

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the ministry) reconsideration decision dated June 23, 2016 which found that the appellant did not meet the five statutory requirements of Section 2 of the *Employment and Assistance for Persons with Disabilities Act*, all of which must be met in order for the ministry to grant 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 January 20, 2016, a physician report (PR) and an assessor report (AR) both dated February 2, 2016 and completed by a general practitioner (GP) who has known the appellant for 4 years and has seen him 2 to 10 times in the past year.

The evidence also included:

- 1) Application for Income Assistance and Assignment to Worksafe BC dated December 17, 2015;
- 2) Employment Plan dated December 17, 2015;
- 3) Promise to Pay (Hardship) dated December 17, 2015;
- 4) Confirmation of Application for Medical Benefits dated December 17, 2015; and,
- 5) Request for Reconsideration dated June 7, 2016 including a letter dated June 13, 2016 from the GP who completed the PR and the AR.

Diagnoses

In the PR, the GP diagnosed the appellant with back pain, with an onset in March 2009, and depression, with an onset in February 2013. In the AR, asked to describe the mental or physical impairments that impact the appellant's ability to manage daily living activities, the GP responded "...chronic thoracic back pain, depression secondary to the disability caused by the back pain."

Duration

In the PR, regarding the degree and course of the impairment, the GP did not indicate either a "yes" or "no" response to the question whether the appellant's impairment is likely to continue for two years or more and wrote "unknown."

Physical Impairment

In the PR and AR, the GP reported that:

- In terms of health history, the appellant had an initial injury in 2009 of compound number of thoracic vertebrae, which was aggravated during work in 2011. He went through the WCB back program with little real improvement. The appellant had got back to work until he aggravated his back pain in June 2015 and has been off work since then. He has pain, poor sleep, poor appetite.
- The appellant does not require an aid for his impairment.
- In terms of functional skills, the appellant can walk 1 to 2 blocks unaided, climb 5 or more steps unaided, remain seated 1 to 2 hours, and he cannot lift any weight.
- The appellant is restricted with mobility inside and outside the home, with no indication whether the restriction is periodic or continuous.
- The appellant is assessed as independent with walking indoors and walking outdoors, with the note "but only short walks." The appellant requires continuous assistance from another person with climbing stairs, standing (comment: "unable to stand for more than a few minutes"), lifting and carrying and holding (note: "unable to do this").

In his self-report, the appellant wrote:

- He has chronic, debilitating upper back pain.
- This has been a cumulative process, starting with spinal fractures from a snowboarding accident followed by a workplace incident, which resulted in multiple locations of pain.
- He does not sleep or eat properly.
- He is unable to sit upright, stand, or walk for any length of time.
- He is in constant pain and traditional forms of medicine have given him very little to no relief.

Mental Impairment

In the PR and AR, the GP reported:

- In terms of health history, "...as with previous flare-ups, he became depressed and requires anti-depressants although is resistant to further psychological interventions."
- The appellant does not have difficulties with communication.
- The appellant has significant deficits with cognitive and emotional function in 2 of the 11 listed areas, specifically: emotional disturbance and motivation, with no further comments provided.
- The appellant is restricted with social functioning, with no indication whether the restrictions are continuous or periodic, with a comment that: "...as result of depression secondary to back pain, his interactions socially are restricted as he is isolated at present."
- The appellant has a good ability to communicate in all areas, specifically: speaking, reading, writing and hearing.
- There are two major impacts to the appellant's cognitive and emotional functioning in the areas of emotion and motivation, with a moderate impact to attention/concentration. There were minimal or no impacts to the remaining 11 areas of functioning. There were no further comments provided by the GP.
- For social functioning, the appellant is independent with two areas, namely making appropriate social decisions and interacting appropriately with others and he requires periodic support/supervision with developing and maintaining relationships (comment: "due to depression has become socially isolated"), dealing appropriately with unexpected demands and securing assistance from others
- The appellant has very disrupted functioning in both his immediate and extended social networks.

In his self-report, the appellant wrote:

- He has chronic, debilitating depression caused by his pain and inability to work or play.
- He is very depressed because he has no money, he cannot work and cannot play.

