

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 20 April 2017, which denied the appellant designation as a person with disabilities (PWD). The ministry determined that the appellant did not meet all of the required criteria for PWD designation as set out in the *Employment and Assistance for Persons with Disabilities Act*, section 2.

Specifically, the ministry determined that the information provided did not establish that the appellant has a severe mental or severe physical impairment; the appellant's severe mental or physical impairment, in the opinion of a prescribed professional, directly and significantly restricts her ability to perform daily living activities (DLA) either continuously or periodically for extended periods; and as a result of those restrictions, she requires help to perform those activities.

The ministry found that the information provided did establish that the appellant has reached 18 years of age and her impairment, in the opinion of a medical practitioner, is likely to continue for at least 2 years.

PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Act (EAPWDA) – section 2

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

PART E – Summary of Facts

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

1. The appellant's PWD Designation Application, which contained:
 - A Medical Report (MR) dated 12 December 2016, completed by the appellant's general practitioner (GP) who has known the appellant for 4 years and seen her 2-10 times in the past 12 months.
 - An Assessor Report (AR) dated 12 January 2017, completed by a GP "locuming" (the locum) for the appellant's GP who has known the appellant for 1 day and has not seen her previously in the past 12 months.
 - A Self Report (SR) dated 11 December 2016, completed by the appellant.
2. A 3-page Reconsideration Submission dated 3 April 2017, which consisted of a series of statements prepared by the appellant's advocate to which the appellant's GP was asked to indicate his agreement or disagreement and provide comments. The statements relate to the appellant's medical conditions, treatments and the impacts of a March 17, 2017 stroke on the appellant's ability to function.

In the MR, the GP diagnoses the medical conditions related to the appellant's impairment as:

- CVA – onset May 2013
- Psoriasis – onset unspecified
- A. fib/ablation and pacemaker – onset November 2016

The panel will first summarize the evidence from the MR, AR, and SR as it relates to the PWD criteria at issue in this appeal.

Severity of mental impairment

MR:

The GP indicates that the appellant has no deficits with cognitive and emotional function and provides no comment.

The GP indicates no restrictions to social functioning.

AR:

The locum has not completed an assessment of impacts to cognitive and emotional and social functioning.

As to speaking, the locum indicates that the appellant's ability is satisfactory and provides the comment: "TIA affects speech, has been slurred in past."

SR:

The appellant does not indicate that she has a mental impairment.

Severity of physical impairment

MR:

Under Health History, the GP writes:

"This patient presents with severe obesity that causes her to be greatly impaired as far as her walking is concerned. CVA: no focal nervous signs apart from one small partial [illegible]. NIDDM: diet controlled. OA both knees: TKR bilat. Psoriasis: lesions all over body, not optimally controlled. Previous CCF and A. fib.: this has been well controlled after

ablation with pacemaker insertion.”

The GP indicates that the appellant is 165.1 cm tall and weighs 132 kgs.

For functional skills, the GP indicates that the appellant can walk 1-2 blocks unaided on a flat surface, climb 5+ steps unaided, lift 2 to 7 kg. (5 to 15 lbs.), and there is no limitation on her ability to remain seated.

The GP indicates that the appellant is not restricted with the following DLA: personal self care, meal preparation, management of medications, basic housework, daily shopping, mobility inside of the home, use of transportation, and management of finances.

The GP indicates that the appellant is continuously restricted with the DLA of mobility outside of the home. The GP provides the following comments in relation to the degree of restriction: “the patient states that she cannot walk more than 1-2 blocks and has to rest several times.”

AR:

Under Mental or Physical Impairment, the locum writes:

“CVA, Psoriasis, A. fib., pacemaker (Ablation for A. fib.)”

The locum indicates that the appellant is independent in the DLA of walking indoors and standing. The locum indicates that the appellant takes significantly longer with walking indoors, but does not describe how much longer.

