

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the “ministry”) reconsideration decision of September 15, 2016, which found that the appellant did not meet three of five statutory requirements of section 2 of the *Employment and Assistance for Persons With Disabilities Act* (“EAPWDA”) for designation as a person with disabilities (“PWD”). The ministry found that the appellant met the age requirement and that in the opinion of a medical practitioner the appellant’s 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 that
- as a result of those restrictions, the appellant requires the significant help or supervision of another person, an assistive device, or the services of an assistance animal.

PART D – Relevant Legislation

EAPWDA, section 2

Employment and Assistance for Persons with Disabilities Regulation (“EAPWDR”), section 2

PART E – Summary of Facts

The information before the ministry at the time of reconsideration included the following:

- The appellant's PWD application form consisting of the appellant's self-report form dated April 14, 2016 ("SR"), a physician's report ("PR") and an assessor's report ("AR") both completed by the appellant's general practitioner (the "physician") dated April 15, 2016.
- The appellant's Request for Reconsideration ("RFR") form dated July 25, 2016.
- Letter from the appellant's advocate dated August 17, 2016 requesting an extension of time to obtain further medical documentation.
- Hospital test result dated October 21, 2014 indicating normal ECG

Diagnoses

- In the PR the physician diagnosed the appellant with asthma and morbidly obese, date of onset uncertain. In the PR and the AR the physician indicates that he has been the appellant's general practitioner for 15+ years and has seen the appellant 11 or more times in the past 12 months.
- In Section B Health History the physician indicates that the appellant states that she has had asthma since childhood.

Physical Impairment

- In the Health History section of the PR, the physician states that the appellant's asthma has got significantly worse over the last few years with multiple visits to the local hospital for shortness of breath. The physician also indicates that the appellant had investigations and internal medical consults. The physician indicates that the appellant is 5'0" and weight 300+ pounds.
- In terms of physical functioning the physician reported in the PR that the appellant can walk 1 to 2 blocks unaided on a flat surface, can climb 2 to 5 steps unaided, can remain seated 1 to 2 hours and her lifting limitations are unknown.
- In the AR the physician reports that the appellant is independent with walking indoors and standing, uses an assistive device with walking outdoors (noting "gets shortness of breath easily") and that the appellant requires periodic assistance with climbing stairs ("stairs are difficult"), lifting and carrying and holding ("needs help with groceries etc.").
- In the SR the appellant states that she has struggled with asthma since she was 18 years and that it is getting worse. The appellant states that she is always getting lung infections and is prone to pneumonia. The appellant states that she cannot walk long distances without having a very hard time breathing, she cannot do any physical activities at all without struggling for her breath. The appellant states that there are many things such as dust, smoke, fur, wool, and cold that will trigger her asthma attacks. The appellant states that she has a hard time taking deep breaths. She states that she is using a walker and occasionally needs a wheelchair. In the SR the appellant also reports that she has hip pain, had recent knee surgery, high blood pressure, overactive bladder, gall bladder, kidney spasms and chronic pain throughout her body.

Mental Impairment

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- In the Functional Skills section of the PR, the physician indicates that there are no difficulties with communication.
 - The physician indicates that the appellant has significant deficits with cognitive and emotional function in the areas of emotional disturbance, noting that the appellant becomes depressed.
 - In the AR the physician indicates that the appellant's ability to communicate in all areas is good. For cognitive and emotional functioning, the physician indicates that the appellant has major impact to emotion, moderate impact to bodily functions and motivation, minimal impact to attention/concentration, executive and memory and no impact to consciousness, impulse control, insight and judgment, motor activity, language, psychotic symptoms or other neuropsychological symptoms. The physician comments that the appellant has depression at times often related to the chronicity of her medical condition. He indicates that she feels quite hopeless at times.
 - In the SR the appellant states that she has been struggling with depression since she was 14 years old and never got help for it until recently (1997). The appellant states that she is taking an anti-depressant medication.

