

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the ministry) reconsideration decision dated July 12, 2016, which found that the appellant did not meet four 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. However, the ministry was not satisfied that the evidence establishes that:

- the appellant's impairment is likely to continue for at least two years;
- 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

With the consent of both parties, the hearing was conducted as a written hearing, pursuant to section 22(3)(b) of the *Employment and Assistance Act*.

The evidence before the ministry at the time of the reconsideration decision included the Persons With Disabilities (PWD) Application comprised of the applicant information and self-report dated March 1, 2016, a physician report (PR) dated December 20, 2015 completed by a general practitioner (GP) who has known the appellant for 25 years and an assessor report (AR) dated February 18, 2016 and completed by a registered psychologist who has known the appellant since April 2013.

The information at reconsideration also included the appellant's Request for Reconsideration dated June 27, 2016.

Diagnoses

In the PR, the GP diagnosed the appellant with a traumatic brain injury, with a date of onset in 2012, and a mood disorder- depressive type with an onset in July 2014.

Asked to describe the mental or physical impairments that impact the appellant's ability to manage daily living activities, the psychologist wrote in the AR that the appellant "...becomes overwhelmed easily, particularly when experiencing heightened symptoms of depression and anxiety. This negatively impacts her ability to complete certain tasks (e.g. administrative)."

Duration

In the PR, regarding the degree and course of the impairment, the GP indicated a "no" response to the question whether the appellant's impairment is likely to continue for two years or more. The GP did not provide an explanation or any comments regarding duration.

Physical Impairment

In the PR, the GP reported that:

- In terms of health history, "...motor vehicle collision caused concussion and mild traumatic brain injury... slow recovery of physical abilities."
- The appellant does not require any prostheses or aid for her impairment.
- For functional skills, the appellant can walk 4 or more blocks unaided, she can climb 5 or more stairs unaided, and there is no limitation with how much weight she can lift and how long she can remain seated.

In the AR, the registered psychologist reported that:

- 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. The psychologist wrote that the "...scars on bottom of right foot interfere with [the appellant's] tolerance for walking and standing. The scars are referable (sic) to injuries sustained in the motor vehicle accident (MVA) of... 2012."
- In the section of the AR relating to assistance provided through the use of assistive devices, the psychologist did not identify any of the listed items and wrote "nil."

In her self-report, the appellant wrote that:

- In 2012 she was involved in a MVA that left her in hospital for almost 2 weeks. She had a

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- large head wound, which left her with scars. She had a concussion for a year.
 - She can no longer bike as she has scars on the bottom of her foot, which causes pain after too much walking and too much heat triggers headaches due to her scars on her head.

Mental Impairment

In the PR, the GP reported:

- In terms of health history, "...post-traumatic symptoms including panic attacks, sleep disruption and depression through to August 2013. Able to return to full-time work by September [date], 2013. Adjustment reaction... 2014. Depression worsened, continued counseling and anti-depressant medication. Further relapse February 2013 after birth of [child] with sleep deprivation, moving house and burden of single parenting."
- The appellant has no difficulties with communication.
- The appellant has a significant deficit in her cognitive and emotional functioning in the area of emotional disturbance and the GP wrote "depression."
- In the additional comments to the PR, the GP wrote "good family support from her parents."

In the AR, the registered psychologist reported that:

- The appellant has a good ability to communicate in all areas, specifically with speaking, reading, writing, and hearing.
- For the section of the AR assessing impacts to cognitive and emotional functioning, the psychologist indicated no major impacts, with moderate impacts to emotion and other emotional or mental problems and minimal or no impacts assessed in the remaining 12 areas of functioning. The psychologist wrote that the appellant "...experiences persistent trauma-related anxiety from her accident of... 2012 (e.g. nightmares, vehicle-related anxiety). She also experiences symptoms of depression from her noted accident. This adversely impacts her ability to consistently participate in committed activities (e.g. social, volunteer). Secondary to her anxiety and depression, she experiences difficulties with concentration, sleep disturbance, fatigue and diminished overall motivation and interest in previously fulfilling activities."
- For the section of the AR assessing impacts to social functioning, the psychologist reported that the appellant is independent in all aspects, specifically: making appropriate social decisions, develop and maintain relationships, interact appropriately with others, dealing appropriately with unexpected demands (comment: the appellant "does struggle with anxiety and feeling overwhelmed when dealing with interpersonal stressors"), and securing assistance from others.
- The appellant has both good and marginal functioning in her immediate social network (comment: the appellant "struggles with maintaining healthy boundaries with others") and marginal functioning in her extended social networks with no further comments provided.
- Asked to describe the support/supervision required to help maintain the appellant in the community, the psychologist did not comment.
- In the additional information, the psychologist wrote that "...the objectives of therapy have been to assist [the appellant] with her symptoms of chronic pain, depression and anxiety that can negatively impact her daily functioning."

