

## PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (ministry) reconsideration decision dated September 27, 2016 in which the ministry found the appellant was not eligible for designation as a Person With Disabilities (PWD) because he did not meet all of the criteria in Section 2(2) of the *Employment and Assistance for Persons with Disabilities Act* (EAPWDA). The ministry was satisfied that the appellant has reached 18 years of age; however, based on the information provided in the PWD Designation Application (PWD application) and Request for Reconsideration (RFR), the minister was not satisfied that four other criteria were met:

- The appellant has a severe mental or physical impairment;
- The impairment, in the opinion of a medical practitioner, is likely to continue for at least 2 years;
- The impairment, in the opinion of a prescribed professional, directly and significantly restricts the appellant's ability to perform daily living activities (DLA) either continuously or periodically for extended periods; and
- as a result of these restrictions, the appellant requires help to perform DLA through an assistive device, the significant help or supervision of another person, or the services of an assistance animal.

## PART D – Relevant Legislation

*Employment and Assistance for Persons with Disabilities Act* – EAPWDA - section 2

Employment and Assistance for Persons with Disabilities Regulation – EAPWDR - section 2

## PART E – Summary of Facts

The evidence before the ministry at reconsideration consisted of the following:

1. A PWD application comprised of:

- The *Applicant Information and Self-report* (self-report) signed by the appellant on May 2, 2016;
- A *Physician Report* (PR) completed by a psychiatrist (Dr. S.) on May 27, 2016. Dr. S. has known the appellant since April 2016 [comment: “known to mental health service for longer”] and has seen the appellant 2-10 times in the past 12 months;
- An *Assessor Report* (AR) completed by a registered psychiatric nurse (the RPN) on June 6, 2016. In indicating how long he has known the appellant, the RPN states, “has had 2 episodes of care since 2013”. The RPN indicates he has seen the appellant 2-10 times in the past year and he completed the AR with information from community interviews and the appellant’s psychiatrist, Dr. S.
- The RPN notes that the appellant has been accepted for transitional case management by a mental health and substance use community team. He states that the program is typically 8 weeks in duration and is intended to address stressors highlighted by the client. He further indicates that the appellant has been referred to a psychologist and sees a psychiatrist, and transitional case management is offered once a week unless there are other issues that need further input.

The PWD application includes the following information:

### ***Diagnoses***

#### PR

The appellant is diagnosed with the following conditions:

- Depressive disorder [not otherwise specified] - date of onset, “years, intermittent”;
- Cannabis use disorder - date of onset, “longstanding”;
- Avoidant personality traits - date of onset is not stated.
- Under *Comments*, Dr. S. writes, “patient remains under further psychiatric evaluation due to his concerns of Attention Deficit spectrum”.

For *Health History*, Dr. S states that the appellant reports longstanding difficulties with optimal life adjustments and describes a restricted quality of life that he attributes to an innate tendency to struggle with life stressors. Dr. S. reports that the appellant is newly known to him and has been referred for a more comprehensive psychological evaluation. Dr. S. further states that the appellant admits to a longstanding cannabis use habit, and he is currently treated with an anti-depressant medication.

[ ]

Under *Degree and Course of Impairment*, Dr. S. check marks *No* in response to whether the impairment is likely to continue for 2 years or more from today, explaining that “it is anticipated that the patient will have a restored optimal level of functioning with treatment once established.” Under *Additional Comments*, Dr. S. writes, "It is anticipated that patient's limitations would be self-limiting and should improve with the appropriate treatment intervention and support, coupled with a genuine willingness on patient's part to get better".

AR

The RPN states that the appellant “self-reports ADD”; has been referred for psychological testing “for diagnostic clarification purposes”; and “appears fixed in his ideas that he has ADHD”.

Self-report

The appellant describes his disabilities as ADD, major depression, and PTSD.

**Functional Skills**

PR

Dr. S. provides the following information regarding any functional limitations:

- “Patient reports no physical limitations. Patient reports no problems with mobility.” Information regarding restrictions with walking and other physical skills is not provided and no difficulties with communication are indicated. Dr. S. comments, “no concerns reported”.
- Dr. S. check marks that the appellant has significant deficits with cognitive and emotional function in 3 out of the 12 listed areas: *Emotional disturbance*, *Motivation*, and *Attention* with the comment, "patient reports depressive and cognitive symptoms which he feels are adversely impacting his functioning".