DLA

- In the PR the physician indicates that the appellant has not been prescribed any medication and/or treatments that interfere with her ability to perform DLA.
- In the AR the physician indicates that with personal care the appellant is independent with dressing, grooming, toileting, feeding self, regulating diet, transfer in/out of bed and transfers on/off of chair but requires periodic assistance from another person with bathing and may need support bars.
- The physician indicates that with basic housekeeping, the appellant requires periodic assistance with laundry and continuous assistance with basic housekeeping. The physician indicates that with shopping the appellant is independent with reading prices and labels, making appropriate choices and paying for purchases but requires continuous assistance with going to and from stores and carrying purchases home. With respect to meals the physician indicates that the appellant is independent with safe storage of food but requires periodic assistance from another person with meal planning, food preparation and cooking. The physician indicates that the appellant requires periodic assistance with all aspects of paying rent and bills. The physician indicates that the appellant is independent with all aspects of medications. For transportation the physician indicates that the appellant is independent with using transit schedules and arranging transportation but requires periodic assistance with getting in and out of a vehicle and using public transit.
- With respect to social function, the physician indicates that the appellant is independent with making appropriate social decisions, developing and maintaining relationships and interacting appropriately with others. The physician did not indicate the appellant's ability with respect to dealing appropriately with unexpected demands or her ability to secure assistance from others. The physician indicates that the appellant has marginal functioning with her immediate social network. He did not indicate her ability with respect to her extended social network.
- In the SR, the appellant states that she needs help from a friend with personal care, grocery shopping, cleaning, cooking and laundry. She states that the only time she goes out is to withdraw cash from her bank to give it to her friend to go shopping for her and then she returns home and stays home.

Help

- In the PR, the physician indicates that the appellant does not require any prosthesis or aids for her impairment.
- In the AR the physician indicates that the appellant receives help with DLA from family and friends. The physician also indicates that the appellant routinely uses a walker to help compensate for her impairment. The physician indicates that the appellant does not have an Assistance Animal.
- In the SR the appellant states that a friend does her grocery shopping, cleaning, cooking and laundry.

Additional information provided

In her Notice of Appeal dated September 19, 2016, the appellant states that the severity of her physical and mental disability was not documented enough and that she wants to submit more information. The appellant states that she requires daily assistance and cannot manage alone.

Prior to the hearing the appellant's advocate provided a letter dated October 6, 2016 with two medical reports and several records of a hospital (Submission A). The CT Chest Report dated August 10, 2016 indicates that there is a soft tissue density in the appellant's right middle lobe of the lung, early osteoarthritic changes involving the thoracic spine and fatty infiltration involving the liver. The XR Chest dated February 6, 2016 indicates that there is consolidation in the right lower zone, interstitial markings prominent bilaterally in both perihilar regions, and that the CTR is borderline and an element of cardiac failure cannot be excluded but there is no effusion. The hospital records indicate that the appellant attended the hospital on six occasions between May 17 and August 17, 2016 in relation to her asthma/shortness of breath.

The appellant's advocate also provided a second submission dated October 6, 2012 (Submission B) with the same documents contained in Submission A and including a letter from the appellant's friend (the "Friend") dated October 6, 2016 (the "Friend's Letter"). The Friend's Letter indicates that he met the appellant approximately three years ago and noticed that she was having problems with her breathing. He states that as he got to know her he began to help her to and from the hospital. He states that approximately two years ago the appellant's living condition worsened and she moved into a house next door to him, which is when he really began to observe the difficulties she was having. The Friend's Letter indicates that he helps her with cooking and fills a bucket of water for her so that she can have a sponge bath as she has trouble getting in and out of the bathtub. The friend states that he picks up all her prescriptions for her and that the appellant is quite isolated.

At the hearing the appellant stated that she was diagnosed with asthma at age 18 and depression at age 19 and she has struggled with both conditions since then but that they are getting worse. She stated that her DLA are "really rough" and that she uses her walker all the time because she cannot go anywhere without it. The appellant states that she has problems with her knees, hips, lower back and cannot stand for very long, has trouble going up and down stairs, and cannot walk more than half a block, then needs to stop and catch her breath. She states that she is very thankful for the Friend and roommate as he cooks and cleans for her but she is very frustrated and overwhelmed with her limitations. The appellant states that she cannot wear shoes with laces because she cannot bend over to tie them up and she stated that it is very depressing to live the way she does. In answer to a question the appellant also confirmed that the SR, which indicates that "[b]eing asthmatic enables me

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to take care of myself....” should say that “[b]eing asthmatic makes me unable to take care of myself...”.

