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 June 15, 2017, which held that the appellant did not meet 3 of the 5 statutory requirements of section 2 of the *Employment and Assistance for Persons with Disabilities Act* for designation as a person with disabilities (PWD). The ministry found that the appellant met the age and duration requirements, but was not satisfied that:

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

PART D – Relevant Legislation

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

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

PART E – Summary of Facts

On March 24, 2017 the ministry received the appellant's PWD application comprised of a Medical Report (MR) and an Assessor Report (AR) completed by the appellant's General Practitioner (the "Physician") on March 13, 2017, and the appellant's Self-report (SR) dated March 13, 2017. The appellant also provided the following:

- Consult report from a psychiatrist (the "Psychiatrist") dated July 7, 1998
- Letter from another general practitioner (the "Doctor") dated January 14, 1999
- Consult report from the Psychiatrist dated December 29, 1999

The appellant's request for PWD designation was denied on May 3, 2017. On June 2, 2017the appellant submitted her completed Request for Reconsideration (RFR) dated June 2, 2017. The appellant also provided the following:

- Letter from another psychiatrist ("Psychiatrist 2") dated April 11, 2017
- Letter from the Physician dated May 31, 2017
- Letter from the appellant's social worker dated June 1, 2017

On June 30, 2017, the tribunal received the appellant's Notice of Appeal.

Summary of relevant evidence

Diagnoses

The Psychiatrist indicates that the appellant has a dependent personality disorder and a history of recurrent depressions.

In the MR, the Physician diagnoses the appellant with generalized anxiety disorder, PTSD, complicated bereavement and recurrent depression, onset in 1997.

In his letter dated April 11, 2017 Psychiatrist 2 states that the appellant has a history of mixed anxiety and depressive disorder since her teen years.

In his letter dated May 31, 2017 the Physician indicates that the appellant has a diagnosis of generalized anxiety disorder and major depressive disorder.

Physical Impairment

In the Health History portion of the MR, the Physician indicates that the appellant has poor appetite, weight loss (50 pounds in 4 months), and poor sleep.

In the MR for Functional Skills, the Physician indicates that the appellant is able to walk 4+ blocks unaided on a flat surface, can climb 5+ steps unaided, can lift between 15 to 35 pounds, and has no limitation with remaining seated.

In the AR the Physician indicates that the appellant is independent with all mobility and physical ability tasks.

Mental Impairment

In the MR, the Physician indicates that the appellant has significant deficits with cognitive and emotional function in the areas of memory, emotional disturbance, motivation and attention or sustained concentration. The Physician comments that the symptoms are coming from her depression and anxiety of moderate to severe severity.

In the AR, the Physician indicates that the appellant's ability to communicate with speaking and hearing are good and that her reading and writing are satisfactory, explaining that she has difficulty with concentrating on reading and writing. The Physician indicates that the appellant has major impacts to the areas of bodily functions, emotion, and motivation and moderate impacts in the areas of attention/concentration, executive, and memory. The appellant has no impact in the areas of consciousness, impulse control, insight and judgment, motor activity, language, psychotic symptoms, other neuropsychological problems and other emotional or mental problems. The Physician comments that the appellant has poor appetite, has lost 50 pounds in 4 months, and has poor motivation, excessive anxiety and depression as a result of her depression, anxiety and PTSD.

In the July 7, 1998 letter, the Psychiatrist indicates that the appellant has a history of recurrent depression, chronic anxiety, and was experiencing grief-related phenomena mainly manifested as inappropriate shame and guilt. The Psychiatrist states that her thought processes and cognition were intact and she demonstrated reasonable insight and judgment.

In his letter dated January 14, 1999, the Doctor states that the appellant was suffering from abnormal grief reaction related directly to the death of her common law spouse in 1997.

In his letter dated December 29, 1999 the Psychiatrist indicates that the appellant had become anxious and demoralized in response to the progression of her dysfunctional and co-dependent common law relationship.

