

## PART C – Decision under Appeal

The decision under appeal is the reconsideration decision of the Ministry of Social Development and Social Innovation (the Ministry) dated December 9, 2016, which held that the appellant did not meet 3 of the 5 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 a medical practitioner confirmed that the appellant has an impairment that is likely to continue for at least 2 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 those restrictions, in the opinion of a prescribed professional, the appellant requires an assistive device, the significant help or supervision of another person, 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

Information before the Ministry at reconsideration included:

- PWD application comprised of a Physician Report (PR) dated June 29, 2016 and an Assessor Report (AR) dated July 19, 2016, which were both completed by the appellant's general practitioner (GP) of 7 months;
- Appellant's Self-report (SR) dated March 1, 2016;
- Appellant's undated Reconsideration Request Submission comprising the following documents:
  - Undated typed document prepared by an advocate on behalf of the appellant summarizing the information in the appellant's original PWD application and the Ministry's original decision;
  - Undated narrative report prepared by the appellant's previous general practitioner (Previous GP) summarizing the results of the appellant's visits to the Previous GP and other specialists and medical treatments provided between May 23, 2014 and November 19, 2015;
  - Undated letter from the appellant's mother identifying DLA with which the appellant has difficulties; and
  - Document entitled "Concussion: When Recovery Is Complicated By Vestibular Involvement and How Vestibular Rehabilitation Can Help" published by the Vestibular Disorders Association;
- Letter summarizing the results of an examination of the appellant conducted by a consulting neurologist, dated July 29, 2016; and
- November 18, 2016 Request for Reconsideration from the appellant.

### **Additional Information**

The Notice of Appeal (NOA), which is signed and dated December 13, 2016, states that the appellant believes that he meets the criteria of a PWD as defined in the EAPWDA but provides no further information.

The appellant provided a 44 page submission dated December 30, 2016 (the Additional Submission) containing information that the appellant said he had provided to the ministry with the original PWD application but which were not included in the appeal file and "a few extra (documents)". The submission included the following:

- 1) Medical Imaging Report relating to a Computerized Tomography (CT) scan of the appellant's cervical spine dated January 4, 2015;
- 2) ICBC Report prepared by the Previous GP on behalf of the appellant and dated June 29, 2015;
- 3) Letter summarizing the results of an examination of the appellant conducted by an ear, nose, and throat (ENT) specialist (the ENT Specialist) and dated September 3, 2014;
- 4) Social Planning and Research Council of BC (SPARC BC) parking permit application form for a PWD parking permit prepared by the appellant and dated October 26, 2016;
- 5) Ministry Medical Report - Employability Form prepared by a general practitioner in the appellant's home community on behalf of the appellant and dated August 19, 2016;

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- 6) Interdisciplinary Triage Discharge Report on the appellant prepared by an occupational therapist and dated May 10, 2016;
  - 7) Letter summarizing the results of an examination of the appellant conducted by a consulting neurologist (the Neurologist), dated March 16, 2015;
  - 8) Interdisciplinary Triage Assessment of the appellant prepared by a different occupational therapist and dated July 7, 2015;
  - 9) Letter summarizing the results of an examination of the appellant conducted by the ENT Specialist and dated November 19, 2015;
  - 10) Letter summarizing the results of an examination of the appellant conducted by a physical medicine and rehabilitation physician (the Rehabilitation Physician), dated March 20, 2015; and
  - 11) Letter summarizing the results of an examination of the appellant conducted by the Rehabilitation Physician, dated June 12, 2015.

The Ministry did not object to the new information being admitted into evidence. The panel admitted the additional written information into evidence pursuant to section 22(4) of the EAA as the information therein was consistent with the information before the ministry at reconsideration and was therefore in support of the information available at reconsideration.

No additional written evidence was submitted by the appellant at the hearing.

The Ministry did not provide additional evidence on appeal and relied on its reconsideration decision. The Ministry explained that, while evidence in the SR and other documentation submitted with a PWD application is taken into consideration, the Ministry relies on the PR and the AR as the main sources of information to inform its decision.

