

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the ministry) reconsideration decision dated November 28, 2016, which found that the appellant did not meet four 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. However, the ministry was not satisfied that the evidence establishes that:

- the appellant's impairment is likely to continue for at least two years;
- 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

With the consent of both parties, the hearing was conducted as a written hearing, pursuant to section 22(3)(b) of the *Employment and Assistance Act*.

The evidence before the ministry at the time of the reconsideration decision included the Persons With Disabilities (PWD) Application comprised of the applicant information dated June 30, 2016 [the appellant chose not to complete the self-report], a physician report (PR) and an assessor report (AR) both dated December 16, 2015 and both completed by a general practitioner (GP) who has known the appellant for 10 years.

The information at reconsideration also included the appellant's Request for Reconsideration dated November 10, 2016 and an attached letter from the appellant.

Diagnoses

In the PR, the GP diagnosed the appellant with diabetes, with an onset in 2012, anemia with an onset in 2005, hypertension with an onset in 2003, asthma with an onset in 2000 and depression, query PTSD [Post Traumatic Stress Disorder] after assault, with an onset in 2012. Asked to describe the mental or physical impairments that impact the appellant's ability to manage daily living activities, the GP left this section of the AR blank.

Duration

In the PR, regarding the degree and course of the impairment, the GP indicated neither a "no" nor a "yes" response to the question of whether the appellant's impairment is likely to continue for two years or more, and the GP provided no comments.

In the appellant's letter attached to her Request for Reconsideration, she wrote that:

- The GP may have made an error in not indicating "yes" because it is well known that diabetes will not be cured and asthma is progressive.
- Her hypertension is related to her diabetes and it is controlled with medication but it can sometimes be dangerously high and she has been hospitalized for this during the past year.

Physical Impairment

In the PR and AR, the GP reported that:

- The appellant does not require any prostheses or aid for her impairment.
- For functional skills, the appellant can walk 2 to 4 blocks unaided, she can climb 2 to 5 steps unaided, she can lift 2 to 7 kg. (5 to 15 lbs.), and she can remain seated 1 to 2 hours.
- The appellant is independent with walking indoors and requires periodic assistance from another person with walking outdoors and standing. She requires continuous assistance from another person with climbing stairs, lifting, and carrying and holding. The GP did not provide further comment.
- In the section of the AR relating to assistance provided through the use of assistive devices, the GP did not specify any of the listed items.

In the Request for Reconsideration, the appellant wrote that:

- Being able to walk only 4 blocks or climb 2 to 5 stairs is a significant loss of mobility for her.
- She has always been a very active woman and not being able to walk up the 4 steps to her daughter's front door without assistance is most definitely a severe impairment.

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- She cannot lift 15 lbs. as her son does all the lifting in her home.
 - Her anemia has landed her in hospital twice this year. She has been very weak and has suffered with fainting spells.

Mental Impairment

In the PR and AR, the GP reported:

- The appellant has no difficulties with communication.
- The appellant has significant deficits in her cognitive and emotional functioning in the area of executive, memory, emotional disturbance, impulse control, motor activity, and attention or sustained concentration. The GP provided no further comment.
- In the additional comments to the PR, the GP wrote that the appellant “experiences a lot of anxiety, confusion, decision making difficulties; she needs help from family members, friends, health professionals.”
- The appellant has a good ability to communicate in the area of hearing, satisfactory ability with speaking and reading and poor ability with writing. The GP provided no description or explanation.
- For the section of the AR assessing impacts to cognitive and emotional functioning, the GP indicated a major impact for motivation, with moderate impacts to bodily functions, emotion, attention/concentration, memory and motor activity. Minimal or no impacts were assessed in the remaining 8 areas of functioning.
- For the section of the AR assessing impacts to social functioning, the GP reported that the appellant requires periodic support/supervision with making appropriate social decisions, develop and maintain relationships, and interact appropriately with others. The appellant requires continuous support/supervision with dealing appropriately with unexpected demands, and there was no assessment provided for securing assistance from others.
- The appellant has marginal functioning in her immediate and extended social network, with no further comments provided.
- Asked to describe the support/supervision required to help maintain the appellant in the community, the GP did not comment, and no safety issues are identified.

In the Request for Reconsideration, the appellant wrote that:

- Her depression and PTSD affects her memory.
- She has difficulty completing simple tasks that she did without effort in the past, especially tasks that include concentrating.
- Her mind wanders and this makes keeping appointments or taking medication a challenge for her.
- Because of the assault, she fears leaving her home alone and this has contributed to her depression, often resulting in agoraphobic-like symptoms.