Daily Living Activities (DLA)

In the PR and AR the GP indicated that:

- The appellant has not been prescribed any medication and/or treatments that interfere with his ability to perform daily living activities.
- The appellant is not restricted with the DLA personal self care, management of medications and management of finances.
- The appellant is restricted with several DLA, specifically meal preparation, basic housework, daily shopping, mobility inside and outside the home, use of transportation and social functioning. There is no indication if the restrictions with these DLA are continuous or periodic.
- Regarding the degree of restriction, the GP commented "...unable to stand to cook/ do housework or do shopping. Transportation by bus, etc. is impossible but isn't able to run the

car due to finances.”

- With respect to the assistance required, the appellant is independent with walking indoors and walking outdoors “but only short walks” and is independent with all tasks of several DLA, specifically the personal care DLA (comment: “poor appetite due to all of this”), the “pay rent and bills” DLA (comment: “can do this but his current financial state makes paying bills impossible”) and the medications DLA.
- For the basic housekeeping DLA, the appellant requires continuous assistance with laundry and basic housekeeping “due to pain in back.”
- Regarding the shopping DLA, the appellant is independent with reading prices and labels, making appropriate choices and paying for purchases, and uses an assistive device for going to and from stores (comment: “needs transportation”) and requires continuous assistance from another person with carrying purchases home (comment: “unable to carry shopping due to the pain”).
- For the meals DLA, the appellant is independent with meal planning and safe storage of food and requires continuous assistance from another person with food preparation and cooking.
- Regarding the transportation DLA, the appellant is independent with using transit schedules and arranging transportation and requires periodic assistance from another person with getting in and out of a vehicle and continuous assistance with using public transit (comment: “unable to use as not able to wait for bus, etc. due to pain”).
- Asked to describe the assistance needed where none is available, the GP wrote that the main issue for the appellant is financial and “he is struggling to run his car due to this which exacerbates his isolation. His pain really precludes him from using public transport due to waits which aggravate his back pain.”

In his self-report, the appellant wrote that:

- He cannot do work of any sort unless it is for very short periods of time (“30 minutes max.”) and “is not physically or mentally demanding.”

In the letter dated June 13, 2016, the GP who completed the PR and the AR wrote that:

- The restrictions noted in housework, shopping, mobility, social functioning and use of transportation are continuous.
- The appellant is affected by pain and the consequences of this pain on a daily basis. His life is severely affected by this disability.

Need for Help

In the PR, asked to describe the assistance the appellant needs with DLA, the GP left this section blank. In the AR, the GP reported that, with respect to the assistance provided by other people, the appellant is helped by family and friends. In the section of the AR for indicating the assistance provided through the use of assistive devices, the GP has not identified any of the listed items.

Appellant’s additional information

In his Notice of Appeal dated August 19, 2016, the appellant expressed his disagreement with the ministry’s reconsideration decision and wrote that his impairment is likely to continue for at least 2 years, he has a severe physical and mental impairment, his impairment significantly restricts his ability to perform DLA, and he requires significant help from other people to perform DLA.

The appellant provided a letter dated September 12, 2016 in which he wrote that:

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- As the legislation is clear that the fundamental basis for the analysis of severe impairment is the evidence from a prescribed professional respecting the nature of the impairment and its impact on daily functioning, he would draw attention to the letter from the GP dated June 13, 2016.
 - It is clear that the GP believes he meets all the criteria for PWD classification.
 - The GP is a prescribed professional and his professional assessment should be accepted.

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

Admissibility of Additional Information

As the information in the Notice of Appeal and the appellant's letter dated September 12, 2016 were in the nature of argument and did not contain additional evidence, the panel considered this information as argument on behalf of the appellant.

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 his 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 person with disabilities (PWD) are set out in Section 2 of the EAPWDA as follows:

Persons with disabilities

2 (1) In this section:

"**assistive device**" means a device designed to enable a person to perform a daily living activity that, because of a severe mental or physical impairment, the person is unable to perform;

"**daily living activity**" has the prescribed meaning;

"**prescribed professional**" has the prescribed meaning.

- (2) The minister may designate a person who has reached 18 years of age as a person with disabilities for the purposes of this Act if the minister is satisfied that the person has a severe mental or physical impairment that
- (a) in the opinion of a medical practitioner is likely to continue for at least 2 years, and
 - (b) in the opinion of a prescribed professional
 - (i) directly and significantly restricts the person's ability to perform daily living activities either
 - (A) continuously, or
 - (B) periodically for extended periods, and
 - (ii) as a result of those restrictions, the person requires help to perform those activities.
- (3) For the purposes of subsection (2),
- (a) a person who has a severe mental impairment includes a person with a mental disorder, and
 - (b) a person requires help in relation to a daily living activity if, in order to perform it, the person requires
 - (i) an assistive device,
 - (ii) the significant help or supervision of another person, or
 - (iii) the services of an assistance animal.
- (4) The minister may rescind a designation under subsection (2).

