PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (ministry) reconsideration decision dated September 21, 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 and that he has a severe mental impairment that is likely to continue for at least 2 years; however, based on the information provided in the PWD Designation Application (PWD application) and Request for Reconsideration, the minister was not satisfied that the following criteria were met:

- The appellant has a severe physical impairment [*the ministry was satisfied the appellant has a severe mental impairment*];
- 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 March 14, 2016;
- A *Physician Report* (PR) completed by a general practitioner (Dr. L.) on March 24, 2016. Dr. L. has known the appellant for 13 years and has seen the appellant once in the past 12 months;
- An *Assessor Report* (AR) also completed by Dr. L. on March 24, 2016. He indicates he completed the form via an office interview with the appellant and he states that he provides the appellant with follow up. Dr. L. writes "none" when asked how often he has seen the appellant in the last year.

The PWD application includes the following information:

Diagnoses

PR

The appellant is diagnosed with schizophrenia, date of onset 2012.

For *Health History*, Dr. L. writes, "schizophrenia, been hospitalized. Recently discharged, currently on [name of medication] – stable. Condition may relapse in the future".

Under *Degree and Course of Impairment*, Dr. L. writes that the appellant is currently stable but will be impaired if he is non-compliant with his treatment.

AR

Under *Additional Information* Dr. L. writes "schizophrenia, hearing voices, now on [name of medication], injection every 28 days, stabilized. Functions well".

Self-report

The appellant describes his disabilities as psychosis and schizophrenia, "hearing voices".

Functional Skills

PR

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

• Walking and climbing stairs: "No aid needed at all. No limitation";
• Lifting: Check mark for *No limitations*;

• Remaining seated: Check mark for *No limitations*;
• Communication: Check mark for *No*, the appellant has no difficulties with communication with the comment, “Patient currently stable, no problems with communication”.
• Under *any significant deficits with cognitive and emotional function*, Dr. L. check marks *No* with the comment, “No for now, may have in the future”.

AR

Dr. L. provides the following information for *Mental or Physical Impairment* (Section B - Abilities):

• *Ability to Communicate*: Speaking, Reading, Writing, and Hearing – All are checked *Good*;
• *Mobility and Physical Ability*: All areas are marked *Independent*;
• *Cognitive and Emotional Functioning*: The appellant’s impairment is reported to impact his functioning in 2 out of the 14 areas listed on the form as follows:

- Attention/ concentration: *Minimal impact* is checked;
- Psychotic symptoms: *Moderate impact* is checked.

No comments are provided to explain these impacts and the remaining areas are check marked *No impact*: Bodily functions, Consciousness, Emotion, Impulse control, Insight and judgment, Executive, Memory, Motivation, Motor activity, Language, Other neuro-psychological problems, and Other emotional and mental problems.

Self-report

In terms of functional abilities, the appellant states that the “voices are distractive, making it difficult to focus on things that I’m doing”.

Daily Living Activities (DLA)

PR

• Dr. L. writes, “it may” when asked whether the appellant has been prescribed medication/ treatments that interfere with his ability to perform DLA. He indicates the anticipated duration of the medication is long term.
• In Part E - *Daily Living Activities*, Dr. L. checks *No*, the appellant is not restricted in the following DLA as the result of his impairment: Personal self-care, Meal preparation, Management of medications, Basic housework, Daily shopping, Mobility inside and outside the home, Use of transportation, Management of finances, and Social functioning.

AR

• Dr. L. indicates the appellant is independent with all areas of all DLA as listed on the form: Personal Care, Basic Housekeeping, Shopping, Meals, Pay Rent and Bills, Medications, Transportation, and Social Functioning.
• Dr. L. also indicates that the appellant has good functioning with his immediate and extended social networks.

• In describing any support/ supervision required which would help maintain the appellant in the community, Dr. L. writes, “schizophrenia, in treatment [name of medication], inter-muscular every 28 days”.

Self-report

The appellant reports that he hears voices during daily work/ routines.

Need for Help

PR

Dr. L. check marks *No*, the appellant does not require any prostheses or aids for his impairment.

AR

Dr. L. writes, “none” when asked whether assistance with DLA is provided by other people.