The locum indicates that the appellant requires continuous assistance or is unable to perform the following DLA: walking outdoors (takes significantly longer, *unable to walk 2 blocks*), climbing stairs (uses assistive device, takes significantly longer, *needs hand rail*), lifting (*unable 15 pounds*), carrying and holding (*unable 15 pounds*).

SR:

The appellant writes: “I am limited due to a heart condition. I have A-fibrillation. I have a pacemaker and have had AV node ablation and 2 cardio version. I cannot stand or walk for any extended period and deal with nausea when looking down. In 2011 I had a stroke, 2012 “[illegible] carotid artery”. 2013 – two knee replacement which do help me when walking.” She writes she cannot lift and suffers from unsteadiness, exhaustion and sleep apnea.

Ability to perform DLA

General

PR:

The GP indicates that the appellant has not been prescribed any medications that interfere with her ability to perform DLA.

The GP indicates that the appellant has no difficulties with communications.

The GP indicates that the appellant’s impairment directly restricts her ability to perform DLA. He assesses the appellant’s mobility outside the home as being restricted on a continuous basis mobility. He indicates that the appellant is not restricted for all other DLA.

The GP indicates no restrictions to social functioning and has not provided any comment in the

corresponding section of the form.

AR:

The locum assesses the appellant's ability to communicate as good for reading, writing and hearing, and satisfactory for speaking (*TIA affects speech, has been slurred in past.*).

The locum indicates that the appellant is independent with waking indoors and standing and requires continuous assistance with, or is unable to perform, walking outdoors (*unable to walk 2 blocks*), climbing stairs (*needs handrail*), lifting (*unable 15 pounds*), carrying and holding.

Section 2(1)(a) DLA

Prepare own meals

PR:

The GP indicates that the appellant is not restricted in relation to meal preparation.

AR:

The locum indicates that the appellant is independent in the meals activities of food preparation, cooking and safe storage of food but requires continuous assistance with meal planning (*does not plan meals, relies on toast often*).

Manage personal finances

PR:

The GP indicates that the appellant is not restricted in relation to management of personal finances.

AR:

The locum indicates that the appellant is independent in all of the activities related to the category of pay rent and bills.

Shop for personal needs

PR:

The GP indicates that the appellant is not restricted in relation to daily shopping.

AR:

The locum indicates that the appellant is independent in making appropriate choices and paying for purchases, but requires continuous assistance carrying purchases home (*15 pounds maximum*). The locum indicates that the appellant requires an assistive device and takes significantly longer going to and from stores (*will use cart/scooter in store*) and requires an assistive device for reading prices and labels (*eye glasses*).

Use public or personal transportation facilities

PR:

The GP indicates that the appellant is not restricted in relation to use of transportation.

AR:

The locum indicates that the appellant is independent in getting in and out of a vehicle. The use of public transit DLA are marked N/A (not applicable).

Perform housework to maintain the person's place of residence

PR:

The GP indicates that the appellant is not restricted in relation to basic housework.

AR:

The locum indicates that the appellant is independent with laundry (*difficulty carrying laundry basket*). The locum indicates that the appellant is continuously restricted with basic housekeeping (*drops things/ needs assistance with housekeeping. Cannot keep up.*).

Move about indoors and outdoors

PR:

The GP indicates that the appellant is able to walk 1-2 blocks unaided on a flat surface, can climb 5+ steps unaided, can lift 5 to 15 lbs., and has no restrictions in the ability to remain seated.

The GP also indicates that the appellant is not restricted with mobility inside of the home and is continuously restricted with mobility outside of the home.

AR:

The locum indicates that the appellant is independent in the DLA of waking indoors and standing. The locum indicates that the appellant takes significantly longer with walking indoors, but does not describe how much longer.

The locum indicates that the appellant requires continuous assistance or is unable to perform the following DLA: walking outdoors (takes significantly longer, *unable to walk 2 blocks*), climbing stairs (uses assistive device, takes significantly longer, *needs hand rail*), lifting (*unable 15 pounds*), carrying and holding (*unable 15 pounds*).

