

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the ministry) reconsideration decision dated May 23, 2017 which found that the appellant did not meet three of the five statutory requirements of Section 2 of the *Employment and Assistance for Persons with Disabilities Act* for designation as a person with disabilities (PWD). The ministry found that the appellant met the age requirement and that his impairment is likely to continue for at least two years. However, the ministry was not satisfied the evidence establishes that:

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

The ministry also found that the appellant is not one of the prescribed classes of persons who may be eligible for PWD designation on the alternative grounds set out in Section 2.1 of the EAPWDR and the appellant did not appeal the decision on this basis.

PART D – Relevant Legislation

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

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

PART E – Summary of Facts

The evidence before the ministry at the time of the reconsideration decision included the appellant's Persons With Disabilities (PWD) Application comprised of the appellant's information and self-report dated January 26, 2017, a physician report (PR) dated January 17, 2016 completed by a general practitioner (GP) who has known the appellant for 2 months and has seen him 2 to 10 times, and an assessor report (AR) dated August 12, 2016 completed by a physical therapist (PT) and who has known the appellant for 5 months and has seen him 11 or more times.

The evidence also included the appellant's Request for Reconsideration dated May 18, 2017.

Diagnoses

In the PR, the GP diagnosed the appellant with traumatic injury to leg/thigh in November 2015 and substance use in remission. Asked to describe the mental or physical impairments that impact the appellant's ability to manage daily living activities (DLA), the PT wrote in the AR: "...reduced lower limb power and reduced left knee rang of movement... reduced balanced which affects his gait pattern. Altered sensation to left lower limb and neurological impairment mean he needs to wear Dictus splint for mobility to reduce risk of falls and improve gait pattern."

Physical Impairment

In the PR, the GP reported:

- With respect to the health history, "injuries suffered include right hand fracture, knee fracture, scrotal hematoma and skin grafting. Patient very motivated but injuries to the leg have left him with mobility difficulties. Takes twice as long for walking/stairs and has little muscle bulk so cannot lift properly."
- The appellant requires an aid for his impairment with "occasional use of walking aid/ cane."
- In terms of functional skills, the appellant can walk 1 to 2 blocks unaided on a flat surface, with the note by the GP "takes 50 to 100% longer," climb 2 to 5 stairs unaided, lift 2 to 7 kg. (5 to 15 lbs), and no limitation with remaining seated.
- The appellant is not restricted with his mobility inside the home and is continuously restricted with his mobility outside the home. The GP noted regarding the degree of restriction: "takes two times longer to walk and climb stairs, has difficulty on transit due to injuries."
- For additional comments, the GP added that the appellant's injuries include: "circumferential degloving injury left thigh; right intertrochanteric knee fracture; hand fracture. Resulting in multiple operations for skin grafts, muscle transfer, debridement, VAC [vacuum assisted closure] dressings. Left foot numbness as result," and "(d)ue to above injuries he cannot work to meet his needs."

In the AR, the PT indicated:

- The appellant is assessed as being independent with walking indoors and walking outdoors, climbing stairs, standing and lifting. The PT indicated that carrying and holding is "N/A", or not applicable. The PT wrote: "Dictus splint is used for all walking and stairs to reduce falls risk or patient. Patient wears splint at night to maintain ankle range and integrity."
- In the section of the AR relating to assistance provided, the PT indicated splints and braces are routinely used to help compensate for the appellant's impairment. The PT wrote: "the patient wears a Dictus splint at all times for mobility. He also has night splint which he uses to maintain ankle range of movement." The PT noted that the appellant may require other splints in the future (toe-off splint) to assist.
- In the additional information, the PT wrote that the appellant "...suffered multiple injuries due to his accident. Patient suffered left foot drop which now requires Dictus splint when walking to reduce risk of falls. Patient had sensory changes to left lower limb which affects patient's balance. [He] suffered right intratrochanteric (sic) fracture resulting in reduced hip power which

affects his gait pattern. Patient required skin grafts for left thigh degloving. Patient had gracilis muscle moved to cover open area and appears to have lost much of his left hamstring which affects his knee range of movement and overall lower limb strength.”