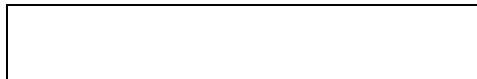
Section 2(1) and (2) of the EAPWDR provide definitions of DLA and prescribed professionals as follows:

Definitions for Act

2 (1) For the purposes of the Act and this regulation, "**daily living activities**" ,

(a) in relation to a person who has a severe physical impairment or a severe mental impairment, means the following activities:

- (i) prepare own meals;



- (ii) manage personal finances;
- (iii) shop for personal needs;
- (iv) use public or personal transportation facilities;
- (v) perform housework to maintain the person's place of residence in acceptable sanitary condition;
- (vi) move about indoors and outdoors;
- (vii) perform personal hygiene and self care;
- (viii) manage personal medication, and

(b) in relation to a person who has a severe mental impairment, includes the following activities:

- (i) make decisions about personal activities, care or finances;
- (ii) relate to, communicate or interact with others effectively.

(2) For the purposes of the Act, "prescribed professional" means a person who is

(a) authorized under an enactment to practise the profession of

- (i) medical practitioner,
- (ii) registered psychologist,
- (iii) registered nurse or registered psychiatric nurse,
- (iv) occupational therapist,
- (v) physical therapist,
- (vi) social worker,
- (vii) chiropractor, or
- (viii) nurse practitioner, or

(b) acting in the course of the person's employment as a school psychologist by

- (i) an authority, as that term is defined in section 1 (1) of the Independent School Act, or
- (ii) a board or a francophone education authority, as those terms are defined in section 1 (1) of the School Act, if qualifications in psychology are a condition of such employment.

The positions of the parties

Appellant's position

The appellant's position is that nobody can see into the future but there is a clear picture of the past and present, which shows that his impairment has been clearly identified, it has remained stable for over one year and, despite treatments, his body has not healed and it is therefore logical to conclude that his condition is permanent. The appellant argued that he has a severe physical impairment as a result of chronic, debilitating upper back pain and he is unable to sit upright, stand, or walk for any length of time and, while he is able to climb 5 plus stairs independently, he must use a handrail to do so and he cannot have any weight in his hands. The appellant's position is that he has a severe mental impairment as he is very depressed because he has no money, he cannot work or play and the GP reported two major cognitive and emotional impacts. The appellant's position is that his physical and mental impairments directly and significantly restrict his ability to perform DLA on an ongoing basis because, although his GP made an error of omission in completing the PR, his restrictions are continuous. The appellant argued that he can verify that he requires significant help from other persons on a continuous basis.

Ministry's position

The ministry's position, as set out in the reconsideration decision, is that the appellant's GP had not

confirmed in the PR that the appellant's impairment will continue for two years or more since he wrote "unknown." The ministry found that there is not sufficient evidence from the GP to demonstrate a severe physical impairment, noting that the GP indicated that the appellant is able to walk 1 to 2 blocks unaided, climb 5 or more steps unaided, he cannot lift, and he can remain seated for 1 to 2 hours. The ministry determined that the assessments provided by the GP speak to a moderate rather than a severe physical impairment. The ministry also found that there is insufficient evidence to establish that the appellant has a severe mental impairment as required by Section 2(2) of the EAPWDA as there are significant deficits to cognitive and emotional functioning in two areas, with no difficulties with communication and an unspecified need for periodic support/supervision with aspects of social functioning.