Perform personal hygiene and self-care

PR:

The GP indicates that the appellant is not restricted with personal self-care.

AR:

The locum indicates that the appellant is independent in the following personal care DLA: grooming, bathing, toileting, feeding self, regulating diet (*pre-diabetic diet*), transfers (on/off chair).

The locum indicates that the appellant uses as assistive device and takes significantly longer with dressing (*has to sit to get dressed/put shoes on. Bending causes dizzy spells*).

The locum indicates that the appellant takes significantly longer with transfers in/out of bed (*Bed too high. Needs new bed.*).

Manage personal medication

PR:

The GP indicates that the appellant is not restricted in her management of medications.

AR:

The locum indicates that the appellant is independent in all medications activities, which includes filling/refilling prescriptions, taking as directed and safe handling and storage.

Section 2(1)(b) DLA

The following DLA are applicable to a person who has a severe mental impairment:

Make decisions about personal activities, care or finances

PR:

The GP indicates that the appellant has no restrictions with communication, social functioning, management of finances and medications.

AR:

The sections of the AR relating to cognitive and emotional functioning and social functioning have not been completed.

The locum indicates that the appellant is independent in all of the activities related to the category of pay rent and bills.

The locum indicates that the appellant is independent in all medications activities, which includes filling/refilling prescriptions, taking as directed and safe handling and storage.

Relate to, communicate or interact with others effectively

The GP indicates no problems with communication and no restrictions to social functioning.

AR:

The locum indicates the appellant's ability to communicate is good for reading, writing and hearing, and satisfactory for speaking (*TIA affects speech, has been slurred in past*).

Help Required

PR:

The GP indicates that the appellant does not require any aids or prostheses.

The GP does not indicate assistance needed with DLA.

AR:

The locum indicates that appellant receives help from friends for DLA (*can get friends to move heavy objects [illegible]*).

The locum has not completed the section of the AR dealing with assistive devices.

The locum indicates that the appellant does not have an assistance animal.

Reconsideration Submission

In the reconsideration submission, the appellant's GP has been asked to indicate agreement or disagreement with several statements, with an opportunity to provide comments. The GP has indicated agreement with all of the following statements and has not provided any comments:

- The appellant suffered a stroke on March 17, 2017.
- The appellant is only able to walk 3 steps with the use of a walker and another person holding her up. She states that she has to rely on the use of a wheelchair for any mobility.
- The appellant states she has lost the use of her right arm.
- The appellant states she is able to lift 15 pounds with her left arm and nothing with her right arm.
- The appellant states she is unable to even sit up on her own at this time.

- The appellant states that her speech is affected since the March 17th stroke and is currently working with a speech therapist.
- The appellant states that due to her serious limitations due to her recent stroke she is unable to do the following daily living activities:
 - Dressing
 - Grooming
 - Bathing
 - Toileting
 - Feeding self (food has to be cut up for her)
 - Getting in and out of bed
 - Getting on and off a chair
 - Laundry
 - Basic Housekeeping
 - Going to and from stores
 - Meal prep/cooking/planning
 - Banking
 - Getting in and out of a vehicle
 - Refilling prescriptions
 - All activities of daily living
- The appellant is currently staying at [omitted] General Hospital. She has been there since March 17, 2017.
- The appellant states she is currently waiting to be placed in a rehabilitation facility.
- The appellant states she has been told that her recovery at this time will be at least several months.

Notice of Appeal

In her Notice of Appeal, dated 21 April 2017, the appellant gives as Reasons for Appeal: “does not think, due to recent severe stroke, would be able to work in 2 or more years. Lifelong impairments resulting from this stroke.”