2. A Request for Reconsideration (RFR) signed by the appellant on August 22, 2016 in which he states that he is supported by his psychiatrist and mental health care team in receiving PWD designation.

The appellant submitted the following supporting documents with his RFR and the panel is summarizing these in chronological order beginning with the most recent:

2016

(a) A letter to the ministry from the appellant's psychiatrist (Dr. K.) and psychiatric nurse dated August 22, 2016, with the following information:

• The appellant is a patient under their care at a mental health outpatient clinic. They have known the appellant since 2014 following his involuntary admission to the inpatient psychiatric unit (IPU).
• The appellant suffers from paranoid schizophrenia, first diagnosed in 2010. The condition is life long, with serious symptoms of paranoid thinking and auditory hallucinations.
• His activities of daily living are severely affected with this diagnosis.
• He has stopped his medications in the past due to poor insight and has spent time at home in an isolative fashion ignoring his personal hygiene and unable to get meals for himself. His insight and perceptions were severely impaired as he felt paranoid and heard command hallucinations. His poor insight and disturbance caused him to become aggressive and assaultive.
• His ability to communicate and concentrate are severely impaired and due to his thought disorder, he is at times unable to complete any tasks of self-care or [employment duties] when he worked.
• His only supports are his mother who lives in his community and his father who lives in another community. He has no other friends or supports in his life. He has a severe impairment with his social contacts and networks due to his isolative nature secondary to his illness.
• The appellant is not currently symptom-free and he still hears voices regularly. He remains on extended leave under the *Mental Health Act* in order to support his treatment for follow up and medications as he still struggles with insight into his condition.

• He remains on a potent anti-psychotic medication which he receives by monthly injection to ensure his compliance with medications.
• The medication helps the appellant with his symptoms but also has sedation and excessive hours of sleep as side effects.

(b) *Specialist Discharge Care Plan* signed by a psychiatrist (Dr. R.) and dated February 29, 2016 indicating the appellant was discharged from a hospital IPU on that date and is on extended leave with his prescribed medications. Dr. R. provides the following additional information:
• The appellant was brought to the hospital on February 7, 2016 by a family member as he was hearing voices and acting in a bizarre manner.
• Although he had previously been diagnosed with and followed for schizophrenia, he had discontinued his medications and believed he did not need them. He was re-started on medications [received his first depot injection] and over the next days, he became more engaged and cooperative and denied any side effects relating to his medication. Dr. R. reports that although the appellant continues to have limited insight into his illness, he understands he will need to continue with his medications to prevent a future relapse.
• He was referred to Social Work and received a PWD application. He was then discharged to a community mental health team to be followed by his case manager. He was also referred to an outpatient psychiatrist (Dr. C.).
• The appellant was described as goal-directed by the end of his hospital stay and he was advised to connect with a vocational therapist.
• He will receive depot injections every 28 days and the importance of adherence to his regular injections was emphasized in order to prevent a future relapse.

(c) *Mental Health Act* form 20 leave authorization dated February 29, 2016 signed by the director. Information on this form indicates the appellant's medical certificate will expire on April 6, 2016 and the conditions of his leave include attending all mental health appointments, taking his medications, and submitting to bloodwork as directed by his physician. The director provides the opinion that appropriate supports exist in the community to support the conditions of leave. Dr. C. [outpatient psychiatrist] has agreed to assume clinical care of the appellant and is authorized to complete a renewal certificate, renew/ modify conditions, or recall/ discharge the appellant from leave.

(d) Discharge Summary – Final report dictated by Dr. R. [hospital psychiatrist] dated February 12, 2016. Dr. R. indicates the appellant has a history of paranoid schizophrenia and was lost to follow-up when he travelled to another community in 2014 to visit relatives. During this most recent decompensation for his condition he was certified under the *Mental Health Act* by the ER physician and the on-call psychiatrist. Upon admission his insight and judgment were assessed to be impaired. The plan was to treat him in hospital and arrange for discharge planning once he became stabilized.

(e) Prescription from Dr. C. for injection medication with 3 refills indicated.

(f) Discharge letter to the appellant from the hospital with reminders to be realistic and talk to someone about his concerns; continue his treatment [injection medication]; and take advantage of community resources. An appointment with the community mental health case worker was scheduled for March 17, 2016.