AR

The RPN provides the following information for *Mental or Physical Impairment (Abilities)*:

- *Ability to Communicate*: Speaking, Writing, and Hearing - *Good*; with the comment, “no issues”. Reading – *Satisfactory*, with the comment, “self-reports ADD”.
- *Mobility and Physical Ability*: All areas - *Independent*, with the comment, “no issues” [during the 2-month period of transitional case management].
- *Cognitive and Emotional Functioning*: The appellant's impairments are reported to impact his functioning in 11 out of the 14 areas listed on the form. 3 areas, *Consciousness*, *Impulse control*, and *Other neuro-psychological problems* are check marked as *No impact*, with the comment, “I have not witnessed issues with consciousness or impulse control”. The eleven areas with a *Minimal*, *Moderate*, or *Major impact* are as follows:
  - Language and Psychotic symptoms - *Minimal impact*, with the comment, “I have not witnessed psychotic symptoms though client self-reports same”.
  - Bodily functions, Emotion, Memory, Motivation, Motor activity [with *extreme tension* circled],

and Other emotional or mental problems - *Moderate impact*, with the comments, “reports sleep disturbance when depressed. Emotional - reports previous suicide attempts”.

- Insight and judgment, Attention and concentration, and Executive - *Major impact*, with the comments, “insight self-reported, not observed by writer. Attention - unable to complete care plan/ has had difficulty following conversations with psychiatrist. Executive – often forgets appointments and reports he has major issues in this area”.

### Self-report

In terms of functional abilities, the appellant reports that he has difficulties with focusing, multi-tasking, and being on time for work; he has periods of overwhelming situations leading to constant suicidal tendencies and worsening mental health; he has energy issues and periods of mania or psychosis-like symptoms. He further reports instability and hyperactive thoughts, difficulty communicating with others, and problems with impulse and reasoning skills affecting his overall ability to function in society. He further reports motivation and memory problems and difficulty coping.

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

#### PR

- Dr. S. checks *No*, the appellant has not been prescribed medication/ treatment that interfere with his ability to perform DLA.
- In Part E - *Daily Living Activities*, Dr. S. checks *Yes*, the appellant’s impairment directly restricts his ability to perform DLA. The following information is provided:
  - 2 out of the 10 listed DLA are marked as restricted: Personal self-care and Social functioning. Dr. S. indicates the restrictions are periodic with the comments, “patient reports difficulty adjusting to social settings. Patient utilizes social isolation as a coping strategy”.
  - Dr. S. indicates that the remaining DLA are not restricted: Meal preparation, Management of medication, Mobility inside and outside the home, Use of transportation, and Management of finances.
  - Dr. S. provides no information for 2 DLA, Basic Housework and Daily shopping.

#### AR

The RPN provides the following information:

- The appellant is independent with all areas of Personal care, Meals, and Medications.
- He requires periodic assistance with both areas of Basic housekeeping, with the comment, “mum helps”.
- He is independent with all areas of Shopping except Making appropriate choices for which he requires periodic assistance.
- Under *Additional Comments* the RPN writes, “lives at home with his mother. Appears to attend to ADL needs independently”.
- The appellant requires periodic assistance with 2 out of 3 areas of Pay rent and bills. While he is reported as independent with Budgeting, the RPN comments that for Banking, he “sometimes needs financial help from mum”; and for Pay Rent and Bills, the RPN writes, “doesn’t deal well with planning for paying his bills”.

• The appellant is independent with 2 out of 3 areas of Transportation: Getting in/out of a vehicle, and Using transit schedules/ arranging transportation. He requires periodic assistance with Using public transit with the comment, “anxious using public transport and often misses buses due to this”. The RPN provides no additional comments for the DLA of Meals, Pay Rent and bills, Medications, and Transportation.