## **Summary of relevant evidence**

### *Diagnoses and history*

The appellant's GP provides the following diagnoses:

- Post concussive vestibulopathy (onset date not specified but likely either December 2013 or September 2014 - see below)

In the PR, the appellant's GP provides a summary of the appellant's health history as documented by the appellant's Previous GP. The summary of the appellant's health history provided by the appellant's GP in the PR accurately reflects information in the narrative report prepared by the appellant's Previous GP summarizing the results of the appellant's visits to the Previous GP and other specialists and medical treatments provided between May 23, 2014 and November 19, 2015.

In the PR, the appellant's GP states that the appellant was involved in two motor vehicle accidents; one in December 2013 and another in September 2014. The appellant was not seen by his Previous GP until May 2014. At that time the appellant received a cervical spine/CT scan of the head and cervical spine which "did not reveal any worrisome pathology".

In the PR the appellant's GP also indicated that the appellant has been assessed by a neurologist, an ENT specialist, and a rehabilitation specialist and has attended physiotherapy and massage therapy with no obvious benefits, although "all investigations were negative for worrisome pathology". In the

appellant's health history section of the PR, the GP also states that the Previous GP has indicated that the appellant has been advised to become involved in an "active exercise approach" to address his symptoms, rather than to focus on passive therapies, such as massage therapy, which have only provided him with temporary relief. The Previous GP has reported that the appellant does not want to participate in an active exercise approach due to his fear that the symptoms will be aggravated as a result. The Previous GP concluded that the appellant should be referred to a pain clinic and that "no further investigation will be useful".

The letter summarizing the results of an examination of the appellant conducted by a consulting neurologist, dated July 29, 2016, which was before the ministry at reconsideration, states that the consulting neurologist "indicated to (the appellant) that, despite some physicians recommend(ing) chronic pain management, he is not eligible for the (local) Health Authority Pain Clinics ... since he has ongoing litigation and an ICBC claim (outstanding)" and that the only resource available to him would be to attend a private pain clinic which would require private funding.

Several of the documents provided in the Additional Submission, including items 1, 3, 7, 9, 10 and 11 above, comprised some of the specialist reports referred to by the appellant's Previous GP in his undated narrative report summarizing the results of the appellant's visits and medical treatments which formed some of the information available to the Ministry at reconsideration. Some of the information in the Additional Submission is factually incorrect. For example, item 6 (Interdisciplinary Triage Discharge Report) says that the appellant is awaiting a CT scan when in fact the Previous GP's written testimony and item 1 of the Additional Submission provides evidence that at least two CT scans had already been undertaken: one in July 2014 (according to the Previous GP's evidence) and another on January 4, 2015 (item 1 in the Additional Submission), neither of which showed any significant abnormalities or physical damage according to the specialists who interpreted the CT scan results.

At the hearing the appellant stated that he has attempted to participate in an "active exercise approach" as recommended by the Previous GP, the ENT Specialist, one of the occupational therapists, the Neurologist and the Rehabilitation Physician, but whenever he attempts to complete any of the various exercises he has been prescribed his pain gets worse.

### Physical Impairment

In the PR and AR, the GP provides the following information:

- The appellant is able to walk unaided on a flat surface (4+ blocks) without taking a rest but that he gets dizzy and occasionally loses his balance while walking;
- The appellant can climb 5+ steps unaided;
- The appellant is able to lift under 15 - 35 lbs. but is not able to hold objects for a long time; and
- The appellant can remain seated for less than 1 hour.

In the PR the appellant's GP also summarized the Previous GP's consultation notes which indicated that "the prognosis for a full recovery is guarded", and that the appellant's "pain has persisted for more than 2 years and he is focus(ed) on passive therapies." The GP also states that both he and the Previous GP believe that participating in more physical activities might resolve or minimize the appellant's impairment.