(g) A hospital consultation report dictated by a psychiatrist, Dr. R., dated February 7, 2016 and indicating as follows:

• The appellant is a single male who currently lives in an apartment and is supported financially by his family who live in another community for the most part. He is not currently followed by any mental health service but he has a family physician, Dr. L. He was initially referred for psychiatric assessment by an ER physician.
• He was admitted to hospital under a Form 4 certificate [*Mental Health Act*] due to a psychotic relapse.
• He has a previous history of paranoid schizophrenia and first presented with a schizophrenia prodrome in 2010. He re-presented in 2012, reporting a history of hearing voices over a 2-month period. In August 2014, he was brought to the ER after he committed an assault. He had a diagnosis of schizophrenia, paranoid type, remained in IPU for 3 weeks, and was treated with medications with follow up by Dr. K. in the community. At the end of 2014, the appellant travelled to visit relatives and was quite stable. He decided to go off his medications when he was away and was re-admitted to hospital after acting in a bizarre fashion with his family.
• Apart from auditory hallucinations, the appellant does not generally endorse other symptoms of psychosis. He was in a psychotic state when he had an incident of aggression and committed an assault. The appellant is not depressed but has had a significant functional decline and is unable to work.
• Aside from 3 psychiatric hospitalizations, the appellant does not have any significant medical problems.
• The appellant is apparently estranged from his mother and brother but the details are unknown to the reporter. He is being supported by family who live in another community.
• While the appellant endorses a history of hearing voices, he denies these are occurring presently. He denies any ideas of harm and although his thought processes are generally coherent, his insight and judgment appear to be impaired. He has decompensated with non-adherence to his medications. He is not currently suicidal or homicidal but is experiencing a significant relapse of symptoms and acting inappropriately with family members in particular.
• It is recommended that the appellant remain certified under the *Mental Health Act*, and once stabilized on medications, he will be discharged into the community with his maintenance treatments resumed.

2014

(h) *Discharge Summary* – Revised report dictated by a hospital physician dated September 9, 2014 and relating to a 3-week stay at the hospital for which the appellant was brought to the emergency department under section 28 of the *Mental Health Act* after he assaulted two individuals in what appeared to be an unprovoked attack on strangers. His mental state significantly improved with medications and he was discharged on an extended leave with his medications daily dispensed to ensure compliance. He would continue to see Dr. K. [his treating psychiatrist] and his case manager for ongoing follow-up and treatment at community mental health services.

(i) Consultation report dictated by a hospital physician dated August 17, 2014, indicating the appellant had been referred for psychosis and depression. The report describes the appellant's August 2014 admission to hospital under section 28 of the *Mental Health Act* after he had randomly attacked strangers. The assault was strongly suspected to be related to psychosis as the appellant admitted to

having ongoing auditory hallucinations. The plan for the appellant included certification under the *Mental Health Act* and medications together with extended leave.

2012

(j) *Discharge Summary* from a hospital dated August 23, 2012 relating to a 2-day stay at the hospital for which the appellant self-referred, reporting a 2-month history of hearing voices. The medical consensus was that he likely suffered from schizophrenia. He refused treatment and was ambivalent about follow up. He was discharged as low risk and indicated he would make his own referral to community mental health services. The report notes that the appellant underwent a 2-day psychiatric assessment at a previous hospital admission in 2010. He was found likely to have the prodrome to a psychosis but no follow-up was present at that time.

Additional submissions

With the consent of both parties, the appeal proceeded as a written hearing pursuant to section 22(3)(b) of the *Employment and Assistance Act*. Subsequent to the reconsideration decision the appellant filed his Notice of Appeal dated September 28, 2016 and a one-page submission for the written hearing, faxed to the tribunal office on October 14, 2016 in which he provides his argument on appeal. In an e-mail to the tribunal, the ministry states that the ministry's submission on appeal will be the reconsideration summary. The panel accepts the submissions as argument in support of the positions of the parties as presented in the reconsideration record. The panel will consider the arguments of both parties in the next section – Part F - *Reasons for Panel Decision*.