Daily Living Activities (DLA)

In the PR and AR, the GP indicated that:

- The appellant has been prescribed medication and/or treatment that interfere with her ability to perform DLA as “psychotropic agents make her drowsy.”
- In the additional comments to the PR, the GP wrote that the appellant “understands bills and remembers to pay bills on time. She is not able to work. She lives with her son who is now [an adult]. She depends on him for heavy duties.”
- The appellant is independent with moving about indoors and requires periodic assistance with

walking outdoors.

- The appellant requires periodic assistance with all but one task of all of the listed DLA, including all areas of: personal care, basic housekeeping, meals, pay rent and bills, medication, and transportation.
- With respect to the shopping DLA, the appellant requires periodic assistance with the tasks of going to and from stores, reading prices and labels, making appropriate choices, and paying for purchases. She requires continuous assistance from another person with carrying purchases home.
- In the additional information to the AR, the GP wrote that the appellant is “unable to be employed; unable to perform heavy duty or difficult tasks.”

In the Request for Reconsideration, the appellant wrote that:

- Her whole life every day includes periodic assistance.
- She needs help if she shops- to carry groceries.
- She needs help with laundry- going to the Laundromat and carrying it back home is done by her son.
- Her eldest child phones her to remind her to take her medication, accompanies her to doctor appointments, and keeps a record of her appointments.

Need for Help

In the AR, the GP reported that the help required with DLA is provided by family. The GP did not indicate that the appellant uses any of the listed assistive devices, and reported that she does not have an assistance animal.

Additional Information submitted after reconsideration

In her Notice of Appeal dated December 9, 2016, the appellant expressed her disagreement with the ministry’s reconsideration decision and wrote that she has more medical issues to address for her mental health.

The ministry relied on its reconsideration decision and did not provide any additional information.

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 that, in the opinion of a medical practitioner, is likely to continue for at least 2 years. The ministry also found 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).

Duration of Impairment

The appellant's position, as set out in the Request for Reconsideration, is that The GP may have made an error in not indicating "yes" regarding duration because she has diabetes, which, it is well known, will not be cured, and asthma is progressive. The appellant wrote that her hypertension is related to her diabetes and it is controlled with medication but it can sometimes be dangerously high and she has been hospitalized for this during the past year.

The ministry's position is that the GP has not confirmed that the appellant's impairment will continue for two years or more. The ministry argued that the legislation requires confirmation by the GP that the impairment caused by the medical condition, and not the medical condition itself, is likely to continue for 2 years or more.

Panel Decision

The legislation – section 2(2)(a) of the EAPWDA – does not permit the ministry to designate an applicant as a PWD unless it is satisfied that, in the opinion of a medical practitioner or a nurse practitioner, the applicant's impairment is likely to continue for at least 2 years.

Although the appellant pointed out that she has medical conditions that will not be cured, this legislative criterion relates to the anticipated duration of the impairment from the date of the application, and section 2(2)(a) specifically states that a duration of at least 2 more years must be confirmed by a medical practitioner or a nurse practitioner. In the appellant's situation, her GP indicated neither a "no" nor a "yes" response to the question of whether the appellant's impairment is likely to continue for two years or more, and the GP provided no comments. While the panel acknowledges the appellant's position that her GP may have made a mistake by not filling out the section on duration, the panel finds, based on the absence of any additional information from the GP, that the ministry reasonably determined that this legislative criterion has not been satisfied.

Severe Physical Impairment

The appellant's position is that she has a severe physical impairment as she was always an active woman and being able to walk only 4 blocks or climb 2 to 5 stairs is a significant loss of mobility for her. The appellant argued that not being able to walk up the 4 steps to her daughter's front door without assistance is most definitely a severe impairment. The appellant wrote that she cannot lift 15 lbs. as her son does all the lifting in her home. The appellant wrote that her anemia has landed her in hospital twice this year as she has been very weak and has suffered with fainting spells.

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 impairment. The ministry noted that the GP reported that the appellant is able to walk 2 to 4 blocks unaided on a flat surface, climb 2 to 5 steps unaided, lift 5 to 15 lbs., and remain seated for 1 to 2 hours, and argued that these functional skills speak to a moderate, rather than a severe, level of impairment. The ministry argued that although the GP indicated that the appellant requires continuous assistance with climbing stairs, lifting, carrying and holding, this assessment does not correlate with the assessment of the appellant's basic physical functioning and skill level, and the GP also reported specifically that the appellant depends on her son for "heavy duty" assistance. The ministry noted that the GP did not provide additional information specifying the appellant's capabilities in order to determine that she has significant restrictions with her physical activities.

