

## PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the ministry) reconsideration decision dated October 3, 2016, which found that the appellant did not meet three of the five statutory requirements of Section 2 of the *Employment and Assistance for Persons with Disabilities Act* for designation as a person with disabilities (PWD). The ministry found that the appellant met the age requirement and that her impairment is likely to continue for at least two years. However, the ministry was not satisfied that the evidence establishes that:

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

## PART D – Relevant Legislation

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

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

## PART E – Summary of Facts

The ministry did not attend the hearing. After confirming that the ministry was notified, the hearing proceeded under Section 86(b) of the *Employment and Assistance Regulation*.

The evidence before the ministry at the time of the reconsideration decision included the Persons With Disabilities (PWD) Application comprised of the applicant information dated June 27, 2016, a physician report (PR) dated July 21, 2016 and a signed but undated assessor report (AR), both of which were completed by a general practitioner (GP) who has known the appellant for 7 years and who has seen the appellant 2 to 10 times in the last year.

The evidence also included the appellant's Request for Reconsideration with the appellant's attached notes.

### **Diagnoses**

In the PR, the GP diagnosed the appellant with chronic migraine headaches, fibromyalgia, Generalized Anxiety Disorder (GAD), and PTSD (post traumatic stress disorder), all with an onset in 2008. Asked to describe the appellant's mental or physical impairments that impact her ability to perform daily living activities, the GP wrote: "...severe anxiety and PTSD make her very isolated and she avoids social situations."

### **Physical Impairment**

In the PR and AR, the GP reported that:

- In terms of health history, the appellant "...has a long history of problems. She always remembers having headaches. She was always worried about a brain tumor because her pain is in the right frontal region. Her headache became worse after a fair ride. Lately she is nauseated with her headaches." Also, the appellant "...has been told she has fibromyalgia. This diagnosis is not certain but she does have chronic generalized pain."
- The appellant does not require any prostheses or aid for her impairment.
- For functional skills, the appellant can walk 4 or more blocks unaided, climb 5 or more stairs unaided, and has no limitations with lifting or remaining seated.
- In the additional comments to the PR, the GP wrote that the appellant is "impacted by headache and chronic pain."
- 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 GP commented "...she complains of some left knee pain on climbing stairs."
- In the section of the AR relating to assistance provided through the use of assistive devices, the GP did not identify any of the listed items as being required by the appellant.

In her Request for Reconsideration, the appellant wrote that:

- She has periodic pain in her bones but she does not know what it is exactly and it does not restrict her movement or ability to take care of herself.

### **Mental Impairment**

In the PR and AR, the GP reported:

- In terms of health history, the appellant "...has had severe generalized anxiety since approximately 2008. She has poor concentration, can't cope in public, tends to stay in and isolate. She suffered some issues of abuse [during childhood] and has had some PTSD

symptoms since. She is just now starting to deal with this.”

- The appellant has no difficulties with communication.
- The appellant has significant deficits in her cognitive and emotional functioning in the areas of executive, emotional disturbance, motivation, and attention or sustained concentration. The GP commented that “...she reports some minor confusion, i.e. which day of the week. She reports seeing dark shadows in corner of vision but I feel these are not true hallucinations.”
- In the additional comments to the PR, the GP wrote that the appellant “...is significantly distressed by symptoms of anxiety and PTSD.”
- In the AR, the appellant has a good ability to communicate in most areas, specifically with reading, writing, and hearing, and her speaking is satisfactory as the GP commented: “...gets nervous speaking.”
- For the section of the AR assessing impacts to cognitive and emotional functioning, the GP indicated a major impact with emotion and emphasized anxiety. There are moderate impacts assessed in attention/concentration and motivation. There are minimal impacts in consciousness, impulse control, and executive, and no impacts assessed in the remaining 8 areas of functioning. The GP wrote that the appellant “...reports occasional confusion, some OCD [obsessive compulsive disorder] like symptoms. She has severe anxiety and PTSD symptoms. She reports seeing dark shadows but I do not feel these are true hallucinations.”
- For additional information to the AR, the GP wrote that the appellant “...has severe anxiety which really does impact her functioning in any social setting.”

