

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the ministry) reconsideration decision dated May 10, 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 her impairment is likely to continue for at least two years. However, the ministry was not satisfied that the evidence establishes that:

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

PART D – Relevant Legislation

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

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

PART E – Summary of Facts

The evidence before the ministry at the time of the reconsideration decision included the Persons With Disabilities (PWD) Application comprised of the undated applicant information and self-report, a physician report (PR) and an assessor report (AR) both dated September 29, 2015 and completed by a general practitioner who has known the appellant for approximately 10 years.

The ministry also had before it the appellant's Request for Reconsideration, with an accompanying submission by an advocate dated May 3, 2016 that reviewed the application and explained why the appellant disagreed with the denial of PWD designation.

Diagnoses

In the PR, the general practitioner diagnosed the appellant with chronic bone/muscle/soft tissue injuries related to MVA [motor vehicle accident], acute and chronic alcoholism, anxiety- agoraphobia and query Post Traumatic Stress Disorder (PTSD).

Physical Impairment

In the PR and AR, the general practitioner reported that:

- In terms of health history, the appellant “has many physical and mental problems. Physical problems relate back to MVA in which she was severely injured.”
- The appellant does not require any prostheses or aid for her impairment.
- For functional skills, the appellant can walk 1 to 2 blocks unaided, climb 5 or more steps unaided, lift 2 to 7 kg (5 to 15 lbs), and it is unknown how long she can remain seated.
- In the additional comments to the PR, the general practitioner wrote that the appellant “has long-standing physical and emotional problems which have deteriorated in the last year.”
- The appellant is independently able to perform all areas of mobility and physical ability, specifically walking indoors and walking outdoors, climbing stairs, standing, lifting, and carrying and holding.
- In the section of the AR relating to assistance provided through the use of assistive devices, the general practitioner did not identify any of the listed items.

In her self-report, the appellant wrote that:

- She had two severe MVA causing whiplash, spinal injury, neck damage, right knee damage, severe headaches, dislocated right hip and shoulder, and bowed spine.
- She can no longer feel three fingers on her right hand or thumb on her left hand, making it difficult to write or type.
- She has severe varicose veins and her vision is deteriorating.
- She cannot sit or stand for any length of time.
- Due to her foot conditions, walking or standing any length of time is extremely painful or impossible.

Mental Impairment

In the PR and AR, the general practitioner reported:

- In terms of health history, “long-term alcoholism. More recently anxiety has lead to phobia of going out... query element of PTSD.”
- The appellant has no difficulties with communication.
- The appellant has significant deficits in her cognitive and emotional functioning in the areas of executive, emotional disturbance, motivation and motor activity and query attention or

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sustained concentration. The general practitioner did not provide any comments.

- The appellant has a good ability to communicate in most areas, specifically with speaking, writing, and hearing, but she is unable to read.
- For the section of the AR assessing impacts to cognitive and emotional functioning, the general practitioner indicated a major impact in emotion, with moderate impacts in the areas of insight and judgment, executive and motivation. There are minimal or no impacts assessed in the remaining 10 areas of functioning, including no impact to motor activity and query a minimal impact to attention/concentration. The general practitioner wrote that the appellant “has underlying anxiety which has got worse after recent accident at work last year leading to not wanting to go out of house, query PTSD.”
- For the section of the AR assessing impacts to social functioning, the general practitioner reported that the appellant is independently able to secure assistance from others and needs continuous support/supervision with her ability to deal appropriately with unexpected demands. The appellant requires periodic support/supervision in 3 areas, specifically: making appropriate social decisions, developing and maintaining relationships, and interacting appropriately with others. No further explanation or description was provided of the support or supervision required by the appellant.
- The appellant has marginal functioning in both her immediate and extended social networks.

In her self-report, the appellant wrote that:

- Driving and people stress her out and leaving her home is difficult.
- She is recovering from alcoholism, has high anxiety and possible paranoia, she is sad (seasonal disorder), and experiences depression, obsessive compulsive [disorder] and ADHD.