Appellant Submission

Prior to the hearing a 25-page submission, dated May 10, 2017, was submitted on the appellant’s behalf. Included in this submission are the following documents:

- Discharge Summary from hospital relating to the appellant’s hospital stay for the March 17, 2017 stroke.
- History and Physical dated April 13, 2017, relating to the appellant’s transfer to a High Intensity Rehab Facility at another hospital following discharge after the March 2017 stroke.
- Physiotherapy Initial Assessment completed April 18-20, 2017.
- Occupational Therapy Initial Assessment dated April 18, 2017.
- Consultation Report dated April 18, 2017.
- Physician Progress Notes with several entries beginning April 14, 2017 and ending May 9, 2017.

The hearing

At the hearing, the appellant and her advocate explained that the appellant, who is right handed, cannot use her right arm and leg due to the stroke she suffered in March 2017. She is unable to have a bath, toilet, wash hands, sit, or stand without assistance because of balance issues, and she cannot drive. She is making some progress in her recovery but this is very slow. The appellant describes herself as having her faculties intact but requiring significant physical

assistance on a continuous basis. Following her stroke, the appellant spent the first several weeks in hospital and is now in a rehabilitation facility on a full time basis. The appellant believes that she will require significant help when and if she is able to return to her home. The appellant explained that she has always worked physical jobs and was previously a farmer and agriculture consultant, which involved significant travel across Canada. This is not something she expects she will be able to resume, as she is currently unable to walk, drive or write.

The appellant's advocate explained that there is an expectation and hope for improvement in the appellant's condition, but that a full and complete recovery where the appellant is independently able to resume her former activities is not certain. The advocate explained that the current goal the appellant is working towards is to be able to sit in a wheelchair for 4 hours; she still requires physical assistance from another person to roll over, move from lying to sitting and sitting to standing. The appellant's only ambulation is in a wheelchair indoors on flat surfaces. She cannot work.

The ministry relied on its reconsideration decision.

Admissibility of new information

The ministry made no objection to the admission of the information provided in the Appellant Submission or at the hearing

The panel finds that the information provided at the hearing and in the Appellant Submission is in support of the information and records before the ministry at reconsideration. Specifically, the new information provided by the appellant expands on the treatment and impacts of the March 2017 stroke and tends to substantiate or corroborate the information that was before the minister at reconsideration. The panel therefore admits this information as evidence under section 22(4) of the *Employment and Assistance Act*.

PART F – Reasons for Panel Decision

The issue in this appeal is whether the ministry decision that determined that the appellant did not meet three of the five statutory requirements of Section 2 of the *EAPWDA* for designation as a person with disabilities (PWD) is reasonably supported by the evidence or is a reasonable application of the legislation in the circumstances of the appellant.

Specifically, the ministry determined that the information provided did not establish that:

- the appellant has a severe mental or severe physical impairment;
- the appellant's severe mental or physical impairment, in the opinion of a prescribed professional, directly and significantly restricts her ability to perform daily living activities (DLA) either continuously or periodically for extended periods; and
- as a result of those restrictions, she requires help to perform those activities.

The ministry determined that the appellant satisfied the other 2 criteria: she has reached 18 years of age; and her impairment in the opinion of a medical practitioner is likely to continue for at least 2 years.

Legislation

The following sections of the *EAPWDA* applies to this appeal:

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 to perform daily living activities either

(A) continuously, or

(B) periodically for extended periods, and

(ii) as a result of those restrictions, the person requires help to perform those activities.

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

(a) a person who has a severe mental impairment includes a person with a mental disorder, and

(b) a person requires help in relation to a daily living activity if, in order to perform it, the person requires

(i) an assistive device,

(ii) the significant help or supervision of another person, or

(iii) the services of an assistance animal.

The following sections of the *EAPWDR* applies to this appeal:

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.

Duration

The EAPWDA permits the minister to designate a person as a person with disabilities 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 in the opinion of a medical practitioner or nurse practitioner is likely to continue for at least 2 years. The panel notes that the ministry determined that this criterion was satisfied by the information provided in the PWD application.