In his self-report, the appellant wrote:

- He has reduced lower limb left leg and no power in his left hamstring.
- He has reduced balance.
- He is unable to lift his left foot, it requires a Dictus splint for mobility and to improve his gait pattern.
- He suffered multiple injuries, broken leg, fractured hip, required skin grafts for left thigh degloving, reduced knee range.
- He is able to walk 2 or 3 blocks then his hip starts to hurt and causes problems for going up and down stairs. It takes a long time to go up and down stairs.
- He had gracilis moved to cover the open area and lost a lot of muscle in his hamstring, which affects knee range of movement and overall lower limb strength.
- Dictus splint is used to reduce falls or risks.
- Nerve damage to lower leg feels numb and causes him to not stand or walk too long.

Mental Impairment

In the PR, the GP reported:

- There are no difficulties with communication.
- The appellant has significant deficits with cognitive and emotional function in the area of emotional disturbance. The GP commented: “history of suicide attempt secondary paranoia from substance use in remission.”
- The appellant is not restricted with social functioning.

In the AR, the PT reported:

- The appellant has a satisfactory ability to communicate with speaking and hearing. The PT did not assess his ability with reading and writing.
- With respect to daily impacts to the appellant’s cognitive and emotional and his social functioning, the PT did not complete an assessment.

In his self-report, the appellant wrote that he sometimes feels depressed when considering the activities he can no longer do. He wrote that he is hurt emotionally seeing the condition of his leg.

Daily Living Activities (DLA)

In the PR, the GP reported:

- The appellant has not been prescribed any medication and/or treatment that interfere with his ability to perform DLA.
- The appellant is not restricted with the personal self care DLA, the meal preparation DLA, the management of medications DLA, the basic housework DLA, mobility inside the home, and the management of finances DLA.
- The appellant is continuously restricted with the daily shopping DLA, mobility outside the home, and the use of transportation DLA.
- Regarding the degree of restriction, the GP indicated “takes two times longer to walk and climb stairs, has difficulty on transit due to injuries.”
- Asked to describe the assistance the appellant requires with DLA, the GP wrote: “walking aid and ongoing PT [physical therapy].”
- In the additional comments, the GP reported that, due to his injuries, the appellant cannot work to meet his needs.

In the AR, the PT reported:

- The appellant is independent with all of the tasks of the personal care DLA. The PT wrote with respect to the task of dressing that the appellant reported that he does this by himself but it “takes long time.” The appellant is also independent with all of the tasks of the basic housekeeping DLA, the meals DLA, the pay rent and bills DLA, and the transportation DLA.
- For the shopping DLA, the appellant is independent with the tasks of going to and from stores, reading prices and labels, making appropriate choices and paying for purchases and requires continuous assistance from another person with carrying purchases home, with the comment: “patient reports unable to carry bags and ambulate.” The PT indicated that the tasks of the medications DLA are not applicable to the appellant.
- The PT commented that she has not assessed the appellant outside the physiotherapy gym setting and would not be able to make an appropriate judgment on the items not ticked. The PT wrote that she discussed the questions with the appellant to determine the level of difficulty he is having with these DLA.

In his self-report, the appellant wrote:

- He needs assistance for transportation. His injured hip causes problems for going up and down stairs. Transportation is required.
- He is unable to play sports.
- He used to love working.

Need for Help

With respect to the assistance needed, the GP reported that the appellant needs a walking aid and ongoing physical therapy. The PT reported in the AR that the appellant receives help from his family and friends who “assist with transportation to grocery store and assist with carrying groceries.” In the section of the AR for identifying assistance provided through the use of assistive devices, the PT indicated splints and braces and wrote “the patient wears a Dictus splint at all times for mobility. He also has night splint which he uses to maintain ankle range of movement.”

Additional information

In his Notice of Appeal stamped received on May 31, 2017, the appellant expressed his disagreement with the ministry’s reconsideration decision and wrote that he is physically incapable of working. He has multiple injuries to his leg and he is traumatized by what he did to himself.