In his letter dated April 11, 2017, Psychiatrist 2 indicates that the appellant had no history of alcohol or illicit drug use and that she declined to take antidepressant medications but agreed to attend an anxiety management program. Psychiatrist 2 states that in his opinion the appellant has a long-term disability and she is a suitable candidate for PWD allowance. He states that she is quite a vulnerable individual and ongoing financial stressors may predispose her and may also precipitate anxiety and depression.

In his letter dated May 31, 2017 the Physician indicates that the appellant has been seen by psychiatry more recently and started on medications and referred for counseling. He indicates that she has moderate to severe symptoms including low mood, poor concentration, poor focus and attention, and poor motivation. He indicates that these symptoms make her unable to manage in a work environment, as she is not able to focus on her work task or perform the cognitive tasks required.

In the RFR the appellant states that after years of suffering from anxiety she is finally getting some help with her anxiety. She states that she had previously tried coping with her feelings and unhealthy thinking and choices with alcohol and being very codependent with others. She states that she needs a home, food, transportation and time in order to accomplish her goal of improving her mental health.

DLA

In the MR the Physician indicates that the appellant has not been prescribed any medications that interfere with her ability to perform DLA.

In the AR, the Physician indicates that the appellant is independent with all aspects of personal care except regulating diet with which she requires continuous assistance from another person and it takes her significantly longer than typical explaining that part of depression is not eating to the point of losing 50 pounds in the past 4 months. The Physician indicates that the appellant is independent with all aspects of basic housekeeping, shopping, rent and bills, medications and transportation. With respect to meals, the appellant is independent with safe storage of food but requires continuous assistance from another person with meal planning, food preparation and cooking, indicating that part of her depression is that she is unable to find the motivation to cook for herself, resulting in major weight loss.

With respect to social functioning the Physician indicates that the appellant requires continuous support/supervision with making appropriate social decisions, developing and maintaining relationships, interacting appropriately with others, dealing appropriately with unexpected demands and securing assistance from others. The Physician indicates that the appellant has very disrupted functioning with her immediate and extended social networks commenting that she is unable to secure long term accommodation, lives in marginalized living conditions, and is basically isolated from other people.

In his letter dated May 31, 2017 the Physician indicates that the appellant has traumatic events in her life going back 20 years so her symptoms are long standing. He indicates that treatment with medications and counselling is expected to be prolonged.

Need for Help

In the MR, the Physician does not indicate what assistance the appellant needs with DLA. In the AR, the Physician does not describe the support/supervision required which would help to maintain the appellant in the community. The Physician indicates that nobody is helping the appellant at this point although he indicates that the appellant has recently reconnected with counselling and psychiatry for March-April 2017. The appellant does not have an Assistance Animal.

In the letter dated April 11, 2017 Psychiatrist 2 indicates that the appellant declined to take antidepressant medication but has agreed to attend anxiety management program. He also indicated that he referred the appellant to a program for sheltered environment.

In the letter dated June 1, 2017, the social worker indicates that the appellant is willing to access supports and to follow through with treatment recommendations and has been accepted into a community mental health program as a participant.

Additional information provided

In her Notice of Appeal dated June 30, 2017, the appellant states that she feels that her anxiety and depression are too severe for her to be working and now she needs to seek help about her newly diagnosed alcoholism. She states that she is not functioning at home.

At the hearing the appellant provided a letter from the Physician dated June 30, 2017 indicating that the appellant has a history of major depressive disorder and generalized anxiety disorder. He also indicates that she meets criteria for alcohol addiction.

At the hearing the appellant stated that she has suffered since she was a teenager and despite some success in her early life, began using alcohol to cope with her mental health issues. When her spouse was murdered in 1997 she suffered significant grief and began using alcohol to cope and could not hold a job. She subsequently had a 16-year relationship and had periods where she did somewhat better but the relationship ended last year and lost her home and she has been drinking all the time. The appellant attended a support program in another city and found some benefit from that but has not found that benefit in the current city in which she resides.

The appellant states that she has spent a considerable portion of the last year either living in isolation or in dysfunctional living situations, as she does not have the income or ability to live on her own. The appellant states that she has struggled with having motivation to cook and eat, that her sleeping has been very poor and that she does not make very good choices. She feels very frustrated as she does not feel capable of explaining how she feels, only able to say that she just can't cope.