In the AR the GP indicated that the appellant was independent with respect to walking indoors but required periodic assistance in walking outdoors, climbing stairs, standing, lifting and carrying and holding. While the GP did not explain or specify what assistance devices were required for these activities, he commented that the appellant gets intermittent dizziness while walking outdoors and the risk of him falling is higher than normal.

At the hearing, the appellant explained that his inability to carry or hold objects for any length of time is the result of his difficulty with balance rather than muscle degeneration. He also stated that on some days he walks for exercise but that the distance he covers is 2 kilometers to his family's mail box, not the maximum 8 and 9 kilometers referred to in two of the medical reports. He said that he requires the use of trekking poles to maintain his balance, and uses the trekking poles rather than a walker or cane because he finds it a more effective walking aid and because it makes him less self-conscious when he encounters other people on his walks.

### Mental Impairment

In the PR, the GP indicates that the appellant has no difficulties with communication and that he has no significant difficulties with cognitive and emotional function.

In the AR, the GP states that the appellant's abilities to speak, read, write and hear are all good and with respect to cognitive and emotional functioning. The GP also indicates that the appellant has a mental impairment with motor activity and attention/concentration that has minimal impact on daily functioning and a lack of initiative and loss of interest (motivation) that has a moderate impact on daily functioning. The GP did not indicate that these impairments were episodic or varied over time and provided no further commentary.

In the SR, the appellant indicates that he has attempted suicide in the past, but at the hearing the appellant explained that his impairment is physical rather than mental and in the PR the GP indicates that there are no significant deficits with cognitive and emotional functioning and there is no evidence in the PR or the AR of the appellant having suicidal ideation or thoughts of self harm.

### DLA

In the PR, the GP reports periodic restrictions with meal preparation, basic housework, daily shopping, mobility outside the home, and use of transportation. The GP states that the appellant has limitation to activities which involve bending, reaching, and standing for a long time. In addition driving for a long time makes him dizzy, results in numbness in both arms, and gives him pain in his upper back. The GP also comments that, while the appellant's social functioning is not restricted, it is impacted to the extent that he is not able to socialize due to pain and imbalance. The GP does not indicate the frequency or duration of any periodic restrictions.

In the AR, the GP reports that all aspects of personal care (dressing, grooming, bathing, toileting, self feeding, diet regulation and transfers in and out of both bed and chairs) are independently managed.

With respect to basic housekeeping, the GP indicates in the AR that laundry takes significantly longer than typical, but he does not describe how much longer. In the letter from the appellant's mother identifying DLA with which the appellant has difficulties, she indicates that the appellant has trouble doing laundry but does not elaborate. In his SR, the appellant explains that using his arms below his

waist or above his shoulders causes pain and discomfort and that as a result he sits on the floor to do his laundry because it is the only way he can tolerate it. In the AR the GP also states that basic housekeeping requires the periodic assistance from another person, but does not explain or describe how often or what type of assistance is required. In the appellant's mother's letter she says that the appellant has difficulty unloading the dishwasher because it involves bending down and then reaching above his head, but there is no indication that periodic assistance is required. In his SR, the appellant says that he usually washes the dishes in the sink because it is less painful than using a dishwasher.

Regarding shopping, the GP indicates in the AR that the appellant requires periodic assistance from another person in going to and from stores and carrying purchases home, but does not elaborate.

The GP also reports in the AR that the appellant is independent with respect to meal planning, food preparation and safe storage of food but required periodic help with cooking. In her letter, the appellant's mother states that the appellant has trouble cooking meals because of the standing and reaching required and that most of his meals have to be made for him. In his SR the appellant states that when he is in too much pain to cook and no one is available to cook for him he simply does not eat.

The GP indicates in the AR that the appellant is independent in all aspects of banking, budgeting, paying bills, filling prescriptions, taking medication as directed, the safe handling and storage of medications, getting in and out of a car, using transit schedules and arranging transportation. The GP does report that the appellant requires periodic assistance from another person in using public transit because "standing in public transit and waiting is difficult".