Prior to the hearing, the appellant provided a letter of support dated July 10, 2017 (the July 10 letter) in which his positive health coordinator wrote:

- He has known the appellant for over 5 years as one of the appellant’s professional support workers.
- The appellant has untreated internal trauma before and after his suicide attempt.
- The appellant has cognitive delays, he loses balance and he forgets what he is talking about.
- The appellant was not clear and much was overlooked by the doctor.

At the hearing, the appellant stated:

- Since he was a teenager, he has struggled with addiction. At that time, he had been asked to acknowledge that he was disabled, but he declined. Then he had his accident and he is now triggered by sounds that remind him of his suicide attempt and he “gets goose bumps.”
- He suffered a broken leg and a broken hip. He has undergone 5 operations on his leg.
- He is unable to lift his left foot.
- He used to do physical labour work and he can no longer do this work. He has multiple

barriers to being employed.

- He is seeking counseling to heal, and he is trying to keep his mind busy. He has gotten involved in some cultural activities recently that have helped him.
- His substance use is “an ongoing battle” and he has periods where he is doing well and then he has slips.
- The support worker who wrote the July 10, 2017 letter has seen him through “thick and thin” and has helped him.
- He is able to lift items but not to carry them because this requires balance, which he lost when he lost ¼ of his leg.
- His Dictus splint is not functional as the Velcro has worn and he cannot afford to buy a new one. He is able to walk without the splint, but it takes much longer than with the splint.

At the hearing, the appellant’s advocate stated:

- She became involved late in the process and it became increasingly apparent that the appellant did not understand the information that was needed for the application.
- The appellant has a real sense of perseverance and tried to handle the process on his own with no support and this is a difficult process that requires support.
- The appellant went to see his doctor recently in the hope that he would provide additional information to assist with the appellant’s PWD application, but he was on vacation and, therefore, unable to provide further information.
- The appellant is homeless and has no natural support system. He is currently “couch-surfing” and he sometimes has issues with substance abuse, which is not currently in remission. He experiences a cycle of being in remission and then he slips back into substance use.
- The appellant is being assessed for a possible diagnosis of PTSD [Post Traumatic Stress Disorder].
- The PWD designation would make it easier to get the appellant set up with secure housing so then the other supports can be plugged in. For the appellant to be an active participant in his child’s life, he needs to have stable housing.
- The appellant has issues when other people are around and he needs his own unit, and then he will need an outreach worker to help him maintain the housing.
- The appellant will sometimes use his child’s stroller to provide balance when he is walking. He does not use any other mobility aid.

The ministry relied on the reconsideration decision, as summarized at the hearing. At the hearing, the ministry clarified that the PWD designation relates to the ability to perform DLA and not employability, which is distinct from the Persons with Persistent Multiple Barriers to employment (PPMB) status that assesses the barrier’s that exist and the person’s restrictions to employment.

Admissibility of Additional Information

The ministry did not object to the admissibility of the July 10 letter, or raise an objection to the oral testimony on behalf of the appellant. The panel considered the information from the appellant as being in support of, and tending to corroborate, the impact from medical conditions referred to in the PWD application, which was before the ministry at reconsideration. Therefore, the panel admitted this oral testimony in accordance with Section 22(4)(b) of the *Employment and Assistance Act*.

The panel did not admit the information from the appellant and his advocate that his substance use is no longer in remission as this is inconsistent with and does not support the information provided by the GP in the PWD application, which was the information that the ministry had at reconsideration, specifically that the appellant’s substance abuse had been in remission since November 2015.

PART F – Reasons for Panel Decision

The issue on appeal is whether the ministry's reconsideration decision, which found that the appellant is not eligible for 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. The ministry found that the evidence does not establish that the appellant has a severe mental or physical impairment and that his DLA are, in the opinion of a prescribed professional, directly and significantly restricted either continuously or periodically for extended periods. Also, 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).