- For Social functioning the appellant requires periodic support/ supervision in 3 out of 5 listed areas:
  - Appropriate social decisions - comment, “avoids social situations as they cause anxiety”;
  - Able to develop/ maintain relationships - comment, “reports he doesn’t have any friends due to anxiety”;
  - Able to deal appropriately with unexpected demands - comment, “causes anxiety and avoidant behaviours”;
  - The appellant is reported as independent with Interacts appropriately with others, and Able to secure assistance from others.
  - The RPN checks that the appellant has marginal functioning with both his immediate and extended social networks with a comment [for immediate network], “Relationship with his mum is complex and induces a lot of stress and anxiety”.
  - The RPN does not describe any support/ supervision required to help maintain the appellant in the community and he does not identify any safety issues, or provide further information under *Additional Comments*.

#### Self-report

The appellant reports daily difficulties with “simple tasks”, as well as “hygiene issues” and social difficulties including difficulty relating to others and competing with others; and an “unhealthy social life” and “anti-social tendencies”. He reports problems with managing personal finances, eating, waking up, and providing for himself.

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

#### PR

- Dr. S. check marks *No*, the appellant does not require any prostheses or aids for his impairment.
- For *Daily Living Activities*, he writes “prompting/ reminders” in describing any assistance the appellant needs to perform DLA.

#### AR

- The RPN indicates that assistance is provided by family; the appellant lives with his mother.
- The RPN crosses out the sections of the form that ask what assistance would be required if none were available; whether assistance is provided by an assistive device [the RPN writes, “N/A”] and whether the appellant has an assistance animal [the RPN again writes, “N/A”].

## Self-report

The appellant does not address the need for assistance in his self-report.

2. A Request for Reconsideration signed by the appellant on September 16, 2016 in which he states it is impossible for him to work, as he has strong anti-social personality traits, persistent dreams of grandeur, and an inability to focus on daily tasks. The appellant states that he has chronic depression over the course of his lifetime and his history is fraught with suicide attempts. He states that he is extremely unhappy with societal structure and he seems to exist somewhere along the autism spectrum. He reports being overly sensitive to the feelings and energy of others and he has difficulty lying and playing make believe in a society that requires such skills.

### *Additional submissions*

Subsequent to the reconsideration decision, the appellant filed his Notice of Appeal dated October 5, 2016 in which he provides his argument on appeal. The panel will address the arguments of both parties in the next section, *Part F - Reasons for Panel Decision*.

At the hearing, the appellant presented a 7- 8 page written submission that includes a letter to Dr. S. describing his state of mind (which the appellant states he wrote one week ago) as well as a stream of consciousness description of the appellant's "extremely negative state of mind" and a suicide note that he wrote prior to his first meeting with Dr. S and gave to Dr. S. at the meeting. The ministry had no objections to the submissions and the panel accepts them as argument in support of the appellant's self-reports that were before the minister at reconsideration.

Oral submissions at the hearing include the following:

The appellant described his history of longstanding depression, suicidality, problems all through school, and being fired from jobs due to being late or absent or having periods of extreme emotional distress. He maintains that his depression will last his whole life as no one helps him except his mother who helps him "a bit too much".

In response to questions from the panel, the appellant reports that his mother drives him places, and "helps with financial things" such as buying him clothing and cleaning products for personal care. He reports that she is becoming disabled and will be unable to continue helping him, but currently she cooks his meals and although he helps her with chores, she tells him what to do. He tried to move out on his own but ended up starving himself and attempting suicide, so he recently moved back home within the past 6 months. He reports that he does not eat if he is required to cook for himself; he requires continuous assistance with budgeting and has "constant problems" with using public transportation.

The appellant reports that he has a tough time finding the right doctor, psychiatrist, or support worker. He had one good psychiatrist who moved away and as he is having difficulty getting his current psychiatrist, Dr. S. to understand his situation, he has requested a transfer to a different psychiatrist. He states that Dr. S. incorrectly indicates he has Cannabis use disorder; it should say Alcohol use disorder instead. Further, while he requested anti-depressant medication in the past, he is not currently taking medication.