In her Request for Reconsideration, the appellant wrote that:

- She is severely mentally impaired. She cannot leave the house alone as she is too anxious and scared.
- She does not know what she is scared of but she gets shaky and her stomach knots up, and sometimes she vomits or cries.
- She has been sexually abused twice when she was younger. She has problems trusting and talking to people, which makes it nearly impossible to get hired anywhere.
- Her anxiety got so bad she stopped going to school.
- She has not left her house alone in 4 or 5 months.
- She has anxiety medication but it is not effective.
- Her brain prevents her from going out alone because she gets scared.

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

In the PR and AR, the GP indicated that:

- The appellant has been prescribed medication that interferes with her ability to perform DLA and the anticipated duration is one year or more.
- In the AR, the appellant is independently able to perform every task of most listed DLA, specifically: move about indoors and outdoors, personal care, basic housekeeping, meals, pay rent and bills, and medications.
- For the shopping DLA, the appellant is independent with reading prices and labels, making appropriate choices, paying for purchases and carrying purchases home. She requires periodic assistance from another person with the tasks of going to and from stores, and the GP commented “...due to anxiety, she avoids going to store alone.” The GP added the comment that “...stress keeps her from going out alone, some agoraphobia.”
- Regarding the transportation DLA, the appellant is independent with getting in and out of a vehicle and with using transit schedules and arranging transportation, and requires continuous

assistance from another person with using public transit, with the comment: "...she does not take public transport if alone" and "she cannot cope with public transport when alone."

- For the section of the AR assessing impacts to social functioning, the GP reported that the appellant is independent with making appropriate social decisions. The appellant requires periodic support/supervision with developing and maintaining relationships (note: "anxiety causes relationship stress") and with securing assistance from others (note: "easily stressed"). The appellant requires continuous support/supervision with interacting appropriately with others (note: "she has difficulty coping in any social situation") and with dealing appropriately with unexpected demands (note: "anxiety interferes with this").
- The appellant has good functioning in her immediate social network and marginal functioning in her extended social network. There are no comments provided by the GP.
- Asked to describe the support/supervision required which would help maintain the appellant in the community, the GP wrote: "...she needs help in maintaining social contacts."

In her Request for Reconsideration, the appellant wrote that:

- She has problems trusting and talking to people, which makes it nearly impossible to get hired anywhere. She has only ever had two jobs and with each one her anxiety took over.
- She feels it would be hard to convince people to hire her when she cannot even go shopping without someone she trusts fully.
- She keeps the house clean, she cooks three meals a day and takes care of her cat. She also knits, sews and paints, but she cannot leave the house to do the things she likes alone.
- She stays home inside until her boyfriend comes over and then she does her shopping.

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

In the AR, the GP indicated that the appellant's family and friends provide help required for DLA and he wrote that "...she gets support from boyfriend mostly." In the section of the AR relating to assistance provided through the use of assistive devices, the GP did not identify any of the listed items.

### ***Additional Information submitted after reconsideration***

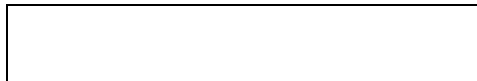
In her Notice of Appeal received by the Tribunal on October 11, 2016, the appellant expressed her disagreement with the ministry's reconsideration decision and wrote that:

- Her GP gave some wrong information. She cannot physically or mentally cope outside of her home without the aid of someone.
- She cannot shop, go to appointments, sleep at friends, or anything without help.
- She cannot work unless there is someone [with her].

The ministry relied on its reconsideration decision.

At the hearing, the appellant stated that:

- She is not sure that her doctor understood her situation. He did not write down some things.
- She is not good with people. She does not go out by herself. She waits for her boyfriend to come over and he goes with her or he will go out and do the shopping for her. She cries a lot and gets sweaty and nervous when she has to go out.
- She had two jobs before that she could not handle because of the people. She got fired from one because she was not going to work and kept calling in sick. Another job she was asked to go in the back because she was too nervous to deal with the customers. She ended up writing



a letter to say she could not come in anymore. Her last job ended in November 2015.