PART F – Reasons for Panel Decision

The issue in this appeal is whether the ministry's reconsideration decision of September 21, 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 the following criteria in EAPWDA section 2(2) were met: The appellant has a severe physical impairment [*the ministry was satisfied the appellant has a severe mental impairment*]; 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 and decision

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

Severe physical impairment

Appellant's position

The appellant does not report a physical impairment or describe any impacts to his physical function or to the DLA involving physical skills/ abilities.

Ministry's position - Severe physical impairment:

The ministry also notes that a physical diagnosis has not been provided and argues that a severe physical impairment is not established by the information in the PWD application. The ministry notes Dr. L.'s information that the appellant does not require any aids with walking and climbing, nor does he have any limitations with these functions or with lifting and remaining seated. The ministry notes that the appellant is reported as independent in all areas of mobility and physical ability and he does not require any prostheses or aids to manage his physical functioning.

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. No physical conditions or restrictions to physical functioning are reported in the PR and AR. Dr. L.'s information indicates the appellant has no restrictions to his mobility and other physical functions, and the panel therefore finds that the ministry reasonably determined a severe physical impairment under section 2(2) of the EAPWDA was not established.

Restrictions in the ability to perform DLA

Appellant's position

In his Notice of Appeal the appellant writes that "command hallucinations disrupt daily activities because it is regularly a struggle to resist command voices, even when the condition is stable at times". The appellant argues that disruption to his daily activities "is current and it's not a thing of the past like the ministry stated".

The appellant 's position as expressed in his submission for the written hearing is that it is unreasonable for his family doctor to assume he is currently in a continuous stable condition and can continuously perform all DLA independently. The appellant argues that it is therefore unreasonable and erroneous for the ministry to assume that his psychiatrist's (Dr. K.'s) assessment of the impacts he experiences in DLA is not the current assessment. The appellant argues that Dr. K.'s assessment "is more accurate and reliable than my family doctor's". He submits that Dr. L.'s view needs to be altered because his condition is "unstable periodically for extended periods, and in turn, I am unable to independently perform all activities of daily living…hence it can be concluded that significant help from other people is required".

The appellant explains that Dr. K.'s letter to the ministry of August 22, 2016 was provided on reconsideration because it was too late to submit the information from Dr. K. with the PWD application. The appellant argues that the fact that his family doctor was asking his psychiatrist for consultation reports "proves that my psychiatrist has a better knowledge of my mental disorder than my family doctor does, and thus it is logical to think that my psychiatrist has a better understanding of the current impacts that the disorder has to my daily living activities than my family doctor does".

The appellant argues that Dr. L.'s reports are "fallacious" in indicating the appellant's condition is currently stable and he is able to perform all of his DLA independently. The appellant submits that he is unable to fall asleep periodically for extended periods due to hearing voices all night long. The resulting tiredness and exhaustion is interfering with DLA including grocery shopping, cooking, personal hygiene and housekeeping. He argues that his poor hygiene is also impacting his social functioning by affecting his self-esteem. He reports that he is socially isolated: "I am alone, do not have dates, lost contact with friends, and do not have a job". He reports that he cannot manage basic housekeeping and his mother comes to his place to clean.

In addition, the appellant argues that command hallucinations are also causing problems with Medication and Transportation: the voices are telling him to stop taking his injection medication and to jump out of a speeding vehicle. The appellant reports that to be safe, he tries not to take public transportation or ride in vehicles. The appellant also reports restrictions in his ability to work [*the panel notes that employability/ability to work is not included among the DLA that are listed in the PWD legislation - EAPWDA*].

Ministry's position

The ministry argues that the information provided by Dr. L. in the PR and AR does not establish that the appellant's DLA are significantly restricted continuously or periodically for extended periods. The ministry notes that Dr. L.'s assessment in the PR indicates the appellant is unrestricted with all DLA, and in the AR, Dr. L. indicates the appellant is independently able to manage all activities including Personal care, Basic housekeeping, Shopping, Pay Rent and Bills, Medications, and Transportation. Regarding Social Functioning, the ministry notes Dr. L.'s information that the appellant is able to independently manage all areas of Social Functioning and is also reported to have good functioning with his immediate and extended social networks.

