

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the ministry) reconsideration decision dated December 12, 2016, which found that the appellant did not meet three of the five statutory requirements of Section 2 of the *Employment and Assistance for Persons with Disabilities Act* for designation as a person with disabilities (PWD). The ministry found that the appellant met the age requirement and that her impairment is likely to continue for at least two years. However, the ministry was not satisfied that the evidence establishes that:

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

PART D – Relevant Legislation

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

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

PART E – Summary of Facts

The evidence before the ministry at the time of the reconsideration decision included the Persons With Disabilities (PWD) Application comprised of the applicant information and self-report dated May 10, 2016, a physician report (PR) dated June 24, 2016 and completed by a general practitioner (GP) who has known the appellant for 4 years and who has seen the appellant 2 to 10 times in the past year, and an assessor report (AR) dated July 27, 2016 and completed by a registered physiotherapist (PT) who has known the appellant for 2 years and has seen her 2 to 10 times in the past year.

The evidence also included the following documents:

- 1) Medical Report- Employability dated May 12, 2016 completed by the GP who completed the PR; and,
- 2) Request for Reconsideration stamped received by the ministry November 28, 2016, with attached handwritten pages.

Diagnoses

In the PR, the GP diagnosed the appellant with Fibromyalgia (FM), Major Depressive Episode (MDE), both with an onset in June 2015 and Hashimoto's Thyroiditis- hypothyroid, with no date of onset. Asked to describe the appellant's mental or physical impairments that impact her ability to perform daily living activities, the PT wrote: "...musculoskeletal pain, reduced movement; reduced strength, fatigue, reduced endurance."

Physical Impairment

In the PR, the GP reported that:

- In terms of health history, the appellant has "...severe symptoms for more than 1 year; extreme fatigue; extreme pain all her muscles and joints."
- The appellant does not require any prostheses or aid for her impairment.
- For functional skills, the appellant can walk 1 to 2 blocks unaided, climb 5 or more steps unaided, lift 2 to 7 kg. (5 to 15 lbs.), and remain seated 1 to 2 hours.

In the AR, the PT indicated that:

- The appellant is independent with walking indoors and walking outdoors, climbing stairs, and standing (note: "limited duration, less than 5 minutes"). There is no assessment of a need for assistance with lifting and the PT wrote that the appellant has "reduced tolerance." There is no assessment of a need for assistance with carrying and holding, and the PT wrote "reduced strength." The PT provided additional comments: "...reduced tolerance to walking less than 1 block, standing less than 5 minutes; reduced activity re: symptoms."

In her self-report, the appellant wrote that:

- She has total fatigue, agonizing pain, lack of strength, restricted movement, and trouble breathing.
- She hurts from her neck to her toes.
- She cannot stand in line-ups without extreme pain and her knees give out. She has to sit down or lean on something.
- Her hips, knees, and ankles hurt if she walks too much, and she has to sit.
- Her breathing gets bad if she moves too much. She feels out of breath and has to sit down.

In her Request for Reconsideration, the appellant wrote that:

- She is in horrible shape. Her FM is extreme now and her COPD is worsening.
- She has to use an inhaler daily. She is always out of breath.
- The longer she walks, the more painful it is. Her legs feel heavy and hard to lift.
- She is in excruciating pain all over her body from head to toes.
- When trying to walk up or down stairs, she gets stabbing pains in her knees.
- The more she does, the more she hurts and the more pills she needs to get the pain to lessen to a bearable level. It never goes away. The more pills, the more damage to her liver and ulcer.

Mental Impairment

In the PR, the GP reported:

- In terms of health history, the appellant has "...poor sleep, memory and concentration; depressed mood; anhedonia."
- The appellant has no difficulties with communication.
- The appellant has significant deficits in her cognitive and emotional functioning in the areas of executive, memory, emotional disturbance, motivation, attention or sustained concentration, with no additional comments provided.
- The appellant is not restricted in her social functioning.

