PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the ministry) reconsideration decision dated June 30, 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 and self-report dated August 22, 2015, a physician report (PR) and an assessor report (AR) dated December 5, 2015, both completed by a general practitioner (GP) who has known the appellant since 1991, or over 20 years.

The evidence also included the following:

1) A letter dated June 15, 2016 in which the physician who completed the PR and the AR responded to questions posed by an advocate for the appellant ("advocate letter"); and,
2) Request for Reconsideration dated June 14, 2016.

Diagnoses

In the PR, the GP diagnosed the appellant with depression and Crohn's Disease. Asked to describe the mental or physical impairments that impact the appellant's ability to manage daily living activities, the GP wrote "…recurrent depression/ anxiety problems."

Physical Impairment

In the PR and AR, the GP reported that:

- In terms of health history, the appellant is on medication for the Crohn's Disease and has frequent abdominal pains and it is "worse with stress."
- The appellant does not require an aid for his impairment.
- In terms of functional skills, the appellant can walk 4 or more blocks unaided, climb 2 to 5 steps unaided, lift 2 to 7 kg. (5 to 15 lbs.) and remain seated 2 to 3 hours.
- The appellant is not restricted with mobility inside the home, but it is unknown if he is restricted with mobility outside the home.
- The appellant is assessed as being independent with walking indoors, standing, and carrying and holding. He requires periodic assistance from another person with walking outdoors, climbing stairs, and lifting. For comments, the GP wrote that the appellant "…complains of back pain with heavy and repetitive lifting."
- In the section of the AR relating to assistance provided, the appellant does not routinely use any of the listed assistive devices.

In his self-report, the appellant wrote that:

- He has back and leg problems, and lung or breathing issues, specifically COPD [chronic obstructive pulmonary disease].
- With Crohn's Colitis (sic), he always suffers pain and needs to be close to a bathroom at all times.
- He is always tired and has little energy. When he gets to a certain point, he needs to stop and rest.
- He has lower back pain that limits how much lifting and bending he does. The pain can go all the way down his leg, making it difficult to walk at times.

In the advocate letter dated June 15, 2016, the GP indicated:

- He agreed that the appellant suffers from significant back and right hip pain, and commented: "episodic back pain flare-ups."
- He was uncertain as to whether the appellant has severe episodes of pain in his back and hip

that occur at least 2 times per month lasting up to 3 consecutive days, during which time he is unable to climb any number of stairs, walk outdoors, lift or carry anything.
- He disagreed that the combination of the appellant's conditions is severe.

Mental Impairment

In the PR and AR, the GP reported:

- The appellant has no difficulties with communication.
- The appellant has significant deficits with cognitive and emotional function in the areas of emotional disturbance and motivation.
- The appellant is periodically restricted in his social functioning. The GP commented: "…anxiety problems."
- The appellant has a satisfactory ability to communicate in all areas, specifically: speaking, reading, writing and hearing.
- With respect to impacts to cognitive and emotional functioning, there are major impacts in the areas of emotion and motivation, and moderated impacts in attention/concentration, memory and other emotional or mental problems. There are minimal or no impacts to 8 remaining listed areas, with no assessment provided for the area of consciousness. The GP wrote that the appellant has "…difficulty with motivation and controlling emotions" and he "can get irritable."
- Regarding impacts to social functioning, the appellant is independent in most areas, specifically: making appropriate social decisions, interacting appropriately with others, dealing appropriately with unexpected demands and securing assistance from others. The appellant requires periodic support/supervision with developing and maintaining relationships and the GP wrote "anxiety issue."
- The appellant has marginal functioning in both his immediate and extended social networks.

In his self-report, the appellant wrote that:

- His depression makes it hard to work or function well with others.

In the advocate letter, the GP indicated that:

- He agreed that the appellant states that he has only one friend, he has no interest in seeing or talking to anyone and he is withdrawn and isolated. He does not interact socially. The GP wrote: "…need mental health/ social services- social interaction."
- He disagreed that the combination of the appellant's conditions is severe.