The appellant states that the RPN will not see him again because the appellant has his mother to support him and there are other clients with worse problems. In response to questions from the panel regarding discrepancies between the appellant's self-reported restrictions and the information provided by the prescribed professionals, the appellant explained that he did not tell the RPN that he doesn't eat if he has to cook for himself. He reports that his "own ego is at fault" because he has a tendency to tell professionals he is fine when really he wants help. He explained that he does not like to feel that he is "incapable and dependent", and he therefore "does not like to tell them I can't do things".

The ministry attended the hearing with an observer and the appellant had no objections to the observer being present. The ministry presented its argument on appeal and explained that the ministry must make its decision based on the information in the PWD application and all 5 criteria for PWD designation need to be met.

The panel finds that the appellant's oral submissions provide additional details about his background, diagnoses, and treatments, as well as his self-reported restrictions to DLA. His testimony is therefore in support of the information and records that were before the minister when the decision being appealed was made and the panel admits it as evidence under subsection 22(4)(b) of the *Employment and Assistance Act*. The panel further accepts the oral submissions of both parties as argument in support of the positions that are presented in the reconsideration record. The panel will now consider the arguments of both parties and assess the reasonableness of the ministry's reconsideration decision.

## PART F – Reasons for Panel Decision

The issue in this appeal is whether the ministry's reconsideration decision of September 27, 2016, which found that the appellant was not eligible for PWD designation, was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the circumstances of the appellant. Based on the information provided in the PWD application and RFR, the ministry was not satisfied that 4 criteria in EAPWDA section 2(2) were met: The appellant has a severe mental or physical impairment; the impairment, in the opinion of a medical practitioner, is likely to continue for at least 2 years; the impairment, in the opinion of a prescribed professional, directly and significantly restricts the appellant's ability to perform DLA either continuously or periodically for extended periods; and as a result of these restrictions, the appellant requires help to perform DLA through an assistive device, the significant help or supervision of another person, or the services of an assistance animal.

The eligibility criteria for PWD designation are set out in section 2(2) of the EAPWDA as follows:

- (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 is in a prescribed class of persons or that the person has a severe mental or physical impairment that
- (a) in the opinion of a medical practitioner or nurse 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.

The "daily living activities" referred to in EAPWDA section 2(2)(b) are defined in section 2 of the EAPWDR:

### Definitions for Act

**2 (1)** In this section:

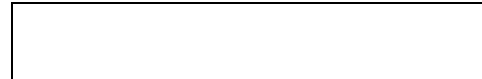
**"assistive device"** means a device designed to enable a person to perform a daily living activity that, because of a severe mental or physical impairment, the person is unable to perform;

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.

### *Analysis*

The panel provides the following analysis and decision for the legislative criteria that the ministry found were not met.

### ***Severe mental impairment***

#### *Appellant's position*

The appellant describes his longstanding depression which he submits is severe due to his history of suicide attempts, not fitting in or being able to cope with society's expectations, and his current "extremely negative state of mind", lack of trust in other people, and never being able to find the support he needs to cope with even simple tasks. He submits that he also has ADD/ ADHD and PTSD, and he "falls somewhere on the autism spectrum" as well, and these conditions are severe as they impact his insight, attention, and executive function as described by the RPN in the AR. While he agrees that the RPN's assessment of his cognitive and emotional functioning is accurate in terms of impacts on his daily functioning, he argues that Dr. S. misunderstood his situation and both Dr. S. and the RPN under-estimate and incorrectly describe the effect of his impairments on his daily functioning and overall ability to cope.

#### *Ministry's position*

The ministry argues that the information presented in the PWD application does not establish that the appellant has a severe mental impairment. In terms of cognitive and emotional function, the ministry notes that the appellant has no difficulties with communication as reported by Dr. S. in the PR, and although Dr. S. indicates significant deficits with cognitive and emotional functioning in the areas of emotional disturbance and motivation, the RPN indicates moderate impacts in these areas. The ministry also argues that Dr. S.'s information, which frequently references the "patient's reports", is based on the appellant's self-assessments rather than the medical assessments of Dr. S.