In her self-report, the appellant wrote that:

- The MVA was traumatic and this started her depression. She has had to increase the dose of her anti-depressant medication. People in her life walked out and some would yell things at

her in public, which started anxiety.

- She now finds it hard to be in public alone as she tends to get overwhelmed easily or experience an anxiety attack. She finds it easier to have a familiar person (mom, close friend) with her in case she experiences an anxiety attack.
- She still has recurring nightmares, reliving her accident and the loss of her friend and the major change it has had on her life.
- She finds she does not have as much patience when it comes to overwhelming situations. She sometimes needs help from her mom in dealing with her young child.
- She has been seeing a therapist for 3 years. She tries to find things to keep optimistic but some days it is hard to overcome the depression.

In her Request for Reconsideration, the appellant wrote that:

- She was diagnosed with depression/anxiety in 2014 after a traumatic car accident. The accident left her scarred not only physically but also mentally and emotionally.
- Since that moment, she has not gone a day without having to wade through her depressions and anxiety to get through daily life.
- She still struggles with flashbacks and nightmares from her car accident. She has anxiety attacks while driving as well. Sometimes she has to cancel whatever she was doing until her anxiety calms down.
- She lost all but 3 of her friends after her car accident and losing that support system amplified her depression.
- She is a single mom and gets overwhelmed. She has attacks where she starts crying without warning. She is on antidepressants but she feels she needs more help.

Daily Living Activities (DLA)

In the PR, the GP indicated that:

- The appellant has not been prescribed medication and/or treatment that interfere with her ability to perform DLA.
- The appellant's impairment does not directly restrict her ability to perform DLA. She is not restricted with any of the listed physical DLA, specifically: personal self care, meal preparation, management of medications, basic housework, daily shopping, mobility inside and outside the home, use of transportation, and management of finances.
- The appellant is restricted with social functioning, with no indication that the restrictions are either continuous or periodic, with a note to "see section 3 [of the AR]."

In the AR, the registered psychologist reported that:

- The appellant lives alone and is the mother and guardian of a young child.
- The appellant is independent with moving about indoors and outdoors, although "...scars on bottom of right foot interfere with [her] tolerance for walking and standing."
- The appellant is independent with all tasks of all of the listed DLA, specifically: personal care, basic housekeeping, shopping, meals, "pay rent and bills," medication, transportation, and social functioning.

In her Request for Reconsideration, the appellant wrote that:

- Despite having attended 3 years of therapy and being on antidepressants, she still struggles with everyday tasks, let alone being able to hold down a job that could support herself and her child.

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- People would say horrible things about her in public and she finds doing things like grocery shopping and running errands difficult. She often has to have a close friend or family member with her for a sense of security or she puts off going all together.

Need for Help

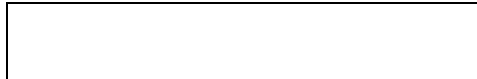
The GP wrote in the PR that the assistance that the appellant needs with DLA is “none.” In the AR, the psychologist wrote that the assistance provided by other people for DLA is “N/A” or not applicable.