However, the ministry also determined in its reconsideration decision that it was not satisfied that the information provided in the Reconsideration Submission established that the appellant's current physical impairment is likely to last for at least two years. As a result, the ministry completed its reconsideration decision based on the information provided in the PWD application, because it determined that there was no information to support that the appellant will not recover back to where she was when the PWD assessments were completed.

The panel notes that the information provided in the Reconsideration Submission is that the appellant's recovery from the March 2017 stroke is at least several months. The appellant's advocate argued that recovery in this context does not necessarily mean that the appellant will make a full and complete recovery. The ministry acknowledged that the appellant's prognosis is somewhat unknown at this time because only a short time has passed since the stroke. However, the ministry argued that the legislation clearly requires an opinion from a medical practitioner or nurse practitioner that the impairment is likely to continue for at least two years and this has not been provided. The panel finds that there is no opinion from a medical practitioner or nurse practitioner stating that the appellant's current impairment is likely to last for at least 2 years. As such, the panel concludes that the ministry's determination was reasonable.

Severity of impairment

The legislation requires that for PWD designation, the minister must be "satisfied" that the person has a severe mental or physical impairment. The legislation makes it clear that the determination of severity is at the discretion of the minister, taking into account all of the 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. Diagnosis of a serious medical condition or the identification of mental or physical deficits does not in itself determine severity of impairment. An "impairment" is more than a

diagnosed medical condition. An impairment is a medical condition that results in restrictions to a person's ability to function independently, appropriately, effectively or for a reasonable duration. To assess the severity of impairment one must consider the nature of the impairment and the degree of impact on daily functioning.

Severity of mental impairment

In the reconsideration decision, the ministry found that it was not satisfied that the information provided is evidence of a severe mental impairment. The panel notes that the appellant does not indicate in her SR that she suffers from a severe mental impairment. Further, the GP indicates in the MR that appellant has no deficits with cognitive and emotional function and no restrictions to social functioning. The locum has not completed an assessment of impacts to cognitive and emotional and social functioning in the AR.

The panel finds that the ministry reasonably concluded that there was not enough evidence to establish a severe mental impairment.

Severity of physical impairment

In the reconsideration decision, the ministry found that it was not satisfied that the information provided establishes a severe physical impairment. The panel considers that the MR, AR and SR report that the appellant has several health concerns including severe obesity, diet controlled diabetes, previous stroke, psoriasis, bilateral knee replacements and arthritis, and previous congestive cardiac failure and atrial fibrillation controlled by pacemaker insertion. The appellant also indicates that she suffers from nausea, unsteadiness, exhaustion and sleep apnea.

The GP indicates that the appellant is not restricted for most DLA, including personal self care, meal preparation, management of medications, basic housework, daily shopping, mobility inside of the home, use of transportation, and management of finances. In contrast, the locum indicates that the appellant is independent in the DLA of walking indoors and standing and indicates that the appellant takes significantly longer with walking indoors, but does not describe how much longer.

The GP indicates that the appellant is continuously restricted with the DLA of mobility outside of the home. The locum indicates that the appellant requires continuous assistance or is unable to perform the following DLA: walking outdoors (takes significantly longer, *unable to walk 2 blocks*), climbing stairs (uses assistive device, takes significantly longer, *needs hand rail*), lifting (*unable 15 pounds*), carrying and holding (*unable 15 pounds*). The locum does not indicate how much longer the appellant requires with these DLA. The appellant reports in the SR that she cannot stand for extended periods, cannot walk for [incomplete] and cannot lift.

The panel notes that there appear to be some differences in the information provided by the GP and the locum. However, despite these differences, the panel finds that the ministry reasonably concluded that the information provided in the PWD application did not establish a severe physical impairment.