The ministry argues that other inconsistencies in the information in the PR and AR make it difficult to develop a clear and coherent picture of the degree of impairment. The ministry notes, for example, that while the RPN indicates major impacts in the areas of Executive, and moderate impacts to Memory and Motor activity, Dr. S. does not indicate significant deficits in these areas. In addition, the ministry submits that the information from the RPN regarding the appellant's problems with Insight ("self-reported – not observed by writer") indicate that the major impact reported in the area of Insight/ judgment is based on self-assessment as opposed to the RPN's medical opinion. The ministry further notes that several areas of cognitive and emotional function in the AR are also marked as *minimal impact* or *no impact*. The ministry argues that the cumulative impacts of the appellant's impairments on his cognitive and emotional functioning are not indicative of a severe impairment to

mental functioning.

Regarding restrictions to DLA, which the panel will address further along in this decision, the ministry notes that the information from medical professionals indicates that the appellant is largely independent with DLA. The ministry argues that the information provided for the DLA of Social functioning contains inconsistencies (between the PR and AR) and therefore does not support the finding of a severe mental impairment.

#### *Panel's decision*

While both the ministry and the panel acknowledge that the appellant is currently experiencing impacts to his cognitive and emotional functioning due to depression and anxiety, the panel finds that the ministry reasonably concluded that the information provided by Dr. S. and the RPN does not establish a severe mental impairment. In addition to the inconsistencies between Dr. S.'s and the RPN's evidence as noted by the ministry (and summarized by the panel above), the panel notes that the high degree of emotional distress, suicidal ideation, and difficulty coping with life that the appellant's self-reports are not corroborated by any medical evidence. The RPN makes only one brief mention of previous suicide attempts and Dr. S. does not indicate any suicidal ideation despite being provided with the appellant's stream of consciousness submissions and suicide note [submissions that the appellant introduced at the hearing].

Moreover, as noted by the ministry, both Dr. S. and the RPN indicate that the appellant is experiencing no difficulties or *no impact* or *minimal impact with* a number of cognitive and emotional areas including Communication, Impulse control, Psychotic symptoms, and Other neuropsychological/ perceptual problems. Regarding the appellant's self-reported ADD and other conditions, and the "severe" symptoms that these conditions present for him, the panel notes that ADD and other self-reported conditions are not diagnosed by a medical professional in the PWD application. Instead, both Dr. S. and the RPN indicate that the appellant is still undergoing psychological assessments in order to determine his full mental health profile.

The legislation requires evidence of a severe impairment that significantly impacts daily functioning. As Dr. S.'s and the RPN's information do not paint a consistent picture of significant restrictions and impacts to cognitive and emotional functioning, and the appellant is still undergoing assessment, the panel finds that the ministry reasonably determined a severe mental impairment under section 2(2) of the EAPWDA was not established.

#### ***Severe physical impairment***

##### *Appellant's position*

The appellant does not report a physical impairment. While he describes physical symptoms including problems with sleep disturbance and hygiene, and trouble with waking up, he maintains that these symptoms are related to his longstanding depression.

*Ministry's position - Severe physical impairment:*

The ministry argues that a severe physical impairment is not established by the information in the PWD application and RFR submission, noting that Dr. S. does not fill in information for functional skills and instead notes that the appellant reports "no physical limitations or problems with mobility". The ministry further notes that the RPN indicates in the AR that the appellant is independent with all listed areas of mobility and physical ability.

*Panel's decision - Severe physical impairment*

The panel finds that the ministry reasonably determined a severe physical impairment has not been established by the information provided. Neither the psychiatrist, nor the assessor or appellant report any physical conditions or restrictions to physical functioning; nevertheless, the legislation requires evidence of a severe impairment that significantly impacts daily functioning. As the information indicates that the appellant has no restrictions to his mobility and other physical functions, the panel finds that the ministry reasonably determined a severe physical impairment under section 2(2) of the EAPWDA was not established.

***Impairment likely to continue for at least 2 years***

*Appellant's position*

The appellant argues that his depression will continue indefinitely as he has had it throughout his life and is unable to find the right support or any successful treatment. The appellant argues that Dr. S. misunderstood his situation; and he is not on medication and does not see the RPN for any ongoing support or treatment program.