Panel Decision

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

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 of 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.

In the PR, the GP who has known the appellant for 10 years diagnosed the appellant with diabetes, anemia, hypertension, and asthma, and reported that the appellant can walk 2 to 4 blocks unaided, climb 2 to 5 steps unaided, lift 5 to 15 lbs., and she can remain seated 1 to 2 hours. The appellant wrote in her Request for Reconsideration that her anemia has landed her in hospital twice this year as she has been very weak and has suffered with fainting spells. The appellant wrote that she was always an active woman and being able to walk only 4 blocks or climb 2 to 5 stairs is a significant loss of mobility for her. The appellant wrote that she cannot lift 15 lbs. as her son does all the lifting in her home. The appellant argued that not being able to walk up the 4 steps to her daughter’s front door without assistance is most definitely a severe impairment.

The GP further reported in the AR that the appellant is independent with walking indoors and requires periodic assistance from another person with walking outdoors and with standing. The GP did not provide further comment about the extent of periodic assistance required for walking outdoors or standing, and reported that the appellant does not require an aid for her impairment. The GP reported that the appellant requires continuous assistance from another person with climbing stairs, lifting, and carrying and holding and, again, the GP did not provide further comment. The panel finds that the ministry reasonably concluded that although the GP indicated that the appellant requires continuous assistance with climbing stairs, lifting, carrying and holding, this assessment does not correlate with the assessment of the appellant’s basic physical functioning of being able to climb 2 to 5 steps without the assistance of another person or an assistive device, and being able to lift 5 to 15 lbs. While the appellant wrote that her son does all of the lifting in her home, the GP reported that the appellant depends on her adult son who lives with her specifically for “heavy duties.”

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. Given the level of independent physical functioning reported by the GP, and the unexplained discrepancies between the assessments by the GP in the PR and in the AR, 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 appellant’s position is that a severe mental impairment is established by the impacts from her depression and PTSD following an assault, which affects her memory. The appellant wrote that she has difficulty completing simple tasks that she did without effort in the past, especially tasks that

include concentrating. The appellant wrote that her mind wanders and this makes keeping appointments or taking medication a challenge for her and, as a result of the assault, she fears leaving her home alone and this has contributed to her depression, often resulting in agoraphobic-like symptoms.

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 mental impairment. The ministry noted that the GP reported significant deficits with cognitive and emotional functioning in the areas of executive, memory, emotional disturbance, impulse control, motor activity and attention/sustained concentration; however, the majority of impacts to the appellant's cognitive and emotional functioning are classified as moderate to minimal in nature. The ministry argued that the assessment of the appellant's social functioning, without further description of the nature, degree and duration of the support/supervision required, is also indicative of a moderate degree of restriction. The ministry noted that the GP indicated that the appellant has good or satisfactory abilities with communicating and there is no explanation by the GP regarding her difficulties with writing.

Panel Decision

The GP diagnosed the appellant with depression, query PTSD after assault, with an onset in 2012, and reported in the PR that the appellant has significant deficits with her cognitive and emotional functioning in the area of executive, memory, emotional disturbance, impulse control, motor activity, and attention or sustained concentration. The GP provided no further comments to this section of the PR but, in the additional comments, the GP wrote that the appellant "experiences a lot of anxiety, confusion, decision making difficulties; she needs help from family members, friends, health professionals." The appellant wrote in her Request for Reconsideration that her depression and PTSD affect her memory, she has difficulty completing simple tasks that she did without effort in the past, especially tasks that include concentrating. The appellant wrote that her mind wanders and this makes keeping appointments or taking medication a challenge. However, when assessing impacts to cognitive and emotional functioning in the AR, the GP reported that the appellant experiences moderate impacts to memory, attention/concentration, bodily functions, emotion, and motor activity, and minimal or no impacts to the remaining 8 areas of functioning, including minimal impacts to executive and impulse control. The GP indicated a major impact for motivation, which is an area of functioning that had not been identified in the PR as one for which the appellant has a significant deficit, and there were no comments provided by the GP to explain this discrepancy..