Severe Physical Impairment

In the reconsideration decision, the ministry was not satisfied that the information provided establishes a severe physical impairment. The ministry acknowledged that the GP diagnosed a traumatic injury to his leg/thigh in November 2015 and a number of injuries, including "right hand fracture, knee fracture, scrotal hematoma and skin grafting" that he is "very motivated but injuries to the leg have left him with mobility difficulties," and noted the GP's comments that "(d)ue to above

injuries he cannot work to meet his needs.” At the hearing, the appellant emphasized that he used to do physical labour work and he can no longer do this work as he has multiple barriers to being employed. The ministry reasonably considered that employability is not a criterion for determining PWD designation as it is not set out in section 2(2) of the EAPWDA nor is it listed among the prescribed daily living activities in section 2 of the EAPWDR. The ministry found that the evidence does not sufficiently describe or portray a severe impairment and is more reflective of a moderate impairment. The ministry acknowledged that the appellant experiences some degree of restriction due to his impairment, but the ministry was not satisfied that the combination of his functional skills, mobility and physical abilities exhibits a severe physical impairment.

A diagnosis of a serious medical condition does not in itself determine PWD eligibility or establish a severe impairment. An “impairment” is a medical condition that results in restrictions to a person’s ability to function independently or effectively or for a reasonable duration. To assess the severity of an impairment, the ministry must consider the nature of the impairment and the extent of its impact on daily functioning.

The ministry reasonably considered the impacts of the appellant’s diagnosed medical condition, or the traumatic injury to his leg/thigh, on his daily functioning, beginning with the assessments provided in the PR and in the AR. The ministry considered that the GP assessed the appellant in the moderate level of the scale for functional skills, being able to walk 1 to 2 blocks unaided on a flat surface, climb 2 to 5 steps unaided, lift from 5 to 15 lbs., and with no limitation on the time to remain seated. The GP’s comment “takes 50 to 100% longer” for walking and climbing stairs is consistent with the GP’s comment regarding the degree of the appellant’s restriction that it “...takes two times longer to walk and climb stairs.” The GP also reported in the PR that the appellant requires an aid for his impairment, namely “occasional use of walking aid/cane.” The GP indicated that the appellant is not restricted with his mobility inside the home and is continuously restricted with his mobility outside the home. At the hearing, the appellant’s advocate stated that the appellant sometimes uses his child’s stroller for support while walking but he does not typically use another mobility aid.

For the ministry to be “satisfied” that an impairment is severe, the panel considers it reasonable for the ministry to expect that the information provided by the medical practitioner and prescribed professional presents a comprehensive overview of the nature and extent of the impacts of the medical conditions on daily functioning, including by providing the explanations, descriptions or examples in the spaces provided in the PR and in the AR forms.

The ministry also considered that the PT reported the appellant is independent with walking indoors and walking outdoors, with climbing stairs, standing and lifting. The PT noted that the Dictus splint is used by the appellant for all walking and stairs to reduce falls risk and he wears the splint at night to maintain his ankle range and integrity. The PT did not specifically indicate that the appellant requires an assistive device with his mobility, assessing him as independent, she did not indicate that it takes the appellant significantly longer than typical with his mobility and physical ability, and she did not assess his ability to carry and hold. At the hearing, the appellant stated that he is not currently using the Dictus splint because it is not functional and he cannot afford to replace it. In his self-report, the appellant wrote that he is able to walk 2 or 3 blocks then his hip starts to hurt and causes problems for going up and down stairs. The appellant stated at the hearing that it takes him a long time to go up and down stairs, which is consistent with the information from the GP in the PR.

In the AR, the PT wrote that she did not assess the appellant outside the physiotherapy gym setting and that she would not be able to make an appropriate judgment on the items not assessed. At the hearing, the appellant confirmed that he can lift, but he has a problem with carrying because it requires balance that he lost when he lost ¼ of his left leg. While the GP wrote in the PR that the

appellant “has little muscle bulk so cannot lift properly,” he also assessed the appellant as able to lift within the range of 5 to 15 lbs.

Given the GP’s report in the PR of a moderate level of functional skills and the PT’s report of independent physical functioning within that range, with no revised assessment provided on the appeal, as well as the emphasis by the GP and the appellant on his inability to work, 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

In the reconsideration decision, the ministry was not satisfied that the information provided was sufficient evidence of a severe mental impairment. The ministry noted that the GP diagnosed substance use that is in remission. The ministry noted that the GP reported significant deficits with cognitive and emotional functioning in the area of emotional disturbance and the GP wrote that there is “...history of suicide attempt secondary paranoia from substance use in remission.” At the hearing, the appellant stated that he is triggered by sounds that remind him of his suicide attempt and he “gets goose bumps.” The appellant’s advocate stated that the appellant is being assessed for a possible diagnosis of PTSD but that is still in progress and no further information was available on the appeal from the GP or from a mental health specialist.