In the AR, the PT reported that:

- The appellant has a good ability to communicate in all areas, specifically with speaking, reading, writing, and hearing.
- For the sections of the AR assessing impacts to cognitive and emotional functioning and social functioning, the PT indicated that these sections are not applicable to the appellant. The PT wrote: "no identified impairment/ brain injury; beyond scope of physiotherapy to comment."

In her Request for Reconsideration, the appellant wrote that she is very saddened by her declining health.

Daily Living Activities (DLA)

In the PR, the GP indicated that:

- The appellant has not been prescribed medication that interferes with her ability to perform DLA.
- The appellant's impairment directly restricts her ability to perform DLA and she is continuously restricted with basic housework, daily shopping and mobility outside the home. The appellant is not restricted in performing her personal self care, meal preparation, management of medications, mobility inside the home, use of transportation, management of finances, and social functioning.
- The GP commented that the appellant "is able to walk short distances only due to pain."
- Regarding the degree of restriction, the GP wrote that "her symptoms are severe and make work near impossible."

In the AR, the PT reported that:

- In the AR, the appellant is independently able to perform every task of all listed DLA, specifically: move about indoors and outdoors, personal care, basic housekeeping, shopping, meals, pay rent and bills, medications, and transportation.

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- For additional comments, the PT wrote that the appellant is “able to complete [DLA] with symptoms (pain, decreased movement); needs to pace activity due to fatigue/low energy/poor endurance” and she is “cognitively capable, physically/functionally limited.”

In her self-report, the appellant wrote that:

- It is so bad that she cannot work right now. Her pain, lack of energy and movement make it impossible to work.
- She is not healthy enough to work or have a life. When she had to force herself to work, she had to take pain relievers and muscle relaxants, which are hard on her liver and her ulcer.

Need for Help

When asked in the PR to describe the assistance the appellant needs with DLA, the GP wrote that “she is unable to do regular house work; she needs help carrying shopping bags.” In the AR, the PT did not identify any persons that provide help and wrote “independent, with physical/ functional limitations.” For help required when none is available, the PT wrote that the appellant “has limited tolerance to heavy, repetitive or continuous activities. Help with lifting, carrying, etc. would be beneficial. Help with housekeeping, laundry, carrying groceries would be beneficial.” In the section of the AR relating to assistance provided through the use of assistive devices, the PT identified splints and braces and wrote “nothing used. Would benefit from wrist splint, possibly knee braces. May benefit from respiratory assessment by Respiratory Therapist, query sleep apnea.”

Additional Information submitted after reconsideration

In her Notice of Appeal dated December 22, 2016, the appellant expressed her disagreement with the ministry’s reconsideration decision and wrote that:

- She is in terrible shape and she wonders if she has to be dying to be designated a PWD.
- The process is causing stress and makes her even worse as FM gets worse with stress.
- Fatigue is debilitating and depression is a problem too.
- The pain is incredible.

At the hearing, the appellant stated that:

- Her doctor recommended that she go off work, telling her that she should get better. That has not happened and now her FM is so debilitating that she cannot work. Everything she does causes fatigue.
- She can only do a little sweeping, and then she has to sit down.
- She used to be strong and had no trouble working hard.
- She needs help but she is on such a limited budget that she cannot afford to hire help.
- Around her house she has trouble doing basic things because it takes so much energy. This depresses her, which makes things worse.
- She want to be able to do the things she used to, but her “body does not agree.” She had a traumatic incident about 10 years ago and her FM became extreme.
- She had been building up a business and her work became harder and harder to complete. She had to let go of extra work because she found she could not recuperate on the weekends like she used to be able to do.
- She kept hoping that she would feel better. She never thought she would be so disabled at such a young age.
- She feels like she has the flu all the time. The fatigue is terrible.
- It is impossible for her to get a job in this condition. Social assistance is only being provided to

her because she has applied for disability, but if she is denied she will be cut off and she does not know what she will do.