While the ministry acknowledges that the appellant has a severe mental impairment and experiences impacts to DLA as a result of his medical condition, the ministry argues that the information submitted with the PWD application and RFR [letter from Dr. K. and hospital reports], demonstrates "past

behaviours" and "does not give a current assessment of the impacts you experience with your daily living activities". The ministry notes that Dr. L. indicates the appellant is currently stable as well as independent with all DLA. The ministry argues that the information from the prescribed professional does not show that the impairment "currently impacts your ability to perform daily living activities to a severe degree" or establish that DLA are restricted either continuously or periodically for extended periods.

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. 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 notes that Dr. L. who completed the PR and AR in March 2016, and Dr. K. who provided a follow-up assessment in his letter of August 22, 2016, are both prescribed professionals as defined in the legislation. The issue to be determined by the panel regarding the information from these professionals is whether the ministry was reasonable in preferring Dr. L.'s assessment over Dr. K.'s information in concluding that the appellant is unrestricted and independent in all DLA.

While the ministry argues that Dr. L.'s information in the PR and AR is the "current assessment", the panel notes that Dr. K.'s letter of August 22, 2016 is clearly more recent in terms of the date it was provided [approximately 5 months after the PR and AR were completed by Dr. L.]. As argued by the ministry, however, Dr. K.'s letter does provide some information regarding <u>past</u> impacts to DLA:

• "has stopped his medications in the past";
• "has spent time at home in an isolative fashion ignoring his personal hygiene, unable to get meals for himself";
• Insights and perceptions "were severely impaired…and caused him to become aggressive and assaultive" [affected his social functioning].

Nevertheless, in addition to information about past restrictions to DLA, the panel notes that Dr. K. also provides observations regarding the appellant's <u>current</u> cognitive and emotional function and resulting impacts to DLA. Dr. K. indicates that 3 DLA are currently restricted:
• <u>Personal Care</u>: "His ability to communicate and concentrate are severely impaired and he is at times unable to complete any tasks for self-care…due to his thought disorder".
• <u>Social Functioning</u>: Aside from his parents [one of whom lives in another community], the appellant "has no other friends or supports in his life. He has a severe impairment with his social contacts and networks due to his isolative nature secondary to his illness".
• <u>Medications</u>: He remains on extended leave under the *Mental Health Act* "in order to support his treatment for follow up and medications…still struggles with insight into his condition…receives [his medication] by injection monthly to ensure his compliance with medications". Regarding the current medication, Dr. K. also reports that while it helps the appellant with his symptoms, it has side effects in the form of "sedation and excessive hours of sleep".

While the ministry did not refer to these current impacts in any detail except to acknowledge Dr. K.'s information that the appellant is "currently not symptom-free and is still hearing voices regularly", the panel has assessed the information about current restrictions to DLA to determine whether the ministry was reasonable in concluding that DLA are not directly and significantly restricted continuously or periodically for extended periods in the opinion of a prescribed professional.

The panel finds that the ministry reasonably determined the information from Dr. K. does not meet the legislative threshold for restrictions to DLA pursuant to subsection 2(2)(b)(i) of the EAPWDA for the following reasons:

• Personal Care: While Dr. K. reports that the appellant is "at times unable to complete any tasks of self-care", he provides no information regarding the frequency or duration of the restriction - how often is the appellant unable to tend to his personal care? Without any information on the frequency and duration of the restriction, it is not possible to confirm that the appellant's periodic restriction is for extended periods as required under subsection 2(2)(b)(i)(B) of the EAPWDA. Moreover, Dr. L. indicates in both the PR and AR that the appellant is unrestricted and independent with Personal Care and there is no explanation from either Dr. L. or Dr. K. to explain the contradictory information. While Dr. L. indicated the appellant could experience a relapse in his condition, Dr. K. does not confirm that any relapse or deterioration in the appellant's condition has occurred between the date of Dr. L.'s reports and the more recent assessment by Dr. K.

• Social Functioning: Dr. K. indicates a severe impairment with the appellant's social contacts and networks due to the appellant's isolative nature secondary to his condition. While Dr. K.'s information suggests that Social Functioning is continuously restricted, Dr. L. reported that the appellant has no restrictions in any areas of Social Functioning, and has good functioning with his social networks when he is receiving treatment for his schizophrenia.