The appellant states that she has recently been prescribed a medication that helps her anxiety, and she is eating more and sleeping better, but she has increased depressive symptoms. She states that even though she is eating again she has lost 10 pounds in the past 2 weeks and six weeks ago she started losing hair. Her TSH (thyroid tests) are up and down, she was on thyroid medication and is being weaned off that. She thinks her hair loss is due to the thyroid medication but that needs to be investigated further. The appellant stated that she is currently living with a woman and is performing a variety of tasks such as taking down wallpaper, cleaning, gardening, cooking meals, and grocery shopping in exchange for room and board. She states that she cannot cook freely for herself given the current living situation so she is not sure whether her motivation to cook is better now or not but she is eating with her landlady and eating more meals than before. The appellant states that she does not have any family support.

The appellant stated that although the AR indicates that there is no impact to her impulse control or insight and judgment, she has struggles with confusion, and she did not tell the Physician about the extent of her alcohol problems. The appellant also stated that she did not think depression was a major problem and that it was her anxiety that was the most troublesome but she now understands that her depression is a significant problem too.

The social worker stated that she began working with the appellant in May and the appellant is lacking in terms of natural support. She stated that the appellant is often very anxious or distressed but she is doing great at keeping her appointments. The social worker stated that the appellant needs support several times per week. The social worker indicated that while the Physician in the AR indicated that the appellant has no impact in the areas of impulse control and insight and judgment that is likely a reflection of the fact that the appellant had not provided him with all the information about her alcohol problems.

Admissibility of New Information

The ministry did not object to the new evidence.

The panel has admitted the information in the Notice of Appeal, the letter from the Physician, the appellant's oral testimony, and the social worker's oral testimony with respect to the information provided regarding her diagnoses of generalized anxiety disorder, PTSD, complicated bereavement and recurrent depression as it tends to corroborate the information before the ministry at the time of reconsideration, in accordance with section 22(4) of the *Employment and Assistance Act.* In particular, the information relates to the Physician's reports in the MR and AR, and information at reconsideration respecting the self-reported severity of the appellant's impairment.

However, the panel has not admitted the information in the Notice of Appeal, the letter from the Physician, the appellant's oral testimony or the social worker's oral testimony regarding the appellant's newly diagnosed alcoholism and consequent impacts to her DLA. As this new information does not corroborate the information before the ministry at the time of reconsideration and includes a completely new diagnosis, the ministry did not have the opportunity to review this information or consider the new diagnosis and impacts to the appellant's DLA, it takes the panel away from reviewing the reasonableness of the ministry's reconsideration decision. As the ministry did not have the opportunity to review this new information, the appellant may wish to put this information before the ministry in the future.

PART F – Reasons for Panel Decision

Issue on Appeal

The issue on appeal is whether the ministry's decision to deny the appellant designation as a PWD was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the circumstances of the appellant. In particular, was the ministry reasonable when concluding it was not satisfied that

- a severe physical or mental impairment was established;
- the appellant's daily living activities (DLA) are, in the opinion of a prescribed professional, directly and significantly restricted either continuously or periodically for extended periods; and
- as a result of those restrictions, in the opinion of a prescribed professional, the appellant requires help, as it is defined in the legislation, to perform DLA?

Relevant Legislation

EAPWDA

2 (1) In this section:

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

"daily living activity" has the prescribed meaning;

"prescribed professional" has the prescribed meaning.

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

(a) in the opinion of a medical practitioner 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).

EAPWDR

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.

(3) The definition of "parent" in section 1 (1) applies for the purposes of the definition of "dependent child" in section 1 (1) of the Act.

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).

Panel Decision

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

When considering the evidence provided respecting the severity of impairment, the ministry must exercise its decision-making discretion reasonably by weighing and assessing all of the relevant evidence and cannot simply defer to the opinion of a prescribed professional as that would be an improper fettering of its decision-making authority.

Severe Physical Impairment

The appellant states that she is experiencing severe hair loss, weight loss, and her TSH levels are not right, but she did not argue that she had a severe physical impairment.