As to DLA, the ministry's position is that the information from the prescribed professional does not establish that the appellant's impairments significantly restrict his DLA either continuously or periodically for extended periods of time. The ministry noted that although the GP assessed the appellant as being continuously restricted with several listed DLA, the appellant manages many tasks of DLA independently and the GP also wrote that the appellant's main issue is financial. 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

Duration

Section 2(2)(a) of the EAPWDR requires that a medical practitioner provide an opinion that the appellant's impairment is likely to continue for at least two years. In response to the question in the PR whether the appellant's impairment is likely to continue for two years or more, the GP did not indicate either "yes" or "no" and wrote: "unknown." The appellant wrote in his Request for Reconsideration that nobody can see into the future but there is a clear picture of the past and present showing his impairment has been clearly identified, it has remained stable for over one year and, despite treatments, his body has not healed and it is therefore logical to conclude that his condition is permanent. Given an opportunity to update the information provided in the PR, the GP who completed the PR and the AR did not provide an opinion about the duration of the appellant's impairment in his letter dated June 13, 2016 and did not confirm the appellant's conclusion that his impairment is permanent. As there was no further information provided from the GP, the panel finds that the ministry's determination that the medical practitioner had not confirmed that the appellant's impairment will continue for two or more years from the date of the application, as required by Section 2(2)(a) of the EAPWDR, was reasonable.

Severe Physical Impairment

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 appellant's GP.

The GP, who has known the appellant for 4 years, diagnosed the appellant with back pain, with an onset in March 2009, and explained that the appellant had an initial injury in 2009 of compound number of thoracic vertebrae, which was aggravated during work in 2011 and the appellant went through the WCB back program with little real improvement. The appellant returned to work until he aggravated his back pain in June 2015 and has been off work since then. The GP reported that the appellant does not require an aid for his impairment and, in terms of functional skills, he can walk 1 to 2 blocks unaided, climb 5 or more steps unaided, remain seated 1 to 2 hours, and he cannot lift any weight. The GP indicated in the AR that the appellant requires continuous assistance from another person with climbing stairs, although the GP had reported in the PR that the appellant can climb 5 or more steps “unaided” or, as defined in the PR, ‘without the assistance of another person, assistive device or assistance animal.’ In his Request for Reconsideration, the appellant confirmed that he is able to climb 5 plus stairs independently, but he must use a handrail to do so and he cannot have any weight in his hands.

The appellant wrote in his Request for Reconsideration that, as a result of his chronic, debilitating upper back pain, he is unable to sit upright, stand, or walk for any length of time. In the PR, the GP indicated that the appellant is restricted with mobility inside and outside the home, which was confirmed in the GP’s letter dated June 13, 2016 to be continuous restrictions with mobility. In the AR, the GP assessed the appellant as independent with walking indoors and walking outdoors, with the note “but only short walks,” which are likely in the functional skill range of 1 to 2 blocks. The GP reported in the AR that the appellant requires continuous assistance from another person with standing (comment: “unable to stand for more than a few minutes”), yet he does not require an aid for his impairment such as a cane or walker or brace and can walk 1 to 2 blocks unaided. The panel notes that the information about the appellant’s physical functioning is not entirely consistent and the discrepancies were not explained by the GP in his additional letter dated June 13, 2016.

The GP reported that the appellant requires continuous assistance from another person with lifting and carrying and holding (note: “unable to do this”), which was consistent with the functional skill limitation of no lifting as reported in the PR. However, it is not clear that the need for continuous assistance with lifting and carrying and holding is temporary or that it is likely to continue for 2 or more years and the GP did not address this issue in the letter dated June 13, 2016, writing that the appellant is affected by pain and the consequences of this pain on a daily basis and his life is severely affected by this disability. Also, as discussed in more detail in these reasons for decision under the heading “Restrictions in the Ability to Perform DLA”, the evidence indicates that the limitations to the appellant’s physical functioning have not directly and significantly restricted his ability to perform his DLA either continuously or for extended periods, as required by the EAPWDA.

Given the absence of a consistent assessment by the GP of significant impacts to the appellant’s physical functioning other than with lifting and carrying and holding, 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

In the PR, the GP reported that the appellant has depression, with onset in February 2013, and wrote that “...as with previous flare-ups, he became depressed and requires anti-depressants.” The GP reported that the appellant has significant deficits with cognitive and emotional function in 2 areas, specifically: emotional disturbance and motivation, with no further comments provided. The GP

assessed major impacts to the appellant's daily cognitive and emotional functioning in the areas of emotion and motivation, with a moderate impact as well in attention/concentration. There were minimal or no impacts reported by the GP to the remaining 11 areas of functioning and no further comments provided.

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 letter dated June 13, 2016.