- It is “killing” her with how little she can do but her health will not allow her to do things. She cannot even properly do her own housekeeping. She does a minimal amount but many things go undone and her house is messy. She can only clean for a few minutes and then she has to sit down again. She has to live the way she is because there is only so much she can do at a time. She has a friend who visits every couple of weeks and, when she visits, she will do some of the light cleaning duties that the appellant cannot do.
- She is having trouble even sitting and talking because her COPD makes it hard for her to breathe. She cannot go a day without using her inhaler because of her trouble breathing. She is surprised that her doctor did not discuss this more in the PWD application. Her lungs are having trouble.
- The stress is also hard to manage.
- She has tried to explain in her letters and notes that she knows she cannot work.
- Climbing the four stairs in her home is hard on her some days. She has to hold on to things, or lean on things because her legs start to give out.
- When she started her business, she thought she would be able to work for 20 years, but had to stop after 10 years due to her impairments.
- She realizes that when the PT asked her about the things she could do, she did not want to admit that she needs help with most things. She thought she would get better and she does not like telling people she cannot do things.
- She thinks it is hard for people to understand the impact from FM. She needs help.

The ministry relied on its reconsideration decision. At the hearing, the ministry clarified that:

- While there is usually an expectation of a person in receipt of regular income assistance that they will work or search for employment, there are exceptions to the rule.
- If a person has a medical condition that is a barrier to being employed, as it sounds like the appellant may have, and these are confirmed by the doctor, the person may be excused by the ministry from looking for work or, if a recipient of income assistance for a year, may qualify for the Persons with Persistent Multiple Barriers (PPMB) status with the ministry and the person will qualify for income assistance and is then excused from the requirement to look for work for two years, after which time the person’s PPMB status is re-assessed.
- With respect to the PWD designation, a person’s employability is not a factor that is considered according to the legislation.

Admissibility of Additional Information

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

PART F – Reasons for Panel Decision

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

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

Persons with disabilities

2 (1) In this section:

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

"daily living activity" has the prescribed meaning;

"prescribed professional" has the prescribed meaning.

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

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

The EAPWDR provides as follows:

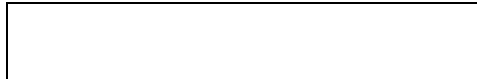
Definitions for Act

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

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

(i) prepare own meals;

(ii) manage personal finances;



- (iii) shop for personal needs;
 - (iv) use public or personal transportation facilities;
 - (v) perform housework to maintain the person's place of residence in acceptable sanitary condition;
 - (vi) move about indoors and outdoors;
 - (vii) perform personal hygiene and self care;
 - (viii) manage personal medication, and
- (b) in relation to a person who has a severe mental impairment, includes the following activities:
- (i) make decisions about personal activities, care or finances;
 - (ii) relate to, communicate or interact with others effectively.

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

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

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

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

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

if qualifications in psychology are a condition of such employment.

Part 1.1 — Persons with Disabilities

Alternative grounds for designation under section 2 of Act

2.1 The following classes of persons are prescribed for the purposes of section 2 (2) [persons with disabilities] of the Act:

- (a) a person who is enrolled in Plan P (Palliative Care) under the Drug Plans Regulation, B.C. Reg. 73/2015;
- (b) a person who has at any time been determined to be eligible to be the subject of payments made through the Ministry of Children and Family Development's At Home Program;
- (c) a person who has at any time been determined by Community Living British Columbia to be eligible to receive community living support under the Community Living Authority Act;
- (d) a person whose family has at any time been determined by Community Living British Columbia to be eligible to receive community living support under the Community Living Authority Act to assist that family in caring for the person;
- (e) a person who is considered to be disabled under section 42 (2) of the Canada Pension Plan (Canada).

