2016 establishes that he is continuously restricted with personal self-care, meal preparation, management of medications/ finances, housework, shopping, mobility outside the home and use of transportation, and that Social functioning is also impacted. The appellant argued at the hearing, that his pain and the cognitive effects of his fibromyalgia restrict his DLA. For example, if he takes a medication he will forget when he last took it.

*Ministry's position*

In the reconsideration decision, the ministry noted the physician's initial assessment in the PR, in which only 2 DLA (Daily shopping and Social Functioning) were reported as continuously restricted, while most DLA were reported as periodically restricted to reflect days when the appellant's symptoms are severe. The ministry contrasted this with the physician's most recent information (the DLA report of May 5, 2016) which indicates continuous restrictions for most DLA. The ministry argued that it is unclear why the physician now reports that ongoing help is required with most DLA when a severe mental or physical impairment has not been demonstrated.

The ministry submits that without further detail on how much assistance is provided for DLA, the physician's information is insufficient to establish that a severe impairment significantly restricts the

appellant's ability to perform DLA either continuously or periodically for extended periods. The ministry elaborated on this point at the hearing by arguing that the physician provided no information (in the DLA report of May 5, 2016) to explain why the assessment of DLA restrictions changed from periodic to continuous.. Further, the nature and extent of the help the appellant receives was not described in any of the reports.

#### *Panel's decision – Restrictions to DLA*

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

The panel finds that the ministry reasonably determined there is insufficient evidence to establish that the appellant's DLA are directly and significantly restricted either continuously or periodically for extended periods. As noted by the ministry, the original medical reports (PR and AR) indicated the appellant requires periodic assistance with most DLA to reflect the fluctuating nature of his fibromyalgia symptoms. Given the evidence that the condition fluctuates, it would be difficult to establish continuous restrictions to DLA. Check marks for *Continuous* restrictions in the DLA report of May 5, 2016, and comments that the appellant "forgets" to do some DLA and has "decreased executive or judgment" for others, do not confirm that his restrictions are significant or continuous.

To establish periodic restrictions for extended periods, the physician would need to explain how often the appellant experiences severe symptoms and how often help is required. However, there is no information from the physician regarding how often the appellant has bad days, and as noted by the ministry, there is no information on the frequency or duration of any periodic assistance he requires.. The physician's comment, "significant ongoing restrictions", in the DLA report of May 5, 2016, does not confirm that DLA are restricted periodically for extended periods (or continuously for that matter). Further, the Vocational/ Psychological Assessment of September 24, 2015 indicated that the appellant, in his current functioning, "does not experience any difficulties with independently performing tasks of daily living." In that report, he is described as having no difficulties with using public transportation, making purchases, or managing his own bank account.

As there is insufficient information from a prescribed professional to confirm that the appellant's impairment directly and significantly restricts DLA either continuously or periodically for extended periods, the panel finds that the ministry reasonably determined the criterion in EAPWDA subsection 2(2)(b)(i) has not been met.

#### ***Help to perform DLA***

##### *Appellant's position*

The appellant submits that he needs help with personal care, carrying purchases, remembering medications, and communicating with his physician and at job interviews. He submits that he requires more assistance with DLA when his fibromyalgia symptoms are severe.

*Ministry's position*

The ministry argued that as it has not been established that DLA are significantly restricted, it cannot be determined that significant help is required from other people. The ministry noted that the appellant does not require an assistive device, the significant help of another person, or the services of an assistance animal.

*Panel's decision – Help to perform DLA*

Subsection 2(2)(b)(ii) of the EAPWDA requires a prescribed professional to confirm that as a result of significant restrictions to DLA, the person requires help to perform an activity. Where another person is providing the help (in this case the appellant's mother), the level of assistance or supervision required must be significant as set out in subsection 2(3)(b)(ii) of the EAPWDA. The panel recognizes that the appellant's mother provides him with assistance and support; nevertheless, neither the panel nor the ministry found that the physician's information reasonably confirms significant restrictions to DLA as a result of the appellant's impairment. The panel therefore finds that the ministry reasonably determined the criterion for help under EAPWDA subsection 2(2)(b)(ii) was not met.

**Conclusion**

The panel finds that the ministry's reconsideration decision denying the appellant PWD designation under section 2 of the EAPWDA was reasonably supported by the evidence. The panel confirms the decision pursuant to sections 24(1)(a) and 24(2)(a) of the *Employment and Assistance Act*.