Additional Information submitted after reconsideration

In her Notice of Appeal dated July 26, 2016, the appellant expressed her disagreement with the ministry’s reconsideration decision and wrote that:

- She has been struggling with depression and anxiety since her car accident in 2012.
- Every day is a struggle for her. Some days are okay, but other days feel like too much.
- Her house has become her safe place and, on bad days, she does not leave home.
- Some days when her anxiety is high, it affects everything that she does. She gets so nervous that she ends up cancelling whatever it is that she needed to do, whether it is meeting with friends or going to the grocery store.
- If the weather is bad, the idea of driving in it gets her anxiety high.
- While she was attending therapy she could not go during the winter because the idea of driving on the highway in the rain or icy roads scared her. She would end up having panic attacks.
- After her accident, she lost all but 3 of her friends and she “...went from being a constantly happy person, who loved going out and socializing and hiking, to someone who rarely likes to leave [her] house.”
- She returned to work upon finding out she was pregnant because she knew she needed maternity hours but it was not an easy process. She was often overwhelmed.
- She has a hard time trusting new people. She has had people harass her and make fun of her and that it triggers anxiety and has caused insecurities.
- She has a hard time doing things like grocery shopping alone.
- She has a close friend who usually runs errands with her because her anxiety gets too high to go alone.
- Her friend goes with her to most doctor appointments and helps with her child because she gets overwhelmed on her own.
- When her depression is bad she finds doing little things around the house to be difficult. She will put off things like taking a shower, doing laundry, or doing her dishes. She feels it is hard to get motivated.
- She has reached out to mental health again as she lost the funding she had for therapy. She found the therapy helped and not having the psychologist to talk with has made her depression worse and she feels like she has “taken a large step back.”
- She also had gallbladder surgery, which caused a huge amount of stress, along with pain, and she still struggles with it. She cannot eat a meal without getting sick. She has to be within close range to a washroom, which becomes incredibly stressful. She has low energy because nothing she eats stays in her.
- She is currently doing more testing to see if she has IBS [Irritable Bowel Syndrome] as well.

The ministry relied on its reconsideration decision as its submission on the appeal.



Admissibility of Additional Information

The ministry did not raise an objection to the admissibility of the information provided by the appellant with her Notice of Appeal. The panel finds the information provided by the appellant, other than the discussion of gall bladder surgery and possible IBS, as tending to corroborate the previous information from the appellant before the ministry at reconsideration regarding the impacts of her medical conditions. 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*. As the appellant's gall bladder surgery and investigations for IBS were not referred to in the reports or documents at reconsideration, the panel did not admit this information as it was not in support of information and records before the ministry at reconsideration.

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 that, in the opinion of a medical practitioner, is likely to continue for at least 2 years. The ministry also found 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 PWD designation 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.

Duration of Impairment

The appellant's position, as set out in her Notice of Appeal, is that she has been struggling with depression and anxiety since her car accident in 2012.

The ministry's position is that the GP has not confirmed that the appellant's impairment will continue for two years or more.

Panel Decision

The legislation – section 2(2)(a) of the EAPWDA – does not permit the ministry to designate an applicant as a PWD unless it is satisfied that, in the opinion of a medical practitioner, the applicant's impairment is likely to continue for at least 2 years.

Although the appellant pointed out that she has been struggling with depression and anxiety since her car accident in 2012, this legislative criterion relates to the anticipated duration of the impairment from the date of the application and must be confirmed by a medical practitioner. In the appellant's situation, her long-time GP responded "no" response to the question whether the appellant's impairment is likely to continue for two years or more and did not provide an explanation or any

comments regarding duration. There was no further information from the GP provided on the appeal. Based on the foregoing evidence, the panel finds that the ministry reasonably determined that this legislative criterion has not been satisfied.

Severe Physical Impairment

The appellant's position is that she has a severe physical impairment due to a MVA that caused a traumatic brain injury and a concussion for a year. She has scars on the bottom of her foot, which causes pain after too much walking, and too much heat triggers headaches due to her scars on her head.

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 GP reported no limitations with functional skills and the psychologist indicated that the appellant is independent in all aspects of mobility and physical ability.

Panel Decision

In the PR, the GP diagnosed the appellant with a mild traumatic brain injury and concussion, with an onset in 2012 and slow recovery of physical abilities. The GP reported that there are no limitations with the appellant's functional skills, being able to walk 4 or more blocks unaided, climb 5 or more stairs unaided, and with no limitation with how much weight she can lift and how long she can remain seated. The appellant wrote that she has scars on the bottom of her foot, which causes pain after too much walking, and too much heat triggers headaches due to her scars on her head. In the AR, although the registered psychologist wrote that the "...scars on bottom of right foot interfere with [the appellant's] tolerance for walking and standing," he reported that the appellant is independently able to perform all areas of mobility and physical ability, including walking indoors and outdoors and standing. Both the GP and the psychologist reported that the appellant is independent with her physical functioning and that she does not require any prostheses or aid for her impairment, or the use of an assistive device.