The positions of the parties

Appellant's position

The appellant's position is that she has a severe physical impairment as her doctor diagnosed her with FM with an onset in June 2015 and Hashimoto's Thyroiditis- hypothyroid and her COPD is worsening. The appellant wrote in her self-report that she has total fatigue, agonizing pain, lack of strength, restricted movement, and trouble breathing. The appellant wrote in her Request for Reconsideration that she is in excruciating pain all over her body from her head to her toes, she gets stabbing pain in her knees when trying to walk up or down stairs, and the more she does, the more she hurts and the more pain relief medication she needs to take to get the pain to a bearable level, but the pain never goes away. The appellant's position is that she has a severe mental impairment and she wrote in her Request for Reconsideration that she is saddened by her declining health and the appellant stated at the hearing that she had a traumatic experience about 10 years ago, which exacerbated her conditions. The appellant's position is that her severe physical and mental impairment directly and significantly restricts her ability to perform DLA on an ongoing basis and her friend has to help her.

Ministry's position

The ministry's position, as set out in the reconsideration decision, is that there is insufficient evidence to establish that the appellant has a severe physical or mental impairment as required by Section 2(2) of the EAPWDA. The ministry wrote that the GP indicated that the appellant is able to walk 1 to 2 blocks unaided, climb 5 or more steps unaided, lift 2 to 7 kg. (5 to 15 lbs.), and remain seated 1 to hours and that she does not require an aid for her impairment. The ministry also wrote that the PT reported that the appellant is independently able to manage walking indoors, walking outdoors, climbing stairs, standing, lifting and carrying and holding, with some comments regarding reduced tolerance and strength. The ministry wrote that the assessments of the appellant's physical functioning as provided by the GP and the PT are more in keeping with a moderate degree of physical impairment, and the ministry emphasized at the hearing that the appellant's employability is not taken into consideration for the purposes of determining eligibility for PWD designation. The ministry wrote that the GP reported that the appellant has significant deficits to areas of cognitive and emotional functioning but the PT indicated that there was no identified impairment/brain injury and both the GP and PT reported no difficulties with communication and no restrictions to social functioning.

As to DLA, the ministry's position is that the information from the prescribed professionals does not establish that the appellant's impairment significantly restricts her DLA either continuously or periodically for extended periods of time. The ministry wrote that the GP indicated that the appellant is continuously restricted with basic housework, daily shopping, and mobility outside the home, but the PT reported that the appellant is able to manage all aspects of her DLA independently and, considering the additional narrative of the PT, the ministry wrote that the information is indicative of a moderate level of restriction. The ministry's position is that because it has not been established that DLA are significantly restricted, it cannot be determined that significant help is required.

Panel Decision

Severe Physical Impairment

A diagnosis of a serious medical condition does not in itself determine PWD eligibility or establish a "severe" impairment. An "impairment" is a medical condition that results in restrictions to a person's ability to function independently or effectively.

To assess the severity of an impairment, the ministry must consider both the nature of the impairment and the extent of its impact on daily functioning as evidenced by functional skill limitations and the degree to which the ability to perform DLA is restricted. In making its determination the ministry must consider all the relevant evidence, including that of the appellant. However, the legislation is clear that the fundamental basis for the analysis is the evidence from a prescribed professional – in this case the appellant’s GP and the PT.

In the PR, the GP diagnosed the appellant with FM with an onset in June 2015 and Hashimoto’s Thyroiditis- hypothyroid and wrote that the appellant has “...severe symptoms for more than 1 year; extreme fatigue; extreme pain [in] all her muscles and joints.” In her Request for Reconsideration, the appellant wrote that her FM is extreme now and her COPD is worsening so she has to use an inhaler daily and she is always out of breath. At the hearing, the appellant stated that she was having trouble even sitting and talking because her COPD makes it hard for her to breathe and she cannot go a day without using her inhaler because of her trouble breathing. The appellant acknowledged that her GP did not refer to her COPD or any impacts from this condition, and she had been surprised by this omission. The appellant also wrote in her Request for Reconsideration that the longer she walks, the more painful it is as her legs feel heavy and hard to lift. The appellant wrote that when she tries to walk up or down stairs, she gets stabbing pains in her knees. At the hearing, the appellant stated that she sometimes has difficulty with the 4 stairs in her home and she has to lean on something. She stated that she cannot stand in a line-up for very long without experiencing pain and having to sit down. The appellant wrote that the more she does, the more she hurts, and the more pain relief medication she needs to take to get the pain to a bearable level, but the pain never goes away.