Daily Living Activities (DLA)

In the PR and AR, the general practitioner indicated that:

- The appellant has not been prescribed any medications or treatments that interfere with her ability to perform DLA.
- The appellant is independently able to move about indoors and outdoors.
- The appellant is independently able to perform every task of most listed DLA, specifically: personal care, pay rent and bills, medications, and transportation.
- The appellant requires periodic assistance from another person with the DLA of basic housekeeping, with no further explanation or description provided.
- The appellant requires periodic assistance with 1 of 5 tasks of the DLA shopping (carrying purchases home), while remaining independent with the tasks of going to and from stores, reading prices and labels, making appropriate choices and paying for purchases. She requires periodic assistance with 1 of 4 tasks of the DLA meals (meal planning) and remains independent with the tasks of food preparation, cooking and safe storage of food. No further explanation or description was provided of the assistance required by the appellant.

In her self-report, the appellant wrote that:

- She has people do her shopping for her. She finds leaving home difficult.
- She has always worked and she finds these limitations very hard to cope with.
- She does not cook, she gets canned foods.
- A friend helps her with cleaning or things she needs done around the house if she is unable.
- She can still bathe and the basics but she feels lost since she has lost her independence.
- She finds walking or standing for any length of time painful or impossible.

Need for Help

In the AR, the general practitioner indicated that the help required for DLA is provided by family, friends and health authority professionals as she attends local mental health for counseling. In the section of the AR relating to assistance provided through the use of assistive devices, the general practitioner did not identify any of the listed items.

Additional Information submitted after reconsideration

In her submission attached to the Notice of Appeal dated June 13, 2016, the appellant expressed her disagreement with the ministry's reconsideration decision and wrote that she does not agree that the application has been read as a whole, as the legislation requires. The submission further went to argument, which is set out in Part F below.

The hearing

The ministry relied on its reconsideration decision, summarized at the hearing.

At the hearing, the appellant's friend stated that:

- She has known the appellant for 15 years and, in the past few years, she has been with her every day; the appellant 'keeps her busy', so she knows about the appellant's limitations. The doctor has spent about 5 minutes with the appellant once a month and does not know enough about her to make an assessment.
- She does everything for the appellant. She shops for the appellant and explains the mail that she receives. The appellant has a short attention span.
- She lives close to the appellant and goes to her place every day, three times per day. She will bring her meals when she has extra because she knows the appellant is not cooking proper meals. She helps the appellant with cleaning both indoors and outdoors, doing her yard work. She also tries to motivate the appellant to do her personal hygiene.
- The appellant does not often go out of her house.

At the hearing, the appellant stated that:

- She has severe varicose veins and also osteo/rheumatoid arthritis and some days she has great difficulty with walking. Some days she can barely get down the hall from her bedroom to get herself a cup of coffee.
- She is not certain if she has had an official diagnosis of PTSD but she was diagnosed as "unstable" by a psychiatrist. Someone in mental health services said she suffers from PTSD.
- She does not go anywhere so she has not followed up with some referrals made for her to other medical professionals.
- She is dealing with many different things. Over the years she has been diagnosed as obsessive compulsive and with ADHD and that she has a photographic memory. It is not one big thing but a multitude of little things.
- She relies on her friend for cooking and bringing meals because the arthritis affects her hands and makes these tasks difficult for her.
- She leaves her home only once per month to see her doctor. It takes her 3 days to get ready for this appointment. She 'psyches herself up' and doubles up on her medications to be able to get to the appointment. She goes to her doctor and then straight home. Her friend picks up her medications for her.
- The last time she went out to the store was last September or October.

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- Her doctor does not spend much time with her at each visit. She recently had a cyst in her leg and she went to the doctor concerned that it might be a blood clot. He told her it might be a clot and then shuffled her out the door with no recommendation on what to do. It took her 3 days to get prepared for that appointment.
 - There is no social worker involved as a case worker who might act as a prescribed professional and be qualified to complete the AR.