Given the level of independent physical functioning reported by the both the GP and the psychologist, 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 mood disorder- depressive type. In her Request for Reconsideration, the appellant wrote that a traumatic car accident left her scarred not only physically but also mentally and emotionally and she has not gone a day without having to wade through her depressions and anxiety to get through daily life. The appellant wrote that she still struggles with flashbacks and nightmares from her car accident, she lost all but 3 of her friends after her car accident and losing that support system amplified her depression, she has anxiety attacks some times while driving, and she is on antidepressants but she feels she needs more help.

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 the GP reported a significant deficit with cognitive and emotional functioning in the area of emotional disturbance, noting "depression", and the psychologist indicated a moderate impact to emotion and other emotional or mental problems and either 'no impact' or 'minimal impact' in the remaining areas

of functioning. The ministry argued that the GP indicated that the appellant's social functioning is restricted but he did not indicate if the restrictions are continuous or periodic and he does not explain how the appellant is impacted, as requested on the PWD application.

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 GP and psychologist.

The GP, who has known the appellant for 25 years, diagnosed the appellant with a mood disorder-depressive type, with an onset in July 2014 and wrote that she had "...post-traumatic symptoms including panic attacks, sleep disruption and depression through to August 2013," she was able to return to full-time work by September [date] 2013, she had an adjustment reaction in July 2014 at which time her "...depression worsened, continued counseling and anti-depressant medication." The GP reported that the appellant has a significant deficit in her cognitive and emotional functioning in the area of emotional disturbance and he wrote "depression." In assessing impacts to cognitive and emotional functioning, the psychologist indicated in the AR that there are no major impacts to daily functioning. The psychologist wrote that the appellant "...experiences persistent trauma-related anxiety from her accident of ... 2012 (e.g. nightmares, vehicle-related anxiety). She also experiences symptoms of depression from her noted accident. This adversely impacts her ability to consistently participate in committed activities (e.g. social, volunteer). Secondary to her anxiety and depression, she experiences difficulties with concentration, sleep disturbance, fatigue and diminished overall motivation and interest in previously fulfilling activities." However, the psychologist assessed moderate impacts to emotion and "other emotional or mental problems" and minimal or no impacts in the remaining 12 areas of functioning.

In the additional comments to the AR, the psychologist also wrote that "...the objectives of therapy have been to assist [the appellant] with her symptoms of chronic pain, depression and anxiety that can negatively impact her daily functioning." In her Notice of Appeal, the appellant wrote that she has reached out to mental health again as she lost the funding she had for therapy. She found the therapy helped and not having the psychologist to talk with has made her depression worse and she feels like she has "taken a large step back." However, there was no additional information provided on the appeal from either the GP or the psychologist to indicate deterioration in the appellant's functioning since the initial assessments.

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 psychologist 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). The psychologist also reported that the appellant is independent with making appropriate social decisions.

Regarding the DLA of social functioning, the GP indicated in the PR that the appellant is restricted without specifying whether the restrictions are continuous or periodic and noted “see section 3,” i.e. the AR. In the AR, the psychologist reported that the appellant is independent in all aspects of social functioning, including the ability to develop and maintain relationships and interact appropriately with others, with both good and marginal functioning in her immediate social networks as she “struggles with maintaining healthy boundaries with others” and marginal functioning in her extended social networks, with no further comments provided. Asked to describe the support/supervision required to help maintain the appellant in the community, the psychologist did not comment. The appellant wrote in her Notice of Appeal that she has been struggling with depression and anxiety since her car accident in 2012 and that every day is a struggle for her. Some days are okay, but other days feel like too much. Her house has become her safe place and, on bad days, she does not leave home. Some days when her anxiety is high, it affects everything that she does. She gets so nervous that she ends up cancelling whatever it is that she needed to do, whether it is meeting with friends or going to the grocery store. After her accident, she lost all but 3 of her friends and she “...went from being a constantly happy person, who loved going out and socializing and hiking, to someone who rarely likes to leave [her] house.” While the appellant referred to “bad days” when she does not leave her home, these exacerbations in her condition were not supported in the information from the GP and the psychologist, as the prescribed professionals. The GP further reported in the PR that the appellant has no difficulties with communication, and the psychologist indicated a good ability to communicate in all areas, specifically with speaking, reading, writing, and hearing.