The GP also indicates in the AR that the appellant is independent in all aspects of social functioning: he makes appropriate social decisions, he is able to develop and maintain relationships, he interacts appropriately with others, he is able to deal appropriately with unexpected demands, and he is able to secure assistance from others. The GP also indicates that the appellant has good functioning with respect to both his immediate and his extended social networks.

In his SR, the appellant states that his social life is impacted to the extent that he does not go out often and he has to plan trips based on where he has an opportunity to sit down when necessary and how long it takes him to get there.

At the hearing the appellant also said that he is limited as to where he can shop and for how long. He avoids crowded places because he has balance problems in a crowd or under certain lighting conditions. He shops with a basket rather than a cart because he has difficulties pushing a cart. He likes to get in and out of the store quickly and if the line up at the cash register is too long he doesn't shop.

The appellant also explained that he can do some DLA on a given day but only one or two each day and any other DLA have to be postponed.

#### Need for Assistance

In the PR, the GP did not say whether or not the applicant requires any prostheses or aids for his impairment, but does report that the appellant gets help from his parent with DLA without providing

further specifics.

In the AR, the GP reports that the appellant lives with family and that he needs the help of family for DLA, but does not provide any information regarding what type of periodic assistance is provided, how often it is provided, or by whom. The GP indicates in the AR that the appellant uses trekking poles as an assistive device to help compensate for his impairment.

In the letter from the appellant's mother identifying DLA with which the appellant has difficulties, she indicates that most of his meals have to be made for him, and in his SR the appellant states that if he doesn't have his meals made for him when he is in pain he doesn't eat. There are no other references in the SR to assistance provided by family or others with respect to DLA.

At the hearing, the appellant stated that his mother prepares all of his meals for him and when she knows she will be away for a day or more she will cook him food in advance that he can reheat in the microwave. This also means that he has fewer dishes to wash. The appellant also stated that his mother does most of his basic housekeeping for him and that his father often drives him on errands because his ability to drive himself varies.

## PART F – Reasons for Panel Decision

### **Issue on Appeal**

The issue on appeal is whether the Ministry's decision to deny the appellant designation as a PWD was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the circumstances of the appellant. In particular, was the Ministry reasonable in determining that:

- a severe physical or mental impairment was not established;
- the appellant's DLA are not, in the opinion of a prescribed professional, directly and significantly restricted either continuously or periodically for extended periods; and
- as a result of those restrictions, in the opinion of a prescribed professional, the appellant does not require an assistive device, the significant help or supervision of another person, or the services of an assistance animal to perform DLA?

### **Relevant Legislation**

#### **EAPWDA**

2 (1) In this section:

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

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

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

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

- (a) in the opinion of a medical practitioner is likely to continue for at least 2 years, and
- (b) in the opinion of a prescribed professional
  - (i) directly and significantly restricts the person's ability to perform daily living activities either
    - (A) continuously, or
    - (B) periodically for extended periods, and
  - (ii) as a result of those restrictions, the person requires help to perform those activities.

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

- (a) a person who has a severe mental impairment includes a person with a mental disorder, and
- (b) a person requires help in relation to a daily living activity if, in order to perform it, the person requires
  - (i) an assistive device,
  - (ii) the significant help or supervision of another person, or
  - (iii) the services of an assistance animal.

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



## EAPWDR

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 authorized under an enactment to practice the profession of

- (a) medical practitioner,
- (b) registered psychologist,
- (c) registered nurse or registered psychiatric nurse,
- (d) occupational therapist,
- (e) physical therapist,
- (f) social worker,
- (g) chiropractor, or
- (h) nurse practitioner.

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### Severe Impairment

The legislation provides that the determination of severity of impairment is at the discretion of the minister, taking into account all of the evidence, including that of the appellant. However, the legislation is also clear that the fundamental basis for the analysis is the evidence from a prescribed professional respecting the nature of the impairment and its impact on daily functioning. While the legislation does not define "impairment", the PR and AR define "impairment" as a "loss or abnormality of psychological, anatomical or physiological structure or functioning causing a restriction in the ability to function independently, effectively, appropriately or for a reasonable duration." While this is not a legislative definition, and is therefore not binding on the panel, in the panel's opinion, it reflects the legislative intent and provides an appropriate analytical framework for assessing the degree of

impairment resulting from a medical condition.