At the hearing, the appellant's advocate stated that:

- The full picture of the appellant's restrictions is not reflected in the reports by the general practitioner because they were prepared based on the file chart and his memory from short interviews with the appellant.
- Doctors often do not have time to interview sufficiently to get the full picture of the person's restrictions.
- The appellant has been diagnosed with agoraphobia and this condition impacts all her DLA that involve going out into the community, such as shopping for food, picking up medications, using public transit. She needs support to do any of these things although, physically, she can walk with use of medication.

Admissibility of Additional Information

The ministry did not object to the admissibility of the oral testimony provided on behalf of the appellant. The panel considered the information provided by the appellant, her friend and her advocate as corroborating the previous information from the appellant regarding the impacts of her medical conditions diagnosed in the PWD application before the ministry at reconsideration. Therefore, the panel admitted this additional information as being in support of information and records that were before the ministry at the time of the reconsideration, in accordance with Section 22(4)(b) of the *Employment and Assistance Act*.

PART F – Reasons for Panel Decision

The issue on the appeal is whether the ministry's reconsideration decision, which found that the appellant is not eligible for designation as a person with disabilities (PWD), was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the circumstances of the appellant. The ministry found that the appellant does not have a severe mental or physical impairment and that her daily living activities (DLA) are not, in the opinion of a prescribed professional, directly and significantly restricted either continuously or periodically for extended periods and that, as a result of those restrictions, it could not be determined that the appellant requires the significant help or supervision of another person, the use of an assistive device, or the services of an assistance animal to perform DLA.

The criteria for being designated as a 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) 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;

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- (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.

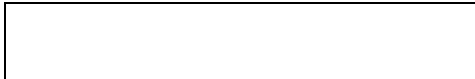
Section 2(2) of the EAPWDR defines prescribed profession as follows:

- (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 she has a severe physical impairment due to the pain from bone/muscle/soft tissue injuries related to MVA, as well as foot conditions and arthritis and neuropathy in her hands, particularly when viewed in conjunction with her emotional problems. The appellant argued, through her advocate, that the application for PWD must be read as a whole and the legislation does not require any additional narrative, comments or explanations or a certain amount of tick boxes to be ticked to designate a person as being significantly impacted. The appellant argued that the information recorded by the physician in the application was done solely based on information collected in the appellant's file, rather than in an interview.

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 general practitioner reported functional skills in the middle range of functioning, that the appellant is independent in all aspects of mobility and physical ability and has few restrictions in her ability to perform DLA.



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 both the nature of the impairment and the extent of its impact on daily functioning as evidenced by functional skill limitations and the degree to which the ability to perform DLA is restricted. In making its determination the ministry must consider all the relevant evidence, including that of the appellant. However, the legislation is clear that the fundamental basis for the analysis is the evidence from a prescribed professional – in this case, the appellant’s general practitioner.

In the PR, the general practitioner, who has known the appellant for about 10 years, diagnosed the appellant with chronic bone/muscle/soft tissue injuries related to MVA and the appellant wrote in her self-report that the two MVA caused whiplash, spinal injury, neck damage, right knee damage, severe headaches, dislocated right hip and shoulder, and a bowed spine. The appellant also wrote that she has severe varicose veins, her vision is deteriorating and, due to her foot conditions, walking or standing any length of time is extremely painful or impossible. At the hearing, the appellant stated that she also has osteo/rheumatoid arthritis and some days she has great difficulty with walking so that she can barely get down the hall from her bedroom. However, none of these additional conditions referred to by the appellant were specifically diagnosed or mentioned by her general practitioner.