- She does not know why she is not comfortable with people, but it is getting worse. She estimates it is “about 50 times worse” since when she last worked.
- Her medications are not helping her feel better. She takes them every day but they seem to bring on a bad mood.
- She does not need help with most of her daily living activities. She does need help with shopping. She needs someone to go with her. When she tries to go by herself, she gets to the door and “freaks out” and ends up crying. If she did not need to eat, she would constantly be in her house.
- She can get dressed, groom, bathe and toilet. She is good at cooking. She is not great with money but she manages to pay her rent and buy groceries.
- She sometimes forgets to take her medications and a lot of the time her boyfriend reminds her to take them. For filling and refilling her prescriptions, her boyfriend has to go with her.
- She definitely does not go on the bus alone. She will go with her boyfriend but she cannot stay long in town before she starts to feel uncomfortable. After about 2 hours she feels like she has to “get out of there.” She sometimes feels like she will get killed or raped or kidnapped by someone. She cannot talk to people.
- She thinks she really needs continuous support to develop and maintain relationships, not periodic support/supervision. She probably needs continuous support to secure assistance from others because she gets really nervous about getting people mad.
- She gets help from her large family and also from her boyfriend. Since she is renting the basement of her father’s house, he will sometimes take her to the store. Her grandmother sometimes drops off food for her.
- If she has to go anywhere, like the ministry office or a doctor’s appointment, her boyfriend has to go with her and he will wait for her in the waiting room. He understands what she goes through because he sees how it affects her. If she did not have help, she would stay home.
- She does not use an assistive device. She has a cat that comforts her.
- Even though she can walk 4 or more blocks, as her doctor said, that does not mean that she could go 4 or blocks from her home alone. She could not even go 1 block alone. She is good with stairs and she can lift and sit.
- She gets confused a lot but has a good long term memory. Her short term memory “isn’t the greatest.”
- When she was younger, she did not go to school for 2 or 3 years because of her anxiety.
- She can go outside. She is not afraid of being outside. She is afraid of people and feels she is a bit paranoid. She has trouble talking with people face-to-face. She gets dizzy, her tummy gets in a knot and she feels like she is going to vomit.
- She has gone to a student support worker who helps calm her down when she is having a panic attack.

***Admissibility of Additional Information***

The panel considered the information in the Notice of Appeal and the appellant’s oral testimony as corroborating the previous information from the appellant in her Request for Reconsideration regarding the impacts of her medical conditions, which was before the ministry at reconsideration. Therefore, the panel admitted this additional information as being in support of information and records that were before the ministry at the time of the reconsideration, in accordance with Section 22(4)(b) of the *Employment and Assistance Act*.

## PART F – Reasons for Panel Decision

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

The criteria for being designated as a PWD are set out in Section 2 of the EAPWDA as follows:

### **Persons with disabilities**

2 (1) In this section:

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

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

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

(2) The minister may designate a person who has reached 18 years of age as a person with disabilities for the purposes of this Act if the minister is satisfied that the person has a severe mental or physical impairment that

(a) in the opinion of a medical practitioner is likely to continue for at least 2 years, and

(b) in the opinion of a prescribed professional

(i) directly and significantly restricts the person's ability to perform daily living activities either

(A) continuously, or

(B) periodically for extended periods, and

(ii) as a result of those restrictions, the person requires help to perform those activities.

(3) For the purposes of subsection (2),

(a) a person who has a severe mental impairment includes a person with a mental disorder, and

(b) a person requires help in relation to a daily living activity if, in order to perform it, the person requires

(i) an assistive device,

(ii) the significant help or supervision of another person, or

(iii) the services of an assistance animal.

(4) The minister may rescind a designation under subsection (2).

Section 2(1) of the EAPWDR defines DLA for a person who has a severe physical or mental impairment as follows:

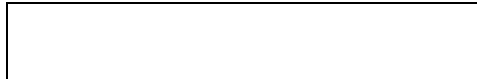
### **Definitions for Act**

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

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

(i) prepare own meals;

(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.