### Physical Impairment

The appellant's position is that his vestibulopathy causes such significant dizziness and imbalance that he suffers from a severe physical impairment.

The Ministry's position is that while there is evidence from the prescribed professionals that the appellant has a physical impairment, the assessments provided do not establish that the appellant's impairment is severe.

### **Panel Decision**

The appellant is diagnosed with post concussive vestibulopathy.

To assess the severity of impairment one must consider the nature of the impairment and the extent of its impact on daily functioning, as evidenced by functional skill limitations and the degree to which the ability to perform DLA is restricted. The legislation makes it clear that the determination of severity is at the discretion of the minister, taking into account all of the evidence. However, the legislation is also clear that the fundamental basis for the analysis is the evidence from a medical practitioner and a prescribed professional – in this case, the appellant's GP.

The GP reports that several of the appellant's physical functional skills are not limited. For example, he has unlimited walking ability on a flat surface, he is unlimited in the number of stairs he can climb and he sometimes walks several kilometers at a time for exercise. The GP does note that the appellant sometimes gets dizzy or loses his balance. In addition, while he is able to lift up to 35 lbs, he is unable to hold objects for a long time and he can remain seated for less than one hour.

The legislation requires that for PWD designation, the minister must be satisfied that the person has a severe mental or physical impairment. For the minister to be satisfied that the person's impairment is severe, the panel considers it reasonable for the Ministry to expect that the information provided presents a clear and complete picture of the nature and extent of the impacts of the person's medical conditions on daily functioning, and that any impediments have a *significant* impact on functional skills such as walking, climbing, lifting and holding.

Based on the information contained in the SR, the PR, the AR, the Additional Submission, and the appellant's testimony at the hearing, the panel finds that the Ministry was reasonable when it determined that the information does not establish that the appellant has a *severe* physical impairment.

### Mental Impairment

Neither the appellant nor the GP identified a diagnosed mental condition.

The ministry's position is that the information provided by the GP respecting the ability to communicate and the appellant's cognitive, emotional and social functioning does not establish a severe mental impairment.

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***Panel Decision***

Based on the information contained in the SR, the PR, the AR, the Additional Submission, and the appellant's testimony at the hearing, which indicates that there are no significant deficits with cognitive and emotional functioning and that the appellant has no difficulties with communication, the panel finds that the Ministry was reasonable when it determined that the information does not establish that the appellant has a severe mental impairment.

**Restrictions in the ability to perform DLA**

The appellant argues that he is unable to perform many of his DLA and on days when he does successfully complete DLA he can only manage one or two of them and the other DLA have to be left to complete on subsequent days or be done by his mother or father.

The Ministry acknowledges that the appellant has certain limitations in his ability to perform DLA but that the restrictions are moderate or unspecified and that the GP has indicated that the appellant is independent with respect to the vast majority of them. Therefore, the Ministry concludes that the information provided by the GP does not establish that a severe impairment significantly restricts DLA continuously or periodically for extended periods.

At the hearing, the Ministry explained the distinction between a moderate and a severe impairment. The Ministry said that for DLA to be severely impacted the appellant would have to be unable to perform a significant number of DLA either continuously or periodically for extended periods in the opinion of a prescribed professional.

***Panel Decision***

The legislative requirement respecting DLA set out in section 2(2)(b) of the EAPWDA is that the minister be satisfied that as a result of a severe physical or mental impairment a person is, in the opinion of a prescribed professional, directly and significantly restricted in the ability to perform DLA either continuously or periodically for extended periods. Consequently, while other evidence may be considered for clarification or support, the Ministry's determination as to whether or not it is satisfied, is dependent upon the evidence from prescribed professionals. DLA are defined in section 2(1) of the EAPWDR and are listed in both the PR and the AR sections of the PWD application with the opportunity for the prescribed professional to check marked boxes and provide additional narrative.