The general practitioner wrote in the PR that the appellant “has many physical and mental problems” and her “physical problems relate back to MVA in which she was severely injured.” He indicated in the PR that the appellant does not require any prostheses or aid for her impairment and, for functional skills, she can walk 1 to 2 blocks unaided, climb 5 or more steps unaided, lift 5 to 15 lbs, and it is unknown how long she can remain seated. The advocate argued that although the general practitioner indicated the impact from the appellant’s physical condition alone may be in the moderate range, the combination of the appellant’s physical and emotional problems is severe; however, Section 2(2) of the EAPWDA requires that the ministry be satisfied that the person has either a severe mental impairment or a severe physical impairment. In the additional comments to the PR, the general practitioner wrote that the appellant “has long-standing physical and emotional problems which have deteriorated in the last year;” however, he assessed the appellant as independently able to perform all areas of mobility and physical ability, specifically walking indoors and walking outdoors, climbing stairs, standing, lifting, and carrying and holding. In the section of the AR relating to assistance provided through the use of assistive devices, the general practitioner did not identify any of the listed items.

There was no additional information provided by the general practitioner at reconsideration or on the appeal to modify his initial assessments in the PR or the AR and, while the advocate argued that the information recorded by the physician in the application was done solely based on incomplete information collected in the appellant’s file, the panel finds that the ministry reasonably relied on the information of the general practitioner as describing the impacts of her physical conditions on her daily functioning.

Given the level of independent physical functioning reported by the general practitioner, the panel finds that the ministry reasonably determined that there is not sufficient evidence to establish that the

appellant has a severe physical impairment under Section 2(2) of the EAPWDA.

Severe Mental Impairment

The appellant's position is that a severe mental impairment is established by the impacts from her anxiety- agoraphobia and PTSD. The appellant argued, through her advocate, that the application for PWD must be read as a whole and the legislation does not require any additional narrative, as previously detailed in the argument with respect to a severe physical impairment. The appellant argued in her Notice of Appeal that the application is geared more towards a physical impairment and creates a difficulty to emphasize the impact of mental health disabilities, which are cyclical in nature.

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 mental impairment. The ministry argued that although the general practitioner reported deficits with cognitive and emotional functioning in the areas of executive functioning, emotional disturbance, motivation and motor activity, he indicated either 'no impact', 'minimal impact', or 'moderate impacts' to these areas except with emotion, which was a 'major impact.' The ministry argued that the general practitioner assessed the appellant to be independent in all categories of DLA that require her to be out in the public and he does not provide further detail regarding the appellant's visits with a counselor.

Panel Decision

The general practitioner diagnosed the appellant with acute and chronic alcoholism, anxiety- agoraphobia and he queried (PTSD). At the hearing, the appellant stated that someone in mental health services said she suffers from PTSD, but she acknowledged that she is not certain if this is an official diagnosis as she suffers from many conditions.

In terms of health history, the general practitioner wrote that the appellant has "long-term alcoholism" and "more recently anxiety has lead to phobia of going out... query element of PTSD." In her self-report, the appellant wrote that driving and people stress her out and leaving her home is difficult. She is recovering from alcoholism, has high anxiety and possible paranoia, she has SAD (Seasonal Affective Disorder), and experiences depression, obsessive compulsive [disorder] and ADHD. However, none of these additional conditions of paranoia, depression, OCD or ADHD referred to by the appellant were specifically diagnosed or mentioned by her general practitioner.

The general practitioner reported that the appellant has significant deficits in her cognitive and emotional functioning in the areas of executive, emotional disturbance, motivation and motor activity and query attention or sustained concentration. The general practitioner did not provide any comments and, in the section of the AR assessing impacts to cognitive and emotional functioning, he indicated a major impact in emotion, with moderate impacts in the areas of insight and judgment, executive and motivation and no impact to motor activity and query a minimal impact to attention/concentration. The general practitioner wrote that the appellant "has underlying anxiety which has got worse after recent accident at work last year leading to not wanting to go out of house, query PTSD." At the hearing, the appellant stated that she only leaves her home once per month to see her doctor and it takes her 3 days to get ready for this appointment. She has to 'psyche herself up' and doubles up on her medications to be able to get to the appointment and she will go to her doctor and then straight home.