Daily Living Activities (DLA)

In the PR and the AR, the GP indicated that:

- The appellant has been prescribed medications and/or treatments that interfere with his ability to perform DLA. There was no explanation or anticipated duration provided.
- The appellant is not restricted with most of the listed DLA, specifically: personal self care, meal preparation, management of medications, basic housework, daily shopping, and the mobility inside the home aspect of the DLA move about indoors and outdoors.
- The appellant is periodically restricted with social functioning, described as: "anxiety problem."
- It is unknown whether the appellant is restricted with some of the listed DLA, specifically: the mobility outside the home aspect of the DLA move about indoors and outdoors, use of transportation, and management of finances.
- The appellant is independent with walking indoors and requires periodic assistance from

another person with walking outdoors. There is no explanation provided for the assistance required.
- The appellant is independent with all of the tasks of most DLA, specifically: personal care (dressing, grooming, bathing, toileting, feeding self, regulate diet, transfers in/out of bed, transfers on/off of chair), basic housekeeping (including laundry), shopping (going to and from stores, reading prices and labels, making appropriate choices, paying for purchases, and carrying purchases home), meals (meal planning, food preparation, cooking and safe storage of food), "paying rent and bills" (including banking and budgeting) and medications (filling/refilling prescriptions, taking as directed, and safe handling and storage).
- For the DLA transportation, the appellant is independent with using public transit and using transit schedules and arranging transportation, but requires periodic assistance from another person with getting in and out of a vehicle. The GP did not provide an explanation or description of the assistance required.

In his self-report, the appellant wrote that:
- His depression makes it hard to work or function well with others.
- At work, he cannot eat even a little because he does not know what will happen and when the diarrhea might start.

In the advocate letter, the GP indicated that:
- He disagreed that during a flare-up of back pain the appellant does not leave his house and cannot go to the store or the bank. He is in too much pain to do little more than rest in bed.
- He is "unable to comment" from his knowledge whether, most of the time, the appellant does not sweep, vacuum or mop his floors since these tasks will trigger a back flare-up. He has someone do it or it does not get done.
- He agreed that the appellant's depression causes him to have no motivation and he only showers and shaves 2 times a week because he has no interest. The GP wrote: "…needs to see mental health for close follow-up."
- It is "possible" that every couple of weeks the appellant goes through periods of severe depression where he does not cook or eat for 2 to 3 days because he has no appetite or interest.
- He disagreed that the combination of the appellant's conditions is severe and that he has significant restrictions with his ADL's (DLA) and requires supervision/assistance.

Need for Help

In the AR, the GP reported that, with respect to the assistance provided by other people, the appellant receives help from friends. In the section of the AR for identifying assistance provided through the use of assistive devices, the GP did not indicate that the appellant routinely uses any of the listed items.

Additional information

In his Notice of Appeal dated July 14, 2016, the appellant expressed his disagreement with the ministry's reconsideration decision and wrote that his depression and anxiety are severe and do disrupt his daily life greatly, not to mention his Crohn's Colitis (sic) for which there is no cure.

At the hearing, the appellant stated that:
- He has highlighted his depression and anxiety and just because he can cook his own meal

does not mean that he does not suffer.