In this case, the appellant's GP is the prescribed professional who has provided information addressing the appellant's ability to perform daily activities in both the PR and the AR.

In the PR, where asked if impairment directly restricts the appellant's ability to perform DLA, the GP reports that the appellant is periodically restricted with meal preparation, basic housework, daily shopping, mobility outside the home and use of transportation, without providing any information on the frequency or duration of the restrictions.

In the AR, where asked to indicate the assistance required related to impairment, the GP reports that the appellant is independent with respect to managing all aspects of his DLA (i.e. all personal care activities, shopping, meals, paying bills, taking medications, transportation and social functioning) with the exception of laundry (which the GP indicates takes the appellant significantly longer than

typical to complete), and other basic housekeeping, going to and from stores, carrying purchases home and cooking (for all of which the GP indicates the appellant requires periodic assistance). However, the GP does not indicate the frequency or extent of the periodic assistance required. One moderate and two minimal impacts on daily cognitive and emotional functioning are reported by the GP, but the GP does not report a corresponding impact on his ability to perform DLA.

The appellant and his mother indicate that there are some DLA that the appellant cannot manage and thus require continuous assistance; however, this level of restriction is not supported by the information from the GP.

Given the level of independence reported by the GP with respect to most DLA, the inconsistencies between the information provided by the GP, the appellant and his mother, and the lack of information regarding the frequency and extent of the periodic assistance for the remaining DLA tasks, it is difficult to obtain a clear, consistent and complete picture of the impacts of the appellant's impairments on his ability to perform DLA. Therefore the panel finds that the ministry was reasonable in determining that it had not been established that in the opinion of the prescribed professionals the appellant's impairment directly and significantly restricted his ability to perform DLA either continuously or periodically for extended periods.

### **Help to perform DLA**

The appellant states that he requires help from his mother for most basic housekeeping DLA including cooking, house cleaning and sometimes laundry, and that he often relies on his father to drive him to appointments and to run errands. In addition, the appellant argues that he must use trekking poles when walking to maintain his balance, and considers trekking poles to be an assistive device as defined in the EAPWDA.

The Ministry's position is that because it has not been established that DLA are significantly restricted, it cannot be determined that help is required. In addition, the Ministry states that trekking poles are not considered by the Ministry as an assistive device for the purpose of Section 2(1) of the EAPWDA.

### ***Panel Decision***

In addition to the other requirements set out in the legislation, Section 2(2)(b)(ii) of the EAPWDA requires that, as a result of direct and significant restrictions in the ability to perform DLA either continuously or periodically for extended periods, a person must also require help to perform those activities in order to qualify for a PWD designation. That is, the establishment of direct and significant restrictions under section 2(2)(b)(i) is a precondition for meeting the need for help criterion. 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 DLA.

An assistive device is defined in the EAPWDA as “ a device **designed** to enable a person to perform a (DLA) that, because of a severe mental or physical impairment, the person is unable to perform” (emphasis added). Trekking poles are a common hiking accessory designed to assist hikers by helping them to increase their average speed. Trekking poles also reduce the impact on a hiker's legs, knees, ankles, and feet. The panel finds that while it might be possible to use trekking poles as a substitute for a walker or a cane, they are not designed for that purpose, and therefore the panel

finds that the Ministry has reasonably determined that trekking poles are not an assistive device as defined in the EAPWDA.

The panel recognizes that the appellant benefits from the help of his mother and father, with whom he now lives. However, as the ministry reasonably determined that direct and significant restrictions in the appellant's ability to perform DLA have not been established, the panel finds that the ministry reasonably concluded that under section 2(2)(b)(ii) of the *EAPWDA* it cannot be determined that the appellant requires help to perform DLA.

**Conclusion**

The panel finds that the Ministry's reconsideration decision, which determined that the appellant was not eligible for PWD designation, was reasonably supported by the evidence, and therefore confirms the Ministry's reconsideration decision. Therefore, the appellant is not successful on appeal.