The appellant’s advocate stated that the appellant has been in emergency numerous times due to her health conditions, including the past weekend. The advocate stated that when the physician completed the AR the appellant was not there so he completed it just from his chart review. The appellant cannot afford her medications and when considering her circumstances as a whole, she should be granted PWD designation.

The Friend stated that he met the appellant three years ago and her medical condition has become worse during that time. He stated that he takes the appellant to and from appointments, does the cooking for her because she has a hard time standing on her feet for very long. He stated that he wakes up at night and she is crying in pain and needs to get to the doctor right away. He stated that the appellant is not able to bathe so he will fill a bucket so she can sponge bathe. He stated that due to her over-active bladder she will have accidents as she cannot get to the washroom quickly enough and it is embarrassing and depressing for her when this happens. The Friend stated that the appellant’s social life is limited as it is hard for her to go out and hard for her to sit for very long in any one position. The Friend stated that on one occasion they went to a nearby town for a funeral but due to her condition she had to go to the local hospital.

Admissibility of New Information

The ministry did not object to the information in the Notice of Appeal, Submission A, Submission B, the appellant’s oral evidence, the advocate’s oral evidence of the Friend’s oral evidence. The panel has admitted the information in the Notice of Appeal, Submission A, Submission B, and the oral evidence of the appellant, and the Friend and the advocate, as it is information in support of information and records that were before the ministry at the time of reconsideration, in accordance with section 22(4)(b) of the *Employment and Assistance Act*. In particular, the additional information provides further explanation about the appellant’s medical condition, impacts on her DLA, and help needed.

At the hearing, the ministry relied on the reconsideration decision.

PART F – Reasons for Panel Decision

The issue on this appeal is whether the ministry's decision to deny the appellant designation as a PWD was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the circumstances of the appellant. In particular, was the ministry reasonable in determining that the appellant does not have a severe physical or mental impairment, and that in the opinion of a prescribed professional the appellant's impairments do not directly and significantly restrict her from performing DLA either continuously or periodically for extended periods, and that as a result of those restrictions the appellant does not require help to perform DLA?

The relevant legislation is as follows:

EAPWDA:

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.

EAPWDR section 2(1):

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.

Severe Physical Impairment

The ministry's position, as set out in its reconsideration decision, is that the information provided is not evidence of a severe physical impairment. The ministry notes that the information provided in the PR indicates that the appellant can walk 1 to 2 blocks unaided on a flat surface, can climb 2 to 5 steps unaided, it is unknown how much she can lift, and she can remain seated for 1 to 2 hours. The reconsideration decision reviews the AR, which indicates that the appellant is independently able to manage walking indoors and standing but requires periodic support to manage climbing stairs, lifting and carrying and holding. The ministry's position is that the appellant's application demonstrates that she experiences limitations to her physical functioning due to shortness of breath, but that the assessments provided by the physician speak to a moderate rather than a severe physical impairment.

The appellant's position is that she has a severe physical impairment resulting from asthma and pain in her back, hips and knees, that her condition is getting worse and that her functional ability is minimal. The appellant's position, as argued by the advocate is that the appellant lives with her severe physical impairment, requires the use of a walker, nebulizer, medications, and help from the Friend and should therefore be granted PWD designation.

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. Likewise the use of the word "severe" in and of itself does not establish a severe impairment.

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To assess the severity of an impairment one 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 performing DLA is restricted.

The PR indicates that the appellant can walk 1 to 2 blocks unaided on a flat surface, can climb 2 to 5 steps unaided and can remain seated 1 to 2 hours and the AR indicates that the appellant is independently able to manage walking indoors and standing. While the AR indicates that the appellant needs periodic assistance from another person with climbing stairs the explanation indicates that stairs are difficult but does not provide any indication of how often or how much assistance is needed. In the PR the physician indicates that the appellant's limitations with lifting are unknown but in the AR the physician indicates that the appellant requires periodic assistance with lifting but does not provide any further explanation. The physician indicates that the appellant needs periodic assistance with carrying and holding, noting that she needs help with groceries, etc.