Regarding the DLA of social functioning, the GP assessed the appellant in the PR as restricted, with a comment that: “...as result of depression secondary to back pain, his interactions socially are restricted as he is isolated at present,” and the GP clarified in the June 13, 2016 letter that the restriction is continuous. However, in the AR the GP reported that the appellant remains independent with interacting appropriately with others and requires periodic support/supervision with developing and maintaining relationships, with the comment by the GP that “...due to depression, has been socially isolated,” without specifying how often he requires support and supervision in this aspect of social functioning. While the GP reported that the appellant has ‘very disrupted’ functioning in both his immediate and extended social networks, there are no comments to elaborate and no description of the support/supervision required to help maintain the appellant in the community. In the PR, the GP reported that the appellant requires anti-depressant medication but “...is resistant to further psychological interventions.” The GP reported in the PR and the AR that the appellant has no difficulties with communication, with a good ability to communicate in all areas.

In his self-report, the appellant wrote that he is very depressed because he has no money since he cannot work. As for finding work and/or working, the panel notes 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.

With the assessment of mostly minimal impacts to the appellant's cognitive and emotional functioning, with little detail provided of the reported major impacts in emotional disturbance and motivation and with respect to his need for periodic support/supervision with aspects of social functioning, the panel finds that the ministry reasonably determined that a severe mental impairment was not established under Section 2(2) of the EAPWDA.

Restrictions in the ability to perform DLA

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 continuously or periodically for extended periods.

In the appellant's circumstances, the GP reported that the appellant has not been prescribed any medication and/or treatments that interfere with his ability to perform DLA. The GP reported in the PR that the appellant is not restricted with the personal self care DLA, the management of medications DLA, and the management of finances DLA. With respect to the assistance required, the GP also reported in the AR that the appellant is independent with all tasks of the personal care DLA (comment: "poor appetite due to all of this"), the "pay rent and bills" DLA (comment: "can do this but his current financial state makes paying bills impossible") and the medications DLA.

The GP also indicated that the appellant is restricted with several DLA, specifically meal preparation, basic housework, daily shopping, mobility inside and outside the home, use of transportation and social functioning. While there was no indication in the PR whether the restrictions with these DLA are continuous or periodic, the GP wrote in the supplementary letter dated June 13, 2016 that the restrictions noted in housework, shopping, mobility, social functioning and use of transportation are continuous. In the PR, the GP commented regarding the degree of restriction that the appellant is "...unable to stand to cook/ do housework or do shopping. Transportation by bus, etc. is impossible, but isn't able to run the car due to finances." The GP indicated in the AR that the appellant requires continuous assistance with laundry and basic housekeeping "due to pain in back" and he uses an assistive device for going to and from stores (comment: "needs transportation") and requires continuous assistance from another person with carrying purchases home (comment: "unable to carry shopping due to the pain"). The panel notes that requiring assistance for transportation as a result of a lack of finances to run the car is not related to the appellant's physical or mental impairment and "transportation" is not an assistive device, according to the definition in the legislation, for the purposes of going to and from stores.

As previously discussed, the GP reported in the AR that the appellant is independent with walking indoors and walking outdoors "but only short walks" and the appellant does not require an assistive device. The GP reported that the appellant requires continuous assistance from another person with food preparation and cooking as he is "unable to stand to cook," and requires periodic assistance with getting in and out of a vehicle, with no indication by the GP of how often or for how long the appellant requires assistance, and continuous assistance with using public transit (comment: "...unable to use as not able to wait for bus, etc. due to pain"). In the AR, when asked to describe the assistance needed by the appellant where none is available, the GP wrote that the main issue for the appellant is financial and "...he is struggling to run his car due to this which exacerbates his isolation. His pain really precludes him from using public transport due to waits which aggravate his back pain."

In his self-report, the appellant wrote that he cannot do work of any sort unless it is for very short periods of time ("30 minutes max.") and "is not physically or mentally demanding." As for finding work and/or working, the panel previously noted 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. 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 emphasis by the GP on the appellant's finances and the appellant's references to his inability to work, as well as the lack of detail from the GP as the prescribed professional, to describe the connection between the need for assistance and the appellant's impairment other than his

restrictions with lifting, the panel finds that the ministry was reasonable to conclude 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

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 PR, asked to describe the assistance the appellant needs with DLA, the GP left this section blank. In the AR, the GP reported that, with respect to the assistance provided by other people, the appellant is helped by family and friends. In the section of the AR for indicating the assistance provided through the use of assistive devices, the GP has not identified 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 since the evidence to not satisfy all of the criteria in Section 2(2) of the EAPWDA was reasonably supported by the evidence, and therefore confirms the decision.