The ministry's position is that the MR, AR and other medical documentation do not establish a severe physical impairment. In particular, the ministry notes that the Physician's assessment of the appellant's functional skills in the MR is not indicative of a severe physical impairment.

Although the Health History portion of the MR indicates that the appellant has lost 50 pounds in 4 months, the MR does not indicate a diagnosis of a physical impairment. The MR indicates that the appellant does not require any prosthesis or aids for her impairment. For functional skills, the Physician indicates that the appellant can walk 4+ blocks unaided on a flat surface, can climb 5+ steps unaided, can lift 15 to 35 pounds and has no limitation with respect to being seated. In the AR, the Physician indicates that the appellant is independent with all aspects of mobility and physical ability.

The other medical documentation, while providing information regarding the appellant back ground and mental impairment, does not provide further information about the appellant's level of functioning with mobility or physical ability.

As there is no diagnosis of a physical impairment and as the information in the MR and AR indicates that the appellant's level of functioning with mobility and physical ability is independent, the panel therefore finds that the ministry reasonably determined that a severe physical impairment has not been established.

Severe Mental Impairment

The appellant states that the medical evidence demonstrates that she has a severe mental impairment as she suffers from anxiety, depression and alcoholism that impact her ability to function and care for herself.

The ministry's position is that although the appellant has been diagnosed with generalized anxiety disorder, PTSD, complicated bereavement and recurrent depression, the information provided by the Physician in the MR indicates that the appellant has moderate to severe anxiety and depression symptoms. The ministry notes that although the Physician in the MR indicates that the appellant has poor attention and concentration, he does not indicate whether the severity of impacts to attention and concentration is moderate or severe. The reconsideration decision also indicates that in the AR, the Physician indicates that the appellant has significant deficits to cognitive and emotional functioning in the areas of memory and attention/sustained concentration, in the AR, the Physician indicates moderate impacts to these areas.

The ministry notes that in the AR the Physician indicates major impacts to three areas of cognitive and emotional functioning, moderate impacts to three areas and no impacts to eight areas of cognitive and emotional functioning.

The ministry also notes that while the Physician indicates that the appellant has very disrupted functioning with both her immediate and extended social networks and requires continuous support/supervision with all listed areas of social functioning, the Physician has not described the support/supervision required to help the appellant maintain in the community.

The reconsideration decision indicates that in the Physician's recent letter dated May 31, 2017 the Physician states that the appellant has moderate to severe symptoms including low mood, poor concentration, poor focus and attention, and poor motivation but that he does not describe the frequency of moderate versus severe symptoms of the appellant's cognitive functioning. The ministry's position is that the cumulative impact of the information provided is that the appellant has a moderate as opposed to severe impairment of her mental functioning.

The panel notes that in the MR, the Physician has been diagnosed with generalized anxiety disorder, PTSD, complicated bereavement, and recurrent depression.

The MR indicates that the appellant has significant deficits with cognitive and emotional function in the areas of memory, emotional disturbance, motivation and attention or sustained concentration and the Physician comments that the symptoms are from her depression and anxiety of moderate to severe severity. In the AR, the Physician indicates major impact to three areas of cognitive and emotional functioning being bodily functions, emotion and motivation, moderate impact to three areas, being attention/concentration, executive and memory and no impact to the remaining eight areas. The Physician indicates that the appellant has poor appetite, has lost 50 pounds in 4 months, has poor motivation, and has excessive anxiety, as a result of her depression, anxiety and PTSD. However, the Physician does not provide any explanation of the frequency of moderate versus severe symptoms. In addition, the appellant's evidence is that the new medication she is now taking has helped decrease her anxiety symptom and has increased her appetite.

While the appellant indicates in her RFR that she made unhealthy choices in the past regarding alcohol there is no information from the Physician regarding this information or the impacts to the appellant's functioning. The appellant admitted that she at the time the MR and AR were completed, she had not informed the Physician of the full extent of her difficulties with alcohol.

While Psychiatrist 2 states that the appellant has a long-term disability and she is a suitable candidate for PWD allowance and that she is quite a vulnerable individual and ongoing financial stressors may predispose her and may also precipitate anxiety and depression, this statement is not sufficient without further information regarding the severity of the appellant's mental impairment including the impacts of her mental impairment on her cognitive and emotional functioning.