The appellant wrote in her Request for Reconsideration that as a result of the assault she experienced, she fears leaving her home alone and this has contributed to her depression, often resulting in agoraphobic-like symptoms. The GP did not refer to agoraphobia in the PR or the AR and, in the section of the AR assessing impacts to social functioning, the GP reported that the appellant requires periodic support/supervision with making appropriate social decisions, developing and maintaining relationships, and interacting appropriately with others. The GP did not provide a description or explanation to allow the ministry to gauge the extent of the support/supervision required, or to determine that the support/supervision is required for extended periods of time. The GP reported that the appellant requires continuous support/supervision with dealing appropriately with unexpected demands, and there was no assessment provided by the GP for the appellant's ability with securing assistance from others. The GP indicated that the appellant has marginal functioning in both her immediate and extended social network; however, when asked to describe the support/supervision required to help maintain the appellant in the community, the GP did not comment and also did not indicate any safety concerns.

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In the PR, the GP reported that the appellant has no difficulties with communication; however, in the AR while the GP indicated that the appellant has a good or satisfactory ability to communicate in the areas of hearing, speaking and reading, he reported that she has a poor ability with writing. The GP did not provide further comments to allow the ministry to determine that the deficit with writing is related to the appellant's mental health diagnoses of depression and query PTSD.

Given the absence of evidence from the GP to establish 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 to DLA

The appellant's position is that her physical and mental impairments severely impair her and her ability to perform DLA is significantly restricted to the point that she requires significant help and support from other people, including her adult children.

The ministry's position, as set out in the reconsideration decision, is that the information from the prescribed professional does not establish that her impairment significantly restricts DLA either continuously or periodically for extended periods. The ministry wrote that the GP indicated that the appellant requires periodic assistance from another person with all but one activity, and argued that a "blanket" assessment is unhelpful for the ministry to determine the nature of specific restrictions and how they are related to a particular medical condition and impairment. The ministry wrote that as the GP did not describe the nature, frequency, and duration of the periodic assistance required, the ministry is unable to determine whether the appellant requires such assistance for extended periods of time and that her need for assistance is significant. The ministry wrote that for the purposes of determining eligibility for PWD designation, employability or ability to work is not taken into consideration.

Panel Decision

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 is the prescribed professional. 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 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.

In the appellant's circumstances, the GP reported in the PR that the appellant has been prescribed medication and/or treatment that interfere with her ability to perform DLA as "psychotropic agents make her drowsy." When asked to describe the mental or physical impairments that impact the appellant's ability to manage DLA, the GP left this section of the AR blank. In the additional comments to the PR, the GP wrote that the appellant "...is not able to work" and she lives with her adult son and "...depends on him for heavy duties." In the additional information to the AR, the GP wrote that the appellant is "unable to be employed; unable to perform heavy duty or difficult tasks." The panel finds that the ministry reasonably concluded 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.

In the AR, the GP indicated that the appellant is independent with moving about indoors and requires periodic assistance with walking outdoors, although the GP also reported that the appellant is able to walk 2 to 4 blocks without the assistance of another person or the use of an assistive device, and no further comments were provided. The GP also assessed the appellant as requiring periodic assistance with all of the tasks of all of the listed DLA, specifically: personal care, basic housekeeping, meals, pay rent and bills, medication, and transportation, with the exception of continuous assistance required from another person with carrying purchases home when shopping. In the Request for Reconsideration, the appellant wrote that her whole life every day includes periodic assistance. The appellant wrote that she needs help if she shops to carry groceries. As previously discussed, the GP reported in the AR that the appellant requires continuous assistance from another person with lifting and carrying and holding, but also reported in the PR that the appellant can lift 5 to 15 lbs. without the assistance of another person or the use of an assistive device. While the appellant wrote that her son does all of the lifting in her home, the GP reported that the appellant depends on her adult son to help her specifically with “heavy duties.”

The appellant wrote in her Request for Reconsideration that she also needs help with laundry and going to the Laundromat and carrying the laundry back home is done by her son. The appellant wrote that her eldest child phones her to remind her to take her medication, accompanies her to doctor appointments, and keeps a record of her appointments. Although the appellant wrote in her Notice of Appeal that she has more medical issues to address regarding her mental health, there was no further evidence provided on the appeal from the GP or a mental health professional.

Given the absence of evidence from the prescribed professional of the need for significant assistance, specifically a lack of description or explanation to establish the need for periodic assistance for extended periods of time, 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

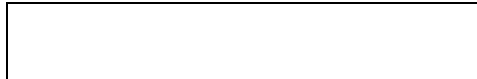
The appellant’s position is that she requires the significant assistance of another person to perform DLA, specifically her adult children.

The ministry’s position, as set out in the reconsideration decision, is that because it has not been established that DLA are significantly restricted, it cannot be determined that significant help is required from other persons or an assistive device.

Panel Decision

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 GP reported that the appellant requires help from her family members, friends and health professionals, 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 in 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.