The appellant stated at the hearing that he is seeking counseling to heal, he is trying to keep his mind busy and he has gotten involved in some cultural activities recently that have helped him. The ministry considered that the GP and the PT assessed no difficulties with communication and the PT did not assess the appellant’s cognitive and emotional functioning. While the appellant’s advocate stated at the hearing that the appellant has issues when other people are around and he needs his own housing unit and an outreach worker to help him maintain the housing, the GP assessed no restrictions with social functioning and the PT did not provide an assessment of aspects of social functioning.

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

Restrictions in the ability to perform DLA

In the reconsideration decision, the ministry was not satisfied that the appellant has a severe physical or mental impairment that, in the opinion of the prescribed professional, directly and significantly restricts DLA either continuously or periodically for extended periods of time.

According to the legislation, Section 2(2)(b) of the EAPWDA, the ministry must assess direct and significant restrictions to DLA in consideration of the opinion of a prescribed professional, in this case the appellant’s GP and the PT. This does not mean that the other evidence is not factored in as required to provide clarification of the professional evidence, but 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.” Therefore, the prescribed professional completing the assessments 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 reconsideration decision, the ministry reviewed the information provided in the PR and noted that the GP indicated that the appellant has not been prescribed any medications or treatments that interfere with his ability to perform DLA. The ministry wrote that the GP indicated in the PR that the appellant is continuously restricted with daily shopping, mobility outside the home and use of

transportation, and noted regarding the degree of restriction that the appellant “takes two times longer to walk and climb stairs, has difficulty on transit due to injuries.” The GP reported that the appellant is not restricted with mobility inside the home. The ministry considered that when asked what assistance the appellant needs with DLA, the GP responded “...walking aid and ongoing physical therapy.” The GP also concluded in the PR that, as a result of the appellant’s injuries, “he cannot work to meet his needs” and, as previously discussed, this is not a consideration for the PWD designation.

The ministry wrote that the PT indicated in the AR that the appellant is able to manage all tasks of all DLA independently, with the exception of the task of carrying purchases home when shopping, for which the appellant requires continuous assistance from another person. The PT noted that the appellant “...reports unable to carry bags and ambulate.” The PT also commented in the AR that she has not assessed the appellant outside the physiotherapy gym setting and would not be able to make an appropriate judgment on the items not ticked. The PT wrote that she discussed the questions with the appellant to determine the level of difficulty he is having with these DLA. The PT indicated the appellant is independent with all tasks of the DLA personal care, basic housekeeping, meals, pay rent and bills, medications, and transportation. In his self-report, the appellant wrote that he needs assistance for transportation as his injured hip causes problems for going up and down stairs. At the hearing, the appellant stated that he has difficulty with public transit, and the GP identified continuous restrictions; however, the PT assessed the appellant as independent with all tasks, including getting in and out of a vehicle, using public transit, and using transit schedules and arranging transportation.

Given the GP’s report of the appellant taking two times longer but remaining independent with his mobility, and the PT’s indication that the appellant is independent with all but one task of DLA, the panel finds that the ministry reasonably determined that the evidence is insufficient to show that the appellant’s overall ability to perform his DLA is significantly restricted either continuously or periodically for extended periods, pursuant to Section 2(2)(b)(i) of the EAPWDA.

Help to perform 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 significant help is 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. That is, 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, the significant help or supervision of another person, or the services of an assistance animal in order to perform a DLA.

While the PT indicated that the appellant receives help from family and friends, who assist with transportation and with carrying groceries, and that he wears a Dictus splint and braces, 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 also 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 pursuant to Section 2(2) of the EAPWDA, was reasonably supported by the evidence. The panel therefore confirms the ministry’s decision. The appellant’s appeal, therefore, is not successful.