The panel notes that the information provided by the appellant and the Friend indicates that the appellant has more pain and is more functionally limited than described by the physician. The panel also notes the advocate's statement that the physician completed the PWD application without the appellant present. In addition, the panel notes that the information provided by the physician is not always consistent. For example, in the PR the physician indicates that the appellant does not require any prostheses or aids for her impairment but in the AR he indicates that she requires a walker. The appellant indicates that she uses her walker all the time and in the SR she indicates that she needs a wheelchair from time to time but the physician does not provide any information indicating that the appellant uses or needs a wheelchair. While the ministry considers the information from the appellant, as well as the evidence of the physician and any other prescribed professionals, the determination of severity is at the discretion of the minister, taking into account all of the evidence.

While the physician may not have a full appreciation of the appellant's daily functioning and her struggles, the legislation is clear that the fundamental basis for the analysis is the evidence from a prescribed professional. The panel also notes that the additional medical documentation provided with Submission A and Submission B, while confirming the appellant has struggles with shortness of breath and has attended the hospital on six occasions between May 17 and August 17, 2016 does not provide additional information regarding the severity of her physical impairment as it does not address any of her physical functions such as walking and climbing stairs.

Based on the available evidence the panel finds that the ministry reasonably determined that the information provided by the physician in the PR and the AR speaks to a moderate rather than severe physical impairment.

Severe Mental Impairment

The ministry's position is the physician does not diagnose a medical condition giving rise to a mental impairment but in the PR he notes that the appellant experiences significant deficits in her cognitive and emotional functioning in the area of emotional disturbance, noting that the appellant becomes depressed. In the AR the physician indicates that the deficit impacts the appellant's cognitive and emotional functioning with one major impact in the area of emotion, two moderate impacts in the areas of bodily functions and motivation, three minimal impacts in the areas of

attention/concentration, executive and memory and no impacts in the remaining areas.

The ministry notes that while the physician indicates that the appellant has depression at times often related to the chronicity of her medical condition and feels quite hopeless at times she does not have any difficulties with communication. The physician indicates that the appellant has marginal functioning with her immediate social network; however, he does not indicate what level of functioning she has with her extended social networks nor does he indicate that she requires help in order to be maintained in the community. The ministry's position is that the information provided by the physician demonstrates that at times she experiences depression and feelings of hopelessness due to her medical condition but that the information provided does not establish that the appellant has a severe mental impairment.

The appellant's position is that she has struggled with depression since she was 19, which continues at present despite ongoing use of anti-depressant medications. The appellant's position is that her severe physical impairments also significantly impact her mood as she is frustrated with her pain, ongoing hospital admissions and inability to function without help, leaving her feeling sad, depressed and hopeless. The appellant's position is that the information provided demonstrates that she has a severe mental impairment.

Panel Decision

While the physician does not diagnose the appellant with a mental impairment in the diagnosis section of the PR the panel finds that the physician does indicate that the appellant experiences depression and feels hopeless due to the chronicity of her conditions. In the PR, the physician indicates that the appellant has significant deficits with cognitive and emotional functioning in the area of emotional disturbance. In the AR, the physician indicates that the appellant's mental impairment has major impact in the area of emotion and moderate impact in the area of bodily functions and motivation but minimal impact in the areas of attention/concentration, executive and memory and no impact in the remaining areas of consciousness, impulse control, insight and judgment, language, psychotic symptoms, or other neuropsychological symptoms. The physician did not indicate if there is any impact in the area of other emotional or mental problems.

The panel also notes that the additional medical documentation provided with Submission A and Submission B, while confirming the appellant has struggles with shortness of breath and has attended the hospital on six occasions between May 17 and August 17, 2016 does not provide additional information regarding the appellant's mental impairment or her struggles with depression.

The panel accepts the appellant's information that she has pain and depression and the information in the PR and the AR do confirm that she struggles with depression and feels hopeless at times. The Friend also indicates that the appellant does not go out very much and is quite isolated. However, given the information from the physician indicating only one area of major impact to the appellant's cognitive and emotional functioning in the area of emotion, good ability to communicate in all areas, and the lack of clear information from the physician regarding the appellant's social functioning, the panel finds that the ministry reasonably determined that the information provided is not evidence of a severe mental impairment.