The GP reported in the PR that the appellant can walk 1 to 2 blocks unaided, climb 5 or more steps unaided, lift 5 to 15 lbs., and remain seated 1 to 2 hours, and that she does not require any prostheses or aid for her impairment. In the AR, the PT indicated that the appellant is independent with walking indoors and walking outdoors, climbing stairs, and standing, with “limited duration, less than 5 minutes” for standing. There is no assessment by the PT of a requirement for assistance with lifting, and the PT noted that the appellant has “reduced tolerance,” and no requirement for assistance for carrying and holding, with a note that the appellant has “reduced strength.” For help required when none is available, the PT wrote in the AR that the appellant “has limited tolerance to heavy, repetitive or continuous activities” and “help with lifting, carrying, etc. would be beneficial,” with no further comments by the PT to indicate that the appellant’s lifting ability is less than the 5 to 15 lbs. range for functional skills, as reported by the GP.

The PT provided additional comments: “reduced tolerance to walking less than 1 block, standing less than 5 minutes; reduced activity re: symptoms,” which is indicative of a mobility level lower than the 1 to 2 blocks range for functional skills, as reported by the GP. In the section of the AR relating to assistance provided through the use of assistive devices, the PT reported that none of the listed assistive devices are used by the appellant, and no aids to mobility such as a cane are identified as required by the appellant, but the PT reported that the appellant “would benefit” from using a wrist splint and possibly knee braces.

As discussed in more detail in these reasons for decision under the heading “Restrictions in the Ability to Perform DLA”, the evidence indicates that the limitations to the appellant’s physical functioning have not directly and significantly restricted her ability to perform her DLA either continuously or for extended periods, as required by the EAPWDA

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Given the report by the GP and the PT of a moderate level of physical functioning without the assistance of another person or an assistive device, the panel finds that the ministry reasonably determined that there is not sufficient evidence to establish that the appellant has a severe physical impairment under Section 2(2) of the EAPWDA.

Severe Mental Impairment

The GP diagnosed the appellant with MDE with an onset in June 2015 and reported that the appellant has "...poor sleep, memory and concentration; depressed mood; anhedonia." The GP reported in the PR that the appellant has significant deficits in her cognitive and emotional functioning in the areas of executive, memory, emotional disturbance, motivation, attention or sustained concentration, with no additional comments provided. However, for the sections of the AR assessing impacts to cognitive and emotional functioning, the PT indicated that this section is not applicable to the appellant and there is "no identified impairment/ brain injury" and it is "beyond scope of physiotherapy to comment." While the appellant wrote that she is very saddened by her declining health, the GP reported in the PR that the appellant is not restricted in her social functioning, and the PT indicated that the section of the AR for assessing impacts to areas of social functioning is not applicable to the appellant. Both the GP and the PT reported that the appellant has a good ability to communicate.

Given the absence of evidence from the GP and the PT of significant impacts to the appellant's cognitive, emotional and social functioning, the panel finds that the ministry reasonably determined that a severe mental impairment was not established under Section 2(2) of the EAPWDA.

Significant restrictions in the ability to perform DLA

Section 2(2)(b) of the EAPWDA requires that the ministry be satisfied that a prescribed professional has provided an opinion that an applicant's severe impairment directly and significantly restricts her DLA, continuously or periodically for extended periods. In this case, the GP and the PT are the prescribed professionals. DLA are defined in Section 2(1) of the EAPWDR and are also listed in the PR and, with additional details, in the AR. Therefore, the prescribed professionals completing these forms have the opportunity to indicate which, if any, DLA are significantly restricted by the appellant's impairments either continuously or periodically for extended periods.