With respect to the two DLA that are specific to mental impairment – make decisions about personal activities, care or finances (decision making), and relate to, communicate or interact with others

effectively (social functioning), there is little evidence to establish that the appellant is significantly restricted in either. Regarding the decision making DLA, the general practitioner reported in the AR that the appellant independently manages most decision-making components of DLA, specifically: personal care (regulate diet), shopping (making appropriate choices and paying for purchases), meals (safe storage of food), “pay rent and bills” (including budgeting), medications (taking as directed and safe handling and storage), and transportation (using transit schedules and arranging transportation). Although the general practitioner reported that the appellant requires periodic assistance with the task of meal planning and periodic support/supervision with making appropriate social decisions, he did not provide any explanation or description to allow the ministry to determine that the periodic assistance is required for extended periods of time.

Regarding the DLA of social functioning, the general practitioner assessed the appellant in the AR as independent with securing assistance from others and as requiring periodic support supervision with developing and maintaining relationships and interacting appropriately with others, with marginal functioning in both her immediate and extended social networks. Again, the general practitioner did not provide further comment to provide the detail to allow the ministry to determine that this periodic assistance is required for extended periods. While the appellant and her friend stated at the hearing that the appellant has great difficulty leaving her house, which she currently does only once per month to attend an appointment with her doctor, and that she requires ongoing assistance and support to perform any DLA in the community, this was not supported in the information from the general practitioner as the prescribed professional. As discussed in more detail below under the heading Significant Restrictions to DLA , the appellant’s mental condition does not appear to have translated into significant restrictions in her ability to manage her DLA independently. The general practitioner further reported in the PR and the AR that the appellant has no difficulties with communication, with a good ability to communicate in most areas, specifically with speaking, writing, and hearing, although the appellant is unable to read. There was not further explanation provided to establish whether the inability to read is related to a physical or mental impairment.

Given the absence of significant impacts to the appellant’s cognitive, emotional and social functioning as a result of her mental health conditions as reported by the general practitioner, the panel finds that the ministry reasonably determined that a severe mental impairment was not established under Section 2(2) of the EAPWDA.

Significant restrictions in the ability to perform DLA

The appellant’s position is that her physical and mental impairments severely impair her and her ability to perform DLA is significantly restricted to the point that she requires significant help and support from other people. The appellant argued, through her advocate, that the general practitioner reported that the appellant requires periodic assistance with all aspects of basic housekeeping, carrying purchases home, and meal planning and laundry and the appellant wrote in her self-report that she cannot eat or sleep sometimes for days and she has others do her shopping for her. The advocate argued that the appellant requires daily support or assistance in order to perform tasks such as shopping, which includes picking up medications, and meal planning, which without support would have significant impact on her life and care. The advocate argued that the appellant suffers from anxiety and agoraphobia which prevents her from leaving her home and these factors alone show a significant impact on the ability of the appellant to perform DLA independently.

The ministry’s position, as set out in the reconsideration decision, is that the information from the prescribed professional does not establish that impairment significantly restricts DLA either

continuously or periodically for extended periods. The ministry wrote that the general practitioner indicated in the AR that the appellant is independent with most listed areas of DLA and for those few tasks that she requires periodic assistance from another person, he did not explain why the appellant is restricted in these areas, considering he assessed the appellant as independent in all aspects of mobility and physical ability, nor did he explain whether the assistance is required for extended periods.

Panel Decision

Section 2(2) of the EAPWDA requires that a severe impairment directly and significantly restricts the appellant's ability to perform the prescribed DLA either continuously or periodically for extended periods. The term "directly" means that there must be a causal link between the severe impairment and the restriction. The direct restriction must also be significant. In circumstances where the evidence indicates that DLA are directly restricted, it is appropriate for the ministry to require evidence as to whether the restriction is continuous or periodic and – if periodic – of how frequently the restriction arises. The legislation also requires the minister to assess direct and significant restrictions of DLA in consideration of the opinion of a prescribed professional, in this case the appellant's general practitioner. This does not mean that other evidence should not be factored in as required to provide clarification of the professional evidence, but the legislative language makes it clear that the prescribed professional's evidence is fundamental to the ministry's determination as to whether it is "satisfied."