- He is not very outgoing and he has anger issues that stem from his depression and anxiety.
- He functions in his home and the issue is more with going outside since he has an inability to function with others. He started taking medications for depression and anxiety several years ago because he had lashed out in anger at someone at work and lost his job as a result.
- If he feels threatened at all, he starts to sweat and it feels like he could pass out.
- With the Crohn's Disease, he is constantly in the bathroom or looking for one, and this is quite an issue for him. He sees a specialist for the Crohn's Disease and was told by the specialist that back pain can be a related symptom. He also has times when something "snaps" in his back and he cannot move. He is not sure what causes this but he has experienced it for many years.
- His ability to perform his DLA is at an absolute minimal level. He lives alone and he does minimal shopping. He does not like to be around crowds.
- He pays his rent through the manager in his building and he pays his utility bills by telephone.
- For cleaning, he does what he can but that is not much since he cannot do much lifting or bending.
- He keeps himself clean and takes pride in that but he is pretty much "stuck" in his house.
- Regarding meals, they are "very minimal" since he eats sparingly, such as a sandwich and a can of soup, and easy meals.
- He has one lady who lives in his building and she will do some light shopping for him once in a while. She is older and he does not want to burden her so he asks infrequently.
- Occasionally his brother will drive him to an appointment, if his brother is available.
- He experiences episodes with his depression where he is so "down and out" that he does not want to do anything or speak to anyone. At times, he has thoughts of suicide. These episodes can last for a few days to a week and they happen "quite frequently."
- His doctor has suggested that he seek help from mental health services but no appointment has been made. His doctor has not made a referral to a psychiatrist. He sees his doctor every couple of months.
- His doctor has changed his medications a couple of times but he has taken the same medications, with the same dose, for approximately the last 4 years.
- Besides deficits with emotional disturbance and motivation, he also has problems with his memory and he does not drive because he cannot concentrate. He has not discussed these problems with his doctor.

The ministry relied on the reconsideration decision, as summarized at the hearing. The ministry clarified at the hearing that there is no exact number of boxes that need to be completed on the PWD application for the ministry to be satisfied regarding the criteria of severity and that the ministry considers the entirety of the application.

Admissibility of Additional Information

The panel considered the appellant's oral testimony as information that corroborates the extent of his impairment, as referred to in the PWD application and the advocate letter, which was before the ministry at reconsideration and admitted the testimony in accordance with Section 22(4)(b) of the *Employment and Assistance Act.*

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 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 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 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 pain, fatigue, and limited physical functioning as a result of Crohn's Disease, back and leg problems, and lung or breathing issues (COPD). The appellant argued that with Crohn's Disease, for which there is no cure, he suffers pain and needs to be close to a bathroom at all times, which impacts his ability to go out into the community.

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 assessments by the GP of the appellant's functional skills are not considered indicative of a severe impairment of physical functioning. The ministry wrote that the GP indicated in the advocate letter that he disagreed with the statement that a combination of the appellant's conditions is severe.

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 GP.

In the PR, the GP, who had known the appellant for over 20 years, diagnosed the appellant with Crohn's disease, which causes frequent abdominal pains and it is "worse with stress." In the advocate letter, the GP indicated that he agreed with the statement that the appellant suffers from significant back and right hip pain, described as: "episodic back pain flare-ups." However, the GP indicated that it is "uncertain" whether the appellant has severe episodes of pain in his back and hip that occur at least 2 times per month lasting up to 3 consecutive days, during which time he is not able to climb any amount of stairs, walk outdoors, lift or carry anything. At the hearing, the appellant stated that there are times when something "snaps" in his back and he cannot move, he does not know what causes the pain but he has experienced this for many years. While the appellant wrote in his self-report that he has lung or breathing issues, which he referred to as COPD, the GP did not diagnose COPD or discuss issues with the appellant's breathing.

In the PR, the GP reported that the appellant can walk 4 or more blocks unaided, climb 2 to 5 steps unaided, lift 5 to 15 lbs. and remain seated 2 to 3 hours. The GP indicated that the appellant is not restricted with mobility inside the home, but the GP did not know if the appellant is restricted with mobility outside the home. In the AR, the GP assessed the appellant as being independent with walking indoors, standing, and carrying and holding. In his self-report, the appellant wrote that he has lower back pain that limits how much lifting and bending he does and it can be difficult to walk at times. The GP reported that the appellant requires periodic assistance from another person with walking outdoors, climbing stairs, and lifting and wrote that the appellant "…complains of back pain with heavy and repetitive lifting," but did not provide a further description or explanation of the assistance required. Given the functional skill limitation of lifting up to 15 lbs., the "heavy" lifting causing pain may be for weights in excess of this amount. The GP reported in the PR that the appellant does not require an aid for his impairment and, in the AR, did not indicate that the appellant routinely uses any of the listed assistive devices. Given an opportunity to provide further information in the advocate letter, the GP disagreed that the combination of the appellant's conditions is severe.