In the appellant's circumstances, the GP reported in the PR that the appellant has not been prescribed medication that interferes with her ability to perform DLA. The GP indicated that the appellant's impairment directly restricts her ability to perform DLA and she is continuously restricted with basic housework, daily shopping and mobility outside the home commenting that she "is able to walk short distances only due to pain." When asked in the PR to describe the assistance the appellant needs with DLA, the GP wrote that "she is unable to do regular house work; she needs help carrying shopping bags." Regarding the degree of restriction with these DLA, the GP wrote that "her symptoms are severe and make work near impossible." In her self-report, the appellant wrote that her condition is so bad that she cannot work right now, that her pain, lack of energy and movement make it impossible to work. The panel finds that the ministry reasonably determined that employability is not a criterion in section 2(2) of the EAPWDA nor is it listed among the prescribed daily living activities in section 2 of the EAPWDR.

The GP reported that the appellant is not restricted in performing several DLA, specifically: personal self care, meal preparation, management of medications, mobility inside the home, use of

transportation, management of finances, and social functioning. In the AR, the PT assessed the appellant as independently able to perform every task of all listed DLA, specifically the move about indoors and outdoors DLA, the personal care DLA, the basic housekeeping DLA, the shopping DLA, the meals DLA, the pay rent and bills DLA, the medications DLA, and the transportation DLA. For help required when none is available, the PT wrote that the appellant “has limited tolerance to heavy, repetitive or continuous activities. Help with lifting, carrying, etc. would be beneficial. Help with housekeeping, laundry, carrying groceries would be beneficial.” At the hearing, the appellant stated that she cannot even properly do her own housekeeping, that she does a minimal amount but many things go undone and her house is messy. The appellant stated she can only clean for a few minutes and then she has to sit down and there is only so much she can do at a time. The appellant stated that she has a friend who visits every couple of weeks and she will do some of the light cleaning the appellant cannot do. The PT wrote in the AR that the appellant is “able to complete [DLA] with symptoms (pain, decreased movement); needs to pace activity due to fatigue/low energy/poor endurance” and she is “cognitively capable, physically/functionally limited.”

Considering the absence of evidence from the GP and the PT, as the prescribed professionals, of the need for assistance with DLA or that the DLA take the appellant significantly longer than typical, the panel finds that the ministry reasonably concluded that there is not enough evidence from the prescribed professional to establish that the appellant’s impairment significantly restricts her ability to manage her DLA either continuously or periodically for extended periods, thereby not satisfying the legislative criterion of Section 2(2)(b)(i) of the EAPWDA.

Help to perform DLA

Section 2(2)(b)(ii) of the EAPWDA requires that, as a result of direct and significant restrictions in the ability to perform DLA, a person requires help to perform those activities. Help is defined in subsection (3) as the requirement for an assistive device, the significant help or supervision of another person, or the services of an assistance animal in order to perform a DLA.

While the appellant stated that she benefits from the occasional help from a friend for housework and the PT wrote in the AR that the appellant would benefit from using a wrist splint and possibly knee braces, the panel finds that the ministry reasonably determined that as direct and significant restrictions in the appellant’s ability to perform DLA have not been established, it cannot be determined that the appellant requires help to perform DLA as a result of those restrictions, as defined by Section 2(3)(b) of the EAPWDA.

Conclusion

Having reviewed and considered all of the evidence and relevant legislation, the panel finds that the ministry’s reconsideration decision, which determined that the appellant was not eligible for PWD designation under Section 2 of the EAPWDA, was reasonably supported by the evidence and therefore confirms the decision. The appellant’s appeal, therefore, is not successful.