### ***The positions of the parties***

#### ***Appellant's position***

The appellant's position is that she has a severe mental impairment as her doctor diagnosed her with Generalized Anxiety Disorder and PTSD and reported that her anxiety is severe. The appellant argued that she cannot leave the house alone and has not done so for about 4 or 5 months as she is too anxious and scared and she gets shaky and her stomach knots up, and sometimes she vomits or cries. The appellant wrote in her Request for Reconsideration that she has been sexually abused twice when she was younger, she has problems trusting and talking to people, which makes it nearly impossible to get hired anywhere. The appellant stated that she has anxiety medication but it is not effective. The appellant's position is that her severe mental impairment directly and significantly restricts her ability to perform DLA on an ongoing basis and her family or her boyfriend has to help her with shopping, filling and refilling her prescriptions, going to appointments, and any time she has to leave her home.

#### ***Ministry's position***

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 or mental impairment as required by Section 2(2)

of the EAPWDA. The ministry wrote that the GP indicated that the appellant is independent in all activities requiring mobility and physical activity. The ministry wrote that although the GP indicated significant deficits with cognitive and emotional functioning in the areas of executive, emotional disturbance, motivation and attention/sustained concentration, he reported a major impact in emotion and moderate impacts in attention/concentration and motivation, with minimal impacts to executive and no impact to memory. The ministry wrote that the assessment of the appellant's social, emotional and cognitive functioning provided by the GP does not correlate with the narrative he provides, which described the appellant's anxiety and PTSD as severe and related impacts as significant.

As to DLA, the ministry's position is that the information from the prescribed professional does not establish that the appellant's impairment significantly restricts her DLA either continuously or periodically for extended periods of time. The ministry noted that other than one task of the DLA shopping (going to and from stores) and task of the DLA transportation (using public transit), the GP indicated that the appellant is able to manage all DLA independently. 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**

#### **Severe Physical Impairment**

Given the tentative diagnosis of fibromyalgia and the absence of detail regarding her migraine headaches as well as the appellant's level of independent physical functioning reported by the GP, which was not disputed by the appellant, 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**

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. Section 2(2) of the EAPWDR defines "prescribed professional" to mean various professionals, including: medical practitioner, registered psychologist, registered nurse or registered psychiatric nurse, occupational therapist, physical therapist, social worker, chiropractor, or nurse practitioner, or school psychologist.

The GP, who has known the appellant for 7 years diagnosed the appellant with Generalized Anxiety Disorder and PTSD with an onset in 2008 and added "...she has poor concentration, can't cope in public, tends to stay in and isolate" and she "...is significantly distressed by symptoms of anxiety and PTSD." In the AR, when asked to describe the appellant's mental or physical impairments that impact her ability to perform DLA, the GP wrote: "...severe anxiety and PTSD make her very isolated and she avoids social situations." The GP reported that the appellant has significant deficits in her



cognitive and emotional functioning in the areas of executive, emotional disturbance, motivation, and attention or sustained concentration and commented that "...she reports some minor confusion, i.e. which day of the week." However, in the section of the AR for assessing impacts to cognitive and emotional functioning, the GP indicated one major impact to functioning emotion and emphasized anxiety. For additional information to the AR, the GP wrote that the appellant "...has severe anxiety which really does impact her functioning in any social setting." Regarding the other areas of deficit, the GP assessed moderate impacts to attention/concentration and motivation, and a minimal impact to executive functioning. There are minimal impacts in consciousness and impulse control and the GP commented that the appellant "...reports occasional confusion, some OCD like symptoms. She has severe anxiety and PTSD symptoms. She reports seeing dark shadows but I do not feel these are true hallucinations."

In her Request for Reconsideration, the appellant wrote that she cannot leave the house alone as she is too anxious and scared and she has not left her house alone in 4 or 5 months. She gets shaky and her stomach knots up and sometimes she vomits or cries. The appellant wrote that she has been prescribed anxiety medication but she believes it is not effective. At the hearing, the appellant stated that she does not know why she is not comfortable with people, but it is getting worse and she estimates it is "about 50 times worse" since a year ago. The appellant wrote in her Request for Reconsideration that she has problems trusting and talking to people, which makes it nearly impossible to get hired anywhere. The appellant stated at the hearing that she had two jobs before that she could not handle because of the people and she got fired from one because she was not going to work and kept calling in sick and the other job she ended up writing a letter to say she could not come in anymore. She stated that her last job ended about a year ago. 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 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 insufficient 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). While the appellant stated at the hearing that she sometimes forgets to take her medications and a lot of the time her boyfriend reminds her to take them, this was not reflected in the information from the GP. The GP indicated in the AR that the appellant is also independent with making appropriate social decisions.