The Physician's letter of May 31, 2017 restates the appellant's diagnosis but the Physician again indicates that she has moderate to severe symptoms and he does not provide further information on the frequency of the moderate versus severe symptoms. While the Physician indicates that the appellant is unable to manage a work environment, employability is not a criterion for PWD designation. In his letter dated June 30, 2017 the Physician indicates that the appellant has a history of major depressive disorder and generalized anxiety disorder and that his letter is to help her application for PWD. However, the statements about her diagnosis, without additional information regarding the severity of her symptoms and impact to her cognitive and emotional functioning and ability to perform DLA, is not sufficient.

The letters from the Psychiatrist from 1998 and 1999 also indicate that the appellant was diagnosed with a dependent personality disorder and has had a difficult past with tumultuous relationships, dysfunctional living environments, and suffered feelings of guilt and shame and amplified grief after her spouse was murdered in 1997. However, these letters are very dated and they do not provide any information on the appellant's current level of functioning.

It appears that the Physician may not have had all the information regarding the appellant's condition and impacts to her cognitive and emotional functioning. However, the ministry can only assess the PWD application based on the information in the application.

The panel finds that based on all the information the ministry reasonably concluded that the cumulative impact to cognitive and emotional functioning is not indicative of a severe impairment of mental functioning.

Restrictions in the ability to perform DLA

Section 2(2)(b)(i) of the EAPWDA requires that the minister be satisfied that in the opinion of a prescribed professional, a severe mental or physical impairment directly and significantly restricts the appellant's ability to perform DLA either continuously or periodically for extended periods. While other evidence may be considered for clarification or support, the ministry's determination as to whether or not it is satisfied that the legislative criteria are met, is dependent upon the evidence from prescribed professionals. The term "directly" means that there must be a causal link between the severe impairment and the restriction. The direct restriction must also be significant. Finally, there is a component related to time or duration – the direct and significant restriction may be either continuous or periodic. If periodic, it must be for extended periods. Inherently, any analysis of periodicity must also include consideration of how frequently the activity is restricted. All other things being equal, a restriction that only arises once a year is less likely to be significant than one that occurs several times a week. Accordingly, in circumstances where the evidence indicates that a restriction arises

periodically, it is appropriate for the ministry to require evidence of the duration and frequency of the restriction in order to be “satisfied” that this legislative criterion is met.

DLA are defined in section 2(1) of the EAPWDR and are listed in both the MR and the AR sections of the PWD application with the opportunity for the prescribed professional to check marked boxes and provide additional narrative. DLA, as defined in the legislation, do not include the ability to work.

The appellant states that she has a severe mental impairment of anxiety and depression and that she makes unhealthy choices and uses alcohol to cope with her feelings and that the combination of these conditions make it difficult for her to perform DLA. The appellant states that she cannot cope with her feelings, has poor motivation that makes it difficult for her to care for herself with hygiene and eating, and difficulty with attention/concentration. The appellant states that her anxiety in particular makes it difficult to socialize and express her thoughts and feelings, and that she has spent much of the last year in isolation. The appellant’s position is that the information provided demonstrates that she meets the criteria for designation for PWD.

The ministry’s position is that the information provided by the Physician is not sufficient to establish significant restrictions to DLA. The ministry notes that in the AR, the Physician indicates that the appellant requires continuous assistance from another person and takes significantly longer than typical with regulating diet, and requires continuous assistance from another person with meal planning, food preparation and cooking but is independent with all other listed areas of personal care, and meals, and is independent with laundry and basic housekeeping, shopping, paying rent/bills, medications and transportation. However the ministry notes that the Physician does not describe how much longer than typical the appellant takes with regulating diet.

The ministry’s position is that based on the assessments provided it is difficult to establish significant restriction to DLA.

The panel notes that in the MR the Physician indicates that the appellant has not been prescribed any medications that interfere with her ability to perform DLA.

