

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the Ministry) reconsideration decision dated June 22, 2017, which found that the Appellant did not meet four of the five statutory requirements of Section 2 of the *Employment and Assistance for Persons with Disabilities Act* for designation as a person with disabilities (PWD). The Ministry found that the Appellant met the age requirement. However, the Ministry was not satisfied that the evidence establishes that:

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

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 EAPWDA 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 PWD Application comprised of the applicant information and self report (SR) dated April 8, 2017, a medical report (MR) dated April 1, 2017 and completed by the Appellant's general practitioner (GP) who has known the Appellant since October 2016 and who has seen the Appellant 2-10 times in the past year, and an assessor report (AR) dated April 6, 2017 completed by the GP.

The evidence also included the Appellant's Request for Reconsideration (RFR) dated June 8, 2017, in which the Appellant does not provide reasons for his RFR but to which is attached an advocate-prepared questionnaire in which a mental health specialist (Psychiatrist) indicates whether he agrees or disagrees with a number of statements regarding the appellant's impairment (the "reconsideration questionnaire" or RQ).

Diagnoses

In the MR, the GP diagnosed the Appellant with a Mood Disorder (Depression) with an onset of September 2016.

Duration of Impairment

In the MR, the GP does not complete the section of the report which asks whether the impairment is likely to continue for more than two years and in response to the question "What is the estimated duration of the impairment and are there remedial treatments that might resolve or minimize the impairment?" he writes "unknown".

In the RQ, the Psychiatrist indicates that he agrees that the Appellant's medical condition is likely to continue for at least two years and adds "ongoing legal stressors, causing impact on mood".

Physical Impairment

The GP does not provide a diagnosis of a physical impairment in the MR, but does identify the Appellant's functional skills as follows:

- he can walk 2 to 4 blocks on a flat surface unaided;
- he can climb 5+ steps unaided;
- he can lift 5 to 15 lbs; and
- he can remain seated for less than an hour

In the MR, the GP indicates that the Appellant is able to independently manage all activities requiring mobility and physical activity.

The RQ does not identify any physical impairments.

In the SR, the Appellant does not indicate that he has a physical impairment.

Mental Impairment

In the MR and the AR, the GP reported that:

- in terms of health history, the Appellant has a "low mood", is sad, and has felt scared for several months. He also indicates that the Appellant has decreased concentration, decreased energy which affects his ability to work and that he was recently hospitalized due to

depression and excessive consumption of alcohol;

- where asked in the MR to provide any additional information relevant to an understanding of the significance of the Appellant's medical condition, the GP writes that the Appellant has depression, has been taking medication in the form of a selective serotonin reuptake inhibitor for a month and would be seeing a psychiatrist in April 2017;
- where asked in the AR to provide any additional information relevant to understanding the nature and extent of the Appellant's impairment, the GP writes "feels anxious, scared in social situations. Difficulty sleeping, feels tired, racing thoughts"; and
- the Appellant's mental impairment had no impact on his consciousness and language ability, a minimal impact on bodily functions, insight and judgement, executive functions, psychotic symptoms, other neuropsychological problems, and other emotional or mental problems, and a moderate impact on emotion, impulse control, attention/concentration, memory, motivation and motor activity. The GP did not indicate a major impact on any aspect of cognitive and emotional functioning, nor did he provide any comments in this section of the AR.

In the SR the Appellant states that:

- he has been depressed, that no one is helping him, and that he "is alone";
- he needs family or friends to support him but "nobody cares";
- as a result he has turned to alcohol to cope; and,
- he "went to lots of places for help" but that no one helps him.

In the RQ, the Psychiatrist provided the following evidence (his comments are provided in italics):

- agrees that the Appellant states that he is so depressed that he has been actively thinking about taking his life [*(Appellant) is not currently suicidal. Does experience fleeting thoughts of self harm*];
- agrees that the Appellant states that he has withdrawn himself from family and friends and usually has no interest in social interaction [*lack of interest, lack of motivation*];
- agrees that the Appellant states that he doesn't reach out for help when he needs it and thinks that no one needs to know what is happening with him [*limited (insight?) and poor understanding of legal procedures*]; and,
- does not agree that the Appellant's medical condition is severe [*(his medical condition is) mild to moderate*].

Restrictions in the Ability to Perform DLA

In the MR, the GP reported that:

- the Appellant was independent with respect to all aspects of mobility and physical ability;
- the Appellant has not been prescribed any medication and/or treatments that interfere with his ability to perform DLA;
- the Appellant is periodically restricted with respect to meal preparation, basic housework, daily shopping and social functioning;
- his periodic restrictions with these DLA "vary on day-to-day [basis] based on his depression symptoms" and that his social functioning is impacted by his inability to be communicative with his friends; and,
- the Appellant's activity is not restricted with respect to all other DLA (personal self care, management of medications, mobility inside and outside the home, use of transportation and management of finances).

In the section of the AR in which the GP was asked to indicate assistance required with DLA, he stated that the