Given the GP assessed function skill limitations in the middle of the range and disagreed that the appellant's conditions are severe, 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's position is that a severe mental impairment is established by the inability to function well with others, his anger issues, and isolation as a result of his depression and anxiety.

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 although the GP indicated there were significant deficits to cognitive and emotional functioning in emotional disturbance and motivation, with major impacts assessed in these areas, there are moderate or minimal impacts assessed to the other areas of functioning. The ministry wrote that the appellant remains independent in all but one area of social functioning, for which there is no explanation or description of the periodic support or supervision required.

Panel Decision

In the PR, the GP diagnosed the appellant with depression and described the mental or physical impairments that impact the appellant's ability to manage DLA as "…recurrent depression/ anxiety problems." The GP reported that the appellant has significant deficits with cognitive and emotional function in the areas of emotional disturbance and motivation and added no further comment or explanation. With respect to impacts to cognitive and emotional functioning, the GP indicated there are major impacts in the areas of emotion and motivation, and moderated impacts in attention/concentration, memory and other emotional or mental problems. At the hearing, the appellant stated that he has problems with his memory and he does not drive because of an inability to concentrate. He also stated that his anger issues resulted in him having to take medications for depression and anxiety. The GP assessed minimal or no impacts to 8 remaining listed areas, with no assessment provided for the area of consciousness. The GP wrote that the appellant has "…difficulty with motivation and controlling emotions" and the appellant "can get irritable."

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 GP reported in the AR that the appellant independently manages all decision-making components of DLA, specifically: personal care (regulate diet), shopping (making appropriate choices and paying for purchases), meals (meal planning and 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). As well, the GP reported in the AR that the appellant independently makes appropriate social decisions. The GP did not change his assessment of the appellant's decision-making ability in the advocate letter.

Regarding the DLA of social functioning, the GP assessed the appellant in the PR as periodically restricted and commented: "…anxiety problems," without describing the degree of restriction. In the AR, in assessing impacts to various aspects of social functioning, the GP reported that the appellant is independent in interacting appropriately with others, dealing appropriately with unexpected demands and securing assistance from others. The GP indicated that the appellant requires periodic support/supervision with developing and maintaining relationships and the GP wrote "anxiety issue," again without describing the frequency or duration of the periodic support/supervision required. The GP indicated that the appellant has marginal functioning in both his immediate and extended social networks. In his self-report, the appellant wrote that his depression makes it hard to work or function well with others. At the hearing, the appellant stated that he experiences episodes with his depression where he is so "down and out" that he does not want to do anything or speak to anyone and these episodes can last for a few days to a week and they happen "quite frequently." The appellant stated that his doctor has suggested that he seek help from mental health services but no appointment has been made and no referral has been made to a psychiatrist. He has taken the same medications, with the same dose, for approximately the last 4 years.

In the advocate letter, the GP agreed that the appellant states that he has only one friend, he has no interest in seeing or talking to anyone and he is withdrawn and isolated. He does not interact socially. The GP wrote: "…need mental health/ social services- social interaction." The GP reported in the PR and the AR that the appellant has no difficulties with communication, with a satisfactory ability to communicate in all areas, specifically with speaking, reading, writing, and hearing. In the

advocate letter, the GP disagreed that the combination of the appellant's conditions is severe.

As the GP assessed mostly moderate impacts to the appellant's cognitive and emotional functioning, did not describe the extent of periodic restrictions to an aspect of social functioning, and disagreed that the appellant's conditions are severe, 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 and mental impairments directly and significantly restrict his ability to perform DLA on an ongoing basis to the point that he requires the significant assistance of another person, specifically his friend and his brother. In his Notice of Appeal, the appellant wrote that his depression and anxiety are severe and do disrupt his daily life greatly.