Regarding the DLA of social functioning, the GP reported that the appellant requires periodic support/supervision with developing and maintaining relationships (note: "anxiety causes relationship stress") and with securing assistance from others (note: "easily stressed"), and requires continuous support/supervision with interacting appropriately with others (note: "she has difficulty coping in any social situation"). Although the appellant stated at the hearing that she really needs continuous support to develop and maintain relationships, not periodic support/supervision, and that she also probably needs continuous support to secure assistance from others because she gets really nervous about getting people mad, the GP has not provided an explanation or description that establishes a need for support/supervision for extended periods of time with these aspects of social functioning.

[ ]

Asked to describe the support/supervision required which would help maintain the appellant in the community, the GP wrote: "...she needs help in maintaining social contacts." The GP also assessed the appellant with good functioning in her immediate social network and marginal functioning in her extended social network, with no additional comments provided.

The appellant stated at the hearing that she finds it almost impossible to leave her house alone and she needs the support of someone she trusts to attend appointments or interact in the public; however, the appellant also focused on the impact to her ability to look for and maintain employment, as previously discussed. In the PR, the GP reported no difficulties to communication and, in the AR, reported that the appellant has a good or satisfactory ability to communicate in all areas.

With the absence of consistent evidence of significant impacts to the appellant's cognitive, emotional, and social functioning, or an explanation of possible periodic exacerbations to her condition, and the appellant's focus on the impact to her employability, the panel finds that the ministry reasonably determined that a severe mental impairment was not established under Section 2(2) of the EAPWDA.

**Significant restrictions in the ability to perform DLA**

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 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 that interfere with her ability to perform DLA and the anticipated duration is one year or more. However, in the AR, the GP reported that the appellant is independently able to perform most listed tasks of DLA without interference, specifically: move about indoors and outdoors, personal care, basic housekeeping, meals, pay rent and bills, and medications. At the hearing, the appellant stated that even though she can walk 4 or more blocks, as her doctor said, that does not mean that she could go 4 or blocks from her home alone because she could not even go 1 block alone. The appellant stated that she is not afraid of being outside, she is afraid of people and feels she is a bit paranoid. The appellant confirmed at the hearing that she can take care of her personal care, meals and paying her rent and bills. She stated that her boyfriend often has to remind her to take her medication and that she has to go with him in order to be able to fill and refill her prescriptions. The appellant's information about her restrictions to these DLA has not been reflected in the specific assessments by the GP.

For the shopping DLA, the GP assessed the appellant as being independent with all tasks with the exception of requiring periodic assistance from another person with the tasks of going to and from stores, and the GP commented "...due to anxiety, she avoids going to store alone" and "...stress keeps her from going out alone, some agoraphobia." Regarding the transportation DLA, the appellant is assessed as being independent with all tasks except for using public transit, for which the appellant requires continuous assistance from another person, with the comment by the GP that : "...she does not take public transport if alone" and "she cannot cope with public transport when alone."

In her Request for Reconsideration, the appellant wrote that she has problems trusting and talking to people, which makes it nearly impossible to get hired anywhere. She has only ever had two jobs and with each one her anxiety took over. She feels it would be hard to convince people to hire her when she cannot even go shopping without someone she trusts fully. In her Notice of Appeal, the appellant also wrote that she cannot work unless there is someone [with her]. As previously discussed, employability is not a criterion in the legislation, and the evidence of the GP does not indicate that the appellant is significantly restricted in either DLA specific to mental impairment, namely decision-making or social functioning.

Given the report by the GP, as the prescribed professional, of independence with DLA, including the lack of evidence to establish significant restrictions with the decision-making DLA and the social functioning 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**

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 indicated that the appellant's family and friends provide help required for DLA and he wrote that "...she gets support from boyfriend mostly." In the section of the AR relating to assistance provided through the use of assistive devices, the GP did not identify any of the listed items. At the hearing, the appellant stated that she gets help from her large family and also from her boyfriend. Her father will sometimes take her to the store and her grandmother sometimes drops off food for her.

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.