*Ministry's position*

The ministry notes that Dr. S. indicates in the PR, that the appellant's impairment is not likely to continue for 2 years or more as it is anticipated that the appellant will have restored optimal functioning with treatment.

*Panel's decision*

The panel finds that the ministry reasonably determined that the appellant's impairment does not meet the legislative criterion of being likely to continue for at least 2 more years. While the panel acknowledges that the appellant's depression is longstanding, the legislative test under section 2(2)(a) of the EAPWDA is forward looking and requires a medical practitioner to confirm that the condition will persist for at least 2 more years. Dr. S.'s information is that the appellant will get better with treatment and support, coupled with a genuine willingness to get better. Given that Dr. S. specifically indicated the impairment is not likely to continue for at least 2 years, the panel finds that the ministry reasonably determined that the criterion in section 2(2)(a) of the EAPWDA was not met.

## ***Restrictions in the ability to perform DLA***

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

The appellant submits that he has difficulty focusing on simple tasks and multi-tasking (“extreme inability to focus on daily tasks” according to his RFR submission). He reports difficulty with personal care (“hygiene issues”), managing personal finances (“needs continuous assistance” according to his oral testimony), and difficulties with cooking and eating. At the hearing, he explained that his mother buys him clothes and soap and other personal care items, and if she does not cook for him he stops eating and he was unable to continue to live away from home because he was not eating. He added that his mother drives him places as he has “constant problems” with transportation and she provides him with direction for chores. The appellant attributes his restrictions to his depression, ADD and other impairments.

The appellant argues that he is also restricted in his social functioning as he has difficulty relating to others and competing with others. He reports an unhealthy social life and anti-social tendencies. In his RFR, he adds that it is impossible for him to work with other people due to his avoidant tendencies and strong anti-social personality traits. He reports that he is overly sensitive to the feelings and energy of others and he feels that he “does not fit in, racially, intellectually or emotionally”.

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

The ministry argues there is not enough evidence from Dr. S. and the RPN to confirm that DLA are restricted either continuously, or periodically for extended periods as required under the legislation. The ministry highlights Dr. S.'s information that the appellant is not prescribed any medications or treatments that interfere with his DLA. The ministry notes that the appellant is reported as independent with the majority of DLA.

While Dr. S. indicates that the appellant requires period assistance with Personal care, the ministry notes that the frequency and duration of the periodic assistance is not described and argues that such information is valuable in determining the significance of the restriction. The ministry also notes that the information regarding restrictions for Personal care is not consistent between the PR and AR as the RPN reports in the AR that the appellant is independent in all areas of Personal care.

The ministry submits that the information in the AR also does not establish significant restrictions to DLA. The ministry notes that the RPN reports the appellant is independent with the majority of the areas listed for DLA. The ministry notes that even where the need for periodic assistance is indicated, the RPN reports at the same time, that the appellant “appears able to attend to ADL needs independently”. The ministry notes that the frequency and duration of periodic assistance is also not described by the RPN and argues that it is therefore difficult to establish that the appellant's restrictions are significant.

*Panel's decision - Restrictions to DLA*

Subsection 2(2)(b)(i) of the EAPWDA requires the minister to be satisfied that in the opinion of a prescribed professional a severe impairment directly and significantly restricts DLA either continuously, or periodically for extended periods. In this case, the prescribed professionals are Dr. S. and the RPN. DLA are defined in section 2(1) of the EAPWDR and are also listed in the PR, with additional details in the AR. Therefore, a 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.

The panel finds that the ministry reasonably determined the evidence does not establish that the appellant's DLA are directly and significantly restricted either continuously, or periodically for extended periods. While Dr. S. indicates that the appellant is periodically restricted with Personal self-care and Social functioning, the only details he provides are that the appellant reports difficulty in social settings and he uses social isolation as a coping strategy. This information falls short of establishing the legislative criteria of periodic restrictions for extended periods. Without information on the frequency and duration of the periodic restrictions, there is no way to determine whether the appellant's restrictions are for extended periods in the opinion of his psychiatrist.