The ministry's position, as set out in the reconsideration decision, 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 while the GP agreed in the advocate letter with the statement describing restrictions with shaving and showering due to impacts to motivation, he also indicated disagreement or uncertainty for the remaining statements regarding DLA and disagreed with the conclusion that the appellant has significant restrictions with his ADL's (DLA) and requires supervision/assistance.

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 GP is the prescribed professional. 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 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.

In the appellant's circumstances, the GP reported in the PR that the appellant has been prescribed medications and/or treatments that interfere with his ability to perform DLA, but there was no explanation or anticipated duration provided. In the PR, the GP reported that the appellant is not restricted with most of the listed DLA, specifically: personal self care, meal preparation, management of medications, basic housework, daily shopping, and the mobility inside the home aspect of the DLA move about indoors and outdoors, and it is unknown whether the appellant is restricted with some of the listed DLA, specifically: the mobility outside the home aspect of the DLA move about indoors and outdoors, use of transportation, and management of finances. The GP indicated that the appellant is periodically restricted with social functioning, described as: "anxiety problem," without describing the degree of restriction.

In the AR, the GP assessed the appellant as being independent with all of the tasks of most DLA, with the exception of one task of the DLA transportation (getting in and out of a vehicle), and the walking outdoors aspect of the move about indoors and outdoors DLA, for which in each instance he requires periodic assistance from another person. The GP did not provide an explanation or description of the frequency or duration of the assistance required.

At the hearing, the appellant stated that his ability to perform his DLA is at an absolute minimal level.

He lives alone and he does minimal shopping because he does not like to be around crowds. There is a neighbor who will do some light shopping for him once in a while. He pays his rent through the manager in his building and he pays his utilities by telephone. For cleaning, he does what he can but that is not much since he cannot do much lifting or bending. He keeps himself clean and takes pride in that but he is pretty much "stuck" in his house. Regarding meals, they are "very minimal" since he eats sparingly and only prepares easy meals. Occasionally his brother will drive him to an appointment, if his brother is available.

In the advocate letter, the GP disagreed with the statement that during a flare-up of back pain the appellant does not leave his house, rests in bed, and cannot go to the store or the bank. The GP indicated that he is "unable to comment" from his knowledge whether, most of the time, the appellant does not sweep, vacuum or mop his floors since these tasks will trigger a back flare-up and he either has someone do it or it does not get done. The GP agreed that the appellant's depression causes him to have no motivation and he only showers and shaves 2 times a week because he has no interest, and wrote: "…needs to see mental health for close follow-up." The GP also indicated that it is "possible" that every couple of weeks the appellant goes through periods of severe depression where he does not cook or eat for 2 to 3 days because he has no appetite or interest. There was no further evidence from a mental health specialist provided on the appeal.

While the GP agreed in the advocate letter with additional impacts, as a result of the appellant's depression, to the DLA of personal care and meals, he disagreed that the combination of the appellant's conditions is severe and that he has significant restrictions with his ADL's (DLA) and requires supervision/assistance. 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.

Considering the evidence of the GP as the prescribed professional, the panel finds that the ministry reasonably determined that there was not sufficient detail provided to establish that the appellant requires periodic assistance for extended periods of time with aspects of his DLA. 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 and mental impairment significantly restrict 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 GP reported that, with respect to the assistance provided by other people, the appellant receives help from friends. At the hearing, the appellant clarified that a neighbor

occasionally assists with light grocery shopping and his brother will sometimes drive him to appointments. In the section of the AR for identifying assistance provided through the use of assistive devices, the GP did not indicate that the appellant routinely uses 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 pursuant to Section 2(2) of the EAPWDA, was reasonably supported by the evidence, and therefore confirms the decision. The appellant's appeal, therefore, is not successful.