Again, there is no explanation for the inconsistent information. Some problems with communication and social functioning were identified in the hospital reports that form part of the reconsideration record and Dr. K. refers to the appellant's previous hospitalizations; however, the hospital reports indicate that the appellant's most recent hospitalization was in February 2016. While Dr. K.'s evidence and the hospital reports indicate that impaired social functioning is a feature of the appellant's diagnosis, there is no evidence of any relapses or hospitalizations [since the last hospitalization] to refute Dr. L.'s information that the appellant is unrestricted with Social Functioning when his condition is stable.

• Medications: Dr. K. indicates the appellant is continuously restricted with managing medications as he still struggles with insight, remains certified under the *Mental Health Act* [but continues on leave], and receives his medication via monthly injection to ensure compliance with his treatment. While the hospital reports indicate the appellant has had occasions where he did not feel he needed to start or remain on medication, Dr. L.'s evidence in the PR is that the appellant is not restricted in managing medications. In the AR, Dr. L. indicates the appellant is independent with all areas of Medications including refilling prescriptions. The panel notes that refilling prescriptions would correspond with presenting for monthly injections. Again, there is no update from either prescribed professional to explain discrepancies in their information.

Another discrepancy in the information regarding Medications is that Dr. K. reports side effects - sedation and excessive hours of sleep - while Dr. L. indicates (in the PR) that the appellant's medication "may" interfere with his ability to perform DLA. The panel notes that neither prescribed professional indicates specific restrictions to DLA that are the result of medication side effects. Rather than sedation and excessive sleep, the appellant reports sleep disturbance with command hallucinations "all night long" resulting in tiredness and exhaustion that significantly restricts his ability to do his DLA. While he argues that other DLA are significantly restricted as a result of his tiredness caused by hearing voices at night [Shopping, Cooking, Basic Housekeeping, and Transportation] , there is no information from a prescribed professional, as required under the EAPWDA, to confirm that these DLA are directly and significantly restricted periodically for extended periods as reported by the appellant.

The appellant also argues that Dr. K.'s information is more reliable than Dr. L.'s because Dr. K. has more knowledge of the appellant's disorder and was asked (by Dr. L.) to provide information for the reconsideration. Despite Dr. K.'s training and expertise in treating the appellant's condition, the panel finds that the ministry reasonably determined that Dr. K.'s information, for the reasons set out above, falls short of satisfying the legislative criteria for restrictions to DLA under subsection 2(2)(b)(i) of the EAPWDA.

The legislation requires evidence of significant restrictions to DLA either continuously or periodically for extended periods as the result of a severe impairment. While the appellant's four hospitalizations since 2010 are evidence of periodic restrictions to DLA as a result of his severe impairment, they do not demonstrate that the restrictions are for extended periods. All of the hospital reports describe the appellant as much improved, stabilized, and able to function with his medication upon discharge into the community. As there is no evidence of any decline in the appellant's condition since his last hospitalization in February 2016 and Dr. K. indicates that he continues to receive his monthly injection medication, the panel finds that the ministry was reasonable in affording a greater weight to Dr. L.s information that indicates the appellant's condition is stable on his medication regime and that he is able to independently manage DLA as long as he remains on his medication. Accordingly, the panel finds that the ministry reasonably determined the criteria in subsection 2(2)(b)(i) of the EAPWDA were not met.

Help to perform DLA

Appellant's position

The appellant argues that as his DLA are directly and significantly restricted periodically for extended periods, "it can be inferred that significant help from other people is required". The appellant reports that his mother comes to his place to clean as he cannot manage Basic Housekeeping due to tiredness and exhaustion from command hallucinations.

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.

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 the appellant indicates that his mother helps him with housekeeping, Dr. L. states "none" with regard to assistance provided by other people and Dr. K. does not comment on what help is needed for the DLA he identifies as restricted. As the panel found that the ministry reasonably determined the information provided did not confirm significant restrictions to DLA, the panel accordingly 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 section 24(2)(a) of the *Employment and Assistance Act* and the appellant is not successful in his appeal.