Significant Restrictions to DLA

The reconsideration decision states that the minister is not satisfied that the appellant has a severe impairment that, in the opinion of a prescribed professional, directly and significantly restricts her ability to perform DLA continuously or periodically for extended periods. The reconsideration decision indicates that in the AR the physician notes that the appellant requires continuous assistance with basic housekeeping, going to and from stores and carrying purchases and he indicates that the appellant requires periodic assistance to manage the following areas of DLA: bathing, laundry, meal planning, food preparation, cooking, banking, budgeting, paying rent and bills, getting in and out of a vehicle and using public transit. However, the ministry notes that the physician does not explain that the periodic assistance required is as a result of a medical impairment and it is therefore difficult for the ministry to understand why the appellant requires periodic assistance with these aspects of her daily functioning. The ministry acknowledges that the appellant has certain limitations resulting from shortness of breath but the frequency and duration of these periods is not described in order to determine if they represent a significant restriction to the appellant's overall level of functioning.

The appellant's position is that she finds every day a challenge due to her asthma, shortness of breath and obesity and she needs help with bathing, cooking, shopping, housework and getting to and from appointments and the hospital. The appellant's evidence is that she needs help from the Friend to do almost everything, which is extremely frustrating for her. The appellant's position is that the information from the physician when considered with her evidence and the corroboration from the Friend, demonstrates that she has a severe impairment that directly and significantly restricts her ability to perform DLA either continuously or periodically for extended periods. The advocate argues that the appellant is living with a severe, lifelong condition that impacts her significantly and she requires help and therefore she meets the criteria for PWD designation.

Panel Decision

The legislation – s. 2(2)(b)(i) of the EAPWDA – requires that the minister be satisfied that in the opinion of a prescribed professional, a severe mental or physical impairment directly and significantly restricts the applicant's ability to perform DLA either continuously or periodically for extended periods. The term "directly" means that there must be a causal link between the severe impairment and the restriction. The direct restriction must also be significant. Finally, there is a component related to time or duration. The direct and significant restriction may be either continuous or periodic. If it is periodic it must be for extended periods. Inherently, any analysis of periodicity must also include consideration of the frequency of the restriction. All other things being equal, a restriction that only arises once a year is less likely to be significant than one which occurs several times a week. Accordingly, in circumstances where the evidence indicates that a restriction arises periodically, it is appropriate for the ministry to require evidence of the duration and frequency of the restriction in order to be "satisfied" that this legislative criterion is met.

The AR indicates that the appellant is independent with the many areas of DLA: dressing, grooming, toileting, feeding self, regulating diet, transfers (in/out of bed), transfers (on/off of chair), reading prices and labels, making appropriate choices, paying for purchases, safe storage of food, all aspects of medications, and using transit schedules. The physician indicates that the appellant requires continuous assistance from another person with basic housekeeping, going to and from stores and

carrying purchases home. The physician indicates that the appellant requires periodic assistance from another person with bathing, laundry, meal planning, food preparation, cooking, paying rent and bills, getting in and out of a vehicle, and using public transit. However, the physician does not provide any indication of the frequency or duration of the periodic assistance needed.

With respect to social functioning the physician in the AR indicates that the appellant is independent with making appropriate social decisions, developing and maintaining relationships, and interacting appropriately with others. The physician did not indicate the appellant's ability with dealing appropriately with unexpected demands or securing assistance from others. The physician indicates that the appellant has marginal functioning with her immediate social network but he does not indicate the level of her functioning with respect to extended social networks. In addition, the physician does not explain why the appellant's level of functioning with her immediate social networks is marginal when all of the areas of social functioning that he reported on are noted as independent.

The panel again notes that the information from the appellant and the Friend indicates that the appellant is more restricted with DLA than is reported by the physician. The panel also notes that while the medical documents provided in Submission A and Submission B indicate several hospital admissions for shortness of breath and tests regarding the appellant's breathing, the additional information does not provide any further information regarding the appellant's restrictions to DLA or the frequency or duration of assistance needed. Given the inconsistencies between the information provided from the appellant and the Friend as compared with the PR and the AR and the lack of information from the physician with respect to the frequency and duration of the periodic assistance required, the panel finds that the ministry reasonably determined that the appellant's impairment does not significantly restrict DLA either continuously or periodically for extended periods as required by EAPWDA section 2(2)(b)(i).