In the AR, the Physician indicates that the appellant is independent with all aspects of personal care except regulating diet with which she requires continuous assistance from another person and it takes her significantly longer than typical explaining that part of depression is not eating to the point o flossing 50 pounds in the past 4 months. The Physician indicates that the appellant is independent with all aspects of basic housekeeping, shopping, rent and bills, medications and transportation. With respect to meals, the appellant is independent with safe storage of food but requires continuous assistance from another person with meal planning, food preparation and cooking, indicating that part of her depression is that she is unable to find the motivation to cook for herself, resulting in major weight loss.

With respect to social functioning the Physician indicates that the appellant requires continuous support/supervision with making appropriate social decisions, developing and maintaining relationships, interacting appropriately with others, dealing appropriately with unexpected demands and securing assistance from others. The Physician indicates that the appellant has very disrupted functioning with her immediate and extended social networks commenting that she is unable to secure long term accommodation, lives in marginalized living conditions, and is basically isolated from other people.

In his letter dated May 31, 2017 the Physician indicates that the appellant has traumatic events in her life going back 20 years so her symptoms are long standing. He indicates that treatment with medications and counselling is expected to be prolonged. The appellant stated that the medication she is taking has increased her depression and causes fatigue, but the Physician does not indicate whether the medications impact the appellant's ability to perform DLA.

While the information provided indicates that the appellant has some impacts to DLA in the areas of regulating diet, some aspects of meals and social functioning, the majority of the appellant's DLA are reported to be independent and the Physician has not provided any description of the support/supervision which would help the appellant to maintain in the community.

The lack of further information about how much longer than typical it takes the appellant with regulating diet, and lack of information about the support/supervision needed make it difficult to obtain a clear picture of the impact to the appellant's DLA. In addition, while the Physician indicates that the appellant is unable to secure long term accommodation and lives in marginalized conditions, the Physician indicates that she is independent with all aspects of paying rent and bills. While the Physician indicates that the appellant needs continuous assistance regulating diet, as part of her depression is not eating to the point of losing 50 pounds in 4 months, he indicates that she is independent with all aspects of shopping. However, if she needs continuous assistance regulating diet it is not clear how she is able to be independent with making appropriate choices with respect to DLA of shopping.

Based on the above analysis, the panel finds that the ministry has reasonably determined that the independence with which the prescribed professionals report that the appellant manages her DLA does not confirm that the appellant has a severe impairment that significantly restricts her ability to perform DLA continuously or periodically for extended periods.

Help to perform DLA

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

The appellant's position is that she requires help with DLA because of her severe and mental impairment. She and the social worker state that she requires community supports to address her mental health and to find housing.

The ministry argues that because it has not been established that DLA are significantly restricted, it cannot be determined that help is required.

In the MR, the Physician does not indicate what assistance the appellant needs with DLA. In the AR, the Physician does not describe the support/supervision required which would help to maintain the appellant in the community. The Physician indicates that nobody is helping the appellant at this point although he indicates that the appellant has recently reconnected with counselling and psychiatry for March-April 2017. The Physician indicates that the appellant does not require any prosthesis or aids for her impairment and that she does not have an Assistance Animal.

In the letter dated April 11, 2017 Psychiatrist 2 indicates that the appellant declined to take antidepressant medication but has agreed to attend anxiety management program. He also indicated that he referred the appellant to a program for sheltered environment.

In the letter dated June 1, 2017, the social worker indicates that the appellant is willing to access supports and to follow through with treatment recommendations and has been accepted into a community mental health program as a participant.

Given that confirmation of direct and significant restrictions with DLA is a precondition of the need for help criterion and as the panel found that the ministry reasonably determined that direct and significant restrictions in the appellant's ability to perform DLA have not been established, the panel also finds that the ministry reasonably concluded that it cannot be determined that the appellant requires help to perform DLA as required by section 2(2)(b)(ii) of the EAPWDA.

Conclusion

The panel finds that the ministry's reconsideration decision, which determined that the appellant was not eligible for PWD designation, was reasonably supported by the evidence and is a reasonable application of the applicable enactment, and therefore confirms the decision. The appellant is not successful on appeal. As noted above, the appellant may wish to put the new information not admitted as evidence at this appeal before the ministry in the future.