Direct and significant restrictions in the ability to perform DLA

At issue is the degree of restriction in the appellant's ability to perform the DLA listed in section 2(1)(a) and (b) of the EAPWDR applicable to a person with a severe mental or physical impairment. The panel notes that, according to the legislation, the direct and significant restriction in the ability to perform DLA must be the result of a severe impairment, a criterion not established in this appeal. In the reconsideration decision, the ministry found that the information provided did not establish that the appellant has a severe physical or mental impairment. The panel has determined that the ministry was reasonable in determining that the information provided did not establish a severe mental impairment. The panel has also determined that the ministry was reasonable in determining that the

information provided did not establish a severe physical impairment.

The legislation – section 2(2)(b)(i) of the EAPWDA – requires the minister to assess direct and significant restrictions of DLA in consideration of the opinion of a prescribed professional, in this case the appellant’s GP and the locum. The legislative language makes it clear that a prescribed professional’s evidence is fundamental to the ministry’s determination as to whether it is “satisfied.” And for the minister to be “satisfied,” it is reasonable for the ministry to expect that a prescribed professional provides a clear picture of the degree to which the ability to perform DLA is restricted in order for the ministry to determine whether the restrictions are “significant.”

In the reconsideration decision, the ministry found that while it is reasonable to expect the appellant to encounter some restrictions considering her medical history, the information provided did not establish that the appellant’s ability to manage DLA is significantly restricted either continuously or periodically for extended periods of time. In the reconsideration decision, the ministry reviewed the information provided by the GP in the MR and the locum in the AR. The ministry notes that the GP indicates continuous assistance with mobility outside of the home and the locum indicates continuous assistance with basic housekeeping, carrying purchases home and meal planning. The ministry also notes that the locum indicates that the appellant requires significantly longer dressing, transferring in/out of bed and going to and from stores. The panel notes the inconsistencies in the MR and AR with respect to the appellant’s ability to perform DLA. The GP indicates that the appellant is not restricted in relation to basic housekeeping and shopping. The panel finds that the only DLA that the GP and locum agree is restricted is mobility outside of the home. Further, with respect to those DLA that the locum indicates take significantly longer there is no information to indicate how much longer the appellant would require. The panel also notes that the information provided in the Physiotherapy Initial Assessment and the Occupational Therapy Initial Assessment indicate that the appellant was independent in her DLA prior to the March 2017 stroke.

The panel notes that DLA (the “social functioning” DLA) listed in section 2(1)(b) of the EAPWDR applicable to a person with a severe mental impairment (make decisions about personal activities, care or finances and relate to, communicate or interact with others effectively) have been assessed by the GP in the MR as unrestricted. The locum has indicated in the AR that the appellant had no difficulties with communications and in the AR, assesses her ability to communicate as good for reading, writing and hearing, and satisfactory for speaking. The sections of the AR relating to assessment of impacts to the appellant’s cognitive, emotional and social functioning have not been completed.

The panel finds that the ministry was reasonable in concluding that there is not enough evidence to establish that, in the opinion of a prescribed professional, the appellant’s ability to perform DLA were directly and continuously restricted continuously or periodically for extended periods.

Help required

Section 2(2)(b)(ii) of the EAPWDA requires that, as a result of being directly and significantly restricted in the ability to perform DLA either continuously or periodically for extended periods, a person must also require help to perform those activities. The establishment of direct and significant restrictions under section 2(2)(b)(i) is a precondition of meeting the need for help criterion. Help is defined in subsection (3) as the requirement for an assistive device, significant help or supervision of another person, or the services of an assistance animal in order to perform a DLA.

In the reconsideration decision, the ministry held that, as it has not been established that DLA are significantly restricted, it cannot be determined that help is required. The panel notes that while the appellant may benefit from help from friends, the ministry reasonably determined that direct and significant restrictions in the appellant's ability to perform DLA have not been established. As such, 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

After reviewing all of the information and applicable legislation, 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 a reasonable application of the legislation in the circumstances of the appellant. The panel therefore confirms the ministry's decision. The appellant is not successful in her appeal.