In the appellant's circumstances, the general practitioner reported in the PR that the appellant has not been prescribed any medications or treatments that interfere with her ability to perform DLA. The general practitioner also indicated that the appellant is independently able to move about indoors and outdoors and that she can walk 1 to 2 blocks unaided. In her self-report, the appellant wrote that she finds walking or standing for any length of time painful or impossible. The general practitioner indicated that the appellant is independently able to perform every task of most listed DLA, specifically: personal care, pay rent and bills, medications, and transportation. In her self-report, the appellant wrote that she can still bathe and do "the basics" but she feels 'lost' since she feels she has lost her independence. At the hearing, the appellant's friend stated that she has known the appellant for 15 years and, in the past few years, she has been with her every day and the appellant 'keeps her busy.' She stated that she does 'everything' for the appellant, going to the appellant's house three times per day. The friend stated that she motivates the appellant to take care of her personal hygiene, to deal with her mail, and to pick up her medications. The panel notes, however, that this level of assistance was not reported by the general practitioner in the AR.

The general practitioner reported that the appellant requires periodic assistance from another person with the DLA of basic housekeeping, with no further explanation or description provided. In her self-report, the appellant wrote that a friend helps her with cleaning or things she needs done around the house if she is unable. At the hearing, the appellant's friend stated that she helps the appellant with cleaning both indoors and outdoors. The general practitioner reported in the AR that the appellant requires periodic assistance with 1 of 5 tasks of the DLA shopping (carrying purchases home), while remaining independent with the tasks of going to and from stores, reading prices and labels, making appropriate choices and paying for purchases. The appellant wrote in her self-report that she has people do her shopping for her since she finds it difficult to leave her home. At the hearing, the appellant stated that the last time she went out to the store was in September or October and that her friend has been doing the shopping for her. The general practitioner reported that the appellant requires periodic assistance with 1 of 4 tasks of the DLA meals (meal planning) and remains

independent with the tasks of food preparation, cooking and safe storage of food. No further explanation or description was provided by the general practitioner. In her self-report, the appellant wrote that she does not cook but gets canned foods instead. At the hearing, the appellant friend stated that she will bring the appellant meals when she has extra because she knows the appellant is not cooking proper meals. At the hearing, the appellant stated that she relies on her friend for bringing her meals because the arthritis affects her hands and makes these tasks difficult for her.

Although the appellant and her friend provided information at the hearing that the appellant requires assistance with many tasks of DLA, particularly those completed in the community, there was no further information from the general practitioner, as the prescribed professional, to modify his initial assessment in the AR. Also, as previously discussed, the evidence does not clearly indicate that the appellant is significantly restricted in either DLA specific to mental impairment, namely decision making or social functioning.

Given the lack of description and explanation by the general practitioner regarding how often and how long the appellant experiences restrictions and the associated degree of assistance required, as well as the lack of evidence to establish significant restrictions with the two DLA specific to mental impairment, the panel finds that the ministry reasonably concluded that there is not enough evidence from the prescribed professional to establish that the appellant's impairment significantly restricts her ability to manage her DLA either continuously or periodically for extended periods, thereby not satisfying the legislative criterion of Section 2(2)(b)(i) of the EAPWDA.

Help to perform DLA

The appellant's position is that she requires the significant assistance of another person to perform DLA, specifically her friend and counseling through mental health services as the health authority professionals.

The ministry's position, as set out in the reconsideration decision, is that because it has not been established that DLA are significantly restricted, it cannot be determined that significant help is required from other persons or an assistive device. The ministry wrote that no assistive devices are 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 general practitioner indicated that the help required for DLA is provided by family, friends and health authority professionals as she attends local mental health for counseling. In the section of the AR relating to assistance provided through the use of assistive devices, the general practitioner did not identify any of the listed items.

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 under Section 2 of the EAPWDA, was reasonably supported by the evidence and therefore confirms the decision. The appellant's appeal, therefore, is not successful.