Regarding inconsistencies in the evidence on restrictions to DLA, the fact that there are inconsistencies between Dr. S.'s information and the RPN's information makes it difficult to get a clear picture of the appellant's restrictions. On the one hand, the RPN reports that the appellant needs periodic support with one area of Transportation and most areas of Pay rent and bills, while Dr. S. indicates no restrictions with Use of Transportation or Management of finances. Furthermore, one of the RPN's comments for Pay rent and bills is that the appellant "sometimes needs financial help from mum", suggesting that the appellant requires financial help for economic reasons, rather than due to a severe impairment as required under section 2(2)(b)(i) of the EAPWDA.

While the appellant argues that the RPN's information paints a more accurate picture of his restrictions than the information from Dr. S., the panel finds that the ministry reasonably determined that the information in the AR also does not establish that DLA are significantly restricted continuously or periodically for extended periods. As noted by the ministry, no information is provided on the frequency or duration of the periodic restrictions that are reported, and the AR is also internally inconsistent as the RPN reports periodic restrictions for some areas of DLA but also states that the appellant is able to attend to DLA independently.

The appellant's information indicates that his most serious restrictions are for the DLA of Meals and Social functioning [does not eat if his mother is not cooking for him, and has significant barriers to social functioning due to his anti-social traits and avoidant tendencies]. However, the information provided by Dr. S. and the RPN does not confirm that these DLA are significantly restricted either continuously, or periodically for extended periods. Neither professional reports any restrictions for Meal Preparation (PR) or for any area of Meals (AR). While the RPN reports a *Moderate impact* on Bodily functions (which includes eating problems on the form), the RPN's comments specify sleep disturbance; he does not indicate any problems with eating.

Although both professionals note periodic restrictions with Social functioning, as noted earlier, there is no information on the frequency or duration of the periodic restrictions to show that the appellant is restricted in his Social functioning for extended periods in the opinion of his prescribed professionals.

The RPN indicates that the appellant requires periodic support/ supervision in 3 areas of Social Functioning: Appropriate social decisions, Develop/ maintain relationships, and Deal appropriately with unexpected demands; however, there is no information on what type of support is required or the frequency/ duration of support.

The legislation requires evidence of significant restrictions to DLA either continuously or periodically for extended periods as the result of a severe impairment. As a severe impairment has not been established and as Dr. S. and the RPN indicate that the appellant is independent with most DLA and do not confirm that his periodic restrictions are for extended periods, the panel finds that the ministry reasonably determined that the criteria in subsection 2(2)(b)(i) of the EAPWDA were not met.

### ***Help to perform DLA***

#### *Appellant's position*

The appellant submits that he relies on his mother for support and assistance “a bit too much” and she is the only person that helps him with DLA.

#### *Ministry's position*

The ministry argues that as it has not been established that DLA are significantly restricted, it cannot be determined that *significant* help is required from other persons. The ministry notes that Dr. S. indicates that the appellant does not require any aids for his impairment and that the RPN reports that the appellant receives assistance from his family.

#### *Panel's decision - Help to perform DLA*

Subsection 2(2)(b)(ii) of the EAPWDA requires a prescribed professional to confirm that as a result of significant restrictions to DLA, the person requires help to perform an activity. Where another person is providing the help, the level of assistance or supervision required must be significant as set out in subsection 2(3)(b)(ii) of the EAPWDA. While there is evidence the appellant relies on his mother to support him and assist him with DLA and Dr. S. indicates that the appellant requires “prompting/ reminders”, the panel found that the ministry reasonably determined the information provided did not confirm significant restrictions to DLA as a result of the appellant's impairment. The panel therefore finds that the ministry reasonably determined the criterion for help under EAPWDA subsection 2(2)(b)(ii) was not met.

#### *Conclusion*

The panel finds that the ministry's reconsideration decision that determined the appellant is not eligible for PWD designation under section 2 of the EAPWDA was reasonably supported by the evidence. The panel confirms the decision pursuant to sections 24(1)(a) and 24(2)(a) of the *Employment and Assistance Act* and the appellant is not successful in his appeal.