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.

Given the absence of evidence from the prescribed professionals of significant impacts to the appellant’s cognitive, emotional and social functioning, and no description by her long-time GP or the psychologist of any significant exacerbations or deterioration in her mental health conditions, 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 to 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 wrote in her Notice of Appeal that she has a hard time doing things like grocery shopping alone and she has a close friend who usually runs errands with her because her anxiety gets too high. The appellant wrote that her friend goes with her to most doctor appointments and helps her with her child because the appellant gets overwhelmed on her own. The appellant wrote that when her depression is bad she finds doing little things around the house to be difficult and she will put off things like taking a shower, doing laundry, or doing her dishes. The appellant wrote that she feels it is hard to get motivated and she has reached out to mental health again as she lost the funding she had for therapy. In her Request for Reconsideration, the appellant wrote that despite having attended 3 years of therapy and being on anti-depressants,

she still struggles with everyday tasks, let alone being able to hold down a job that could support herself and her child.

The ministry's position, as set out in the reconsideration decision, is that the information from the prescribed professionals does not establish that impairment significantly restricts DLA either continuously or periodically for extended periods. The ministry wrote that the GP indicated in the PR that the appellant is not restricted with any aspect of her DLA with the exception of social functioning and, in the AR, the psychologist noted that the appellant is able to manage all aspects of her DLA. The ministry wrote that for the purposes of determining eligibility for PWD designation, employability or ability to work is not taken into consideration.

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 her DLA, continuously or periodically for extended periods. In this case, the GP and the psychologist are the prescribed professionals. DLA are defined in Section 2(1) of the EAPWDR and are also listed in the PR and, with additional details, in the AR. Therefore, the prescribed professionals completing these forms have 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 not been prescribed any medications or treatments that interfere with her ability to perform DLA. The GP also indicated that the appellant is not restricted with moving about indoors and outdoors and that she can walk 4 or more blocks unaided. In her self-report, the appellant wrote that she has scars on the bottom of her foot, which cause pain after too much walking. In the AR, while referencing some interference with tolerance for walking and standing, the psychologist assessed the appellant as independent in all areas of mobility and physical ability.

In the PR, the GP indicated that the appellant is not restricted in any of the listed DLA with the exception of social functioning, with no assessment of either continuous or periodic restrictions but a referral to the AR. In the AR, the psychologist reported that the appellant is independently able to perform every task of all listed DLA, specifically: personal care, basic housekeeping, shopping, meals, pay rent and bills, medications, transportation, and social functioning. The appellant wrote in her Notice of Appeal that she has a hard time doing things like grocery shopping alone and she has a close friend who usually runs errands with her because her anxiety gets too high. The appellant wrote that her friend goes with her to most doctor appointments and helps her with her child because the appellant gets overwhelmed on her own. The appellant wrote that, when her depression is bad, she finds doing little things around the house to be difficult and she will put off things like taking a shower, doing laundry, or doing her dishes. The panel notes, however, that this need for assistance was not reported by either the GP or the psychologist and there was no further information provided from the GP or the psychologist, as the prescribed professionals, to modify the initial assessments. In her Request for Reconsideration, the appellant wrote that despite having attended 3 years of therapy and being on anti-depressants, she still struggles with everyday tasks, let alone being able to hold down a job that could support herself and her child. The panel finds that the ministry reasonably determined that employability is not a criterion in section 2(2) of the EAPWDA nor is it listed among the prescribed daily living activities in section 2 of the EAPWDR.

Given the absence of evidence from the prescribed professionals of significant restrictions to DLA

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and the associated need for significant assistance, including a 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 therapy provided through mental health services.

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.

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.

The appellant wrote that she feels it is hard to get motivated and a friend helps her and the appellant has reached out to mental health again for therapy; however, the GP wrote in the PR that the assistance that the appellant needs with DLA is "none" and, in the AR, the psychologist wrote that the assistance provided by other people for DLA is "N/A" or not applicable.

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.