The panel notes that the reconsideration decision indicates that with the appellant's RFR dated August 29, 2016 the appellant attached a written submission from her advocate along with information from her medical chart on visits to emergency and admissions into hospital from October 2014 to March 2015 that related to shortness of breath. The reconsideration decision also indicates that the appellant submitted a letter of support from an internal medicine specialist dated August 17 2016. The reconsideration decision indicates that the ministry considered this information in conjunction with the assessments provided by the physician, but that the information from the specialists and the hospital reports do not speak to limitations or restrictions in the appellant's ability to perform DLA or to help required with DLA.

The panel notes that the RFR is dated July 25, 2016 but it does not contain any information or enclose any additional information regarding restrictions to DLA. There is a letter from the appellant's advocate dated August 17, 2016 requesting an extension of time for the RFR as the appellant was waiting for new medical reports from a recent specialist appointment that the advocate submits will provide information for determining the appellant's eligibility for PWD designation. However the appeal record does not contain the RFR dated August 29, 2016, or the written submission or hospital chart records from October 2014 to March 2015. At the hearing, the ministry representative was unable to confirm what documents this section of the reconsideration decision referred to and neither the appellant nor her advocate were able to provide any information regarding the noted documents. The panel notes that Submission A and Submission B do contain hospital chart records but the dates are for May to August 2016, not October 2014 to March 2015 and the advocate confirmed that the

documents contained in Submission A and Submission B were only obtained after the RFR was submitted so they are not the same documents referred to in the reconsideration decision.

It is not clear to the panel whether the reconsideration reference to the documents of October 2014 to March 2015 was an error or not, but given the foregoing the reference to these documents does not impact the panel's finding that the ministry was reasonable in determining that the information provided by the appellant's physician does not establish that a severe impairment significantly restricts the appellant's DLA continuously or periodically for extended periods as required by EAPWDA section 2(2)(b)(i)..

Help with DLA

The ministry argues that the use of a simple assistive device such as a walker for walking outdoors does not establish the existence of a severe impairment. The ministry's position is that, as it has not been established that DLA are significantly restricted; therefore, it cannot be determined that significant help is required from other persons.

The appellant's position is that she has to use her walker all the time and cannot go out without it, that she requires a wheel chair occasionally and that she requires help from the Friend with most DLA. In the Friend's Letter and in his oral evidence the Friend confirmed that he helps the appellant with cooking, cleaning, grocery shopping, banking, and getting to and front appointments and that she is quite disabled and needs help.

Panel Decision

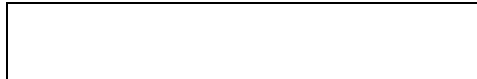
In the PR, the physician does not indicate that the appellant requires any assistance with DLA. In the AR, the physician indicates that the appellant requires help from family and friends and that assistance is provided through the use of an assistive device, a walker. The physician indicates that the appellant does not have an assistance animal.

Considering the information provided by the appellant and the Friend, it appears that the appellant receives more help with DLA than the physician has indicated. In particular, the panel notes that while the appellant indicates she requires a wheelchair from time to time the physician has not provided any information indicating that she requires a wheelchair. However, a finding that a severe impairment directly and significantly restricts a person's ability to manage her DLA either continuously or periodically for an extended period is a precondition to a person requiring "help" as defined by section 2(3)(b) of the EAPWDA. As the panel finds that the ministry reasonably determined that the appellant does not have a severe impairment that directly and significantly restricts her ability to manage her DLA either continuously or periodically for an extended period of time, the necessary precondition has not been satisfied.

The panel finds that the ministry's decision that the appellant did not satisfy the legislative criteria of EAPWDA section 2(3)(b) was therefore reasonable.

Conclusion

The panel acknowledges that the appellant has serious medical conditions that impact her functional



ability and her ability to perform DLA. However, having reviewed and considered all of the evidence and the relevant legislation, the panel finds that the ministry's decision finding the appellant ineligible for PWD designation is reasonable based on the evidence and is a reasonable application of the legislation in the circumstances of the appellant.

The panel therefore confirms the ministry's reconsideration decision and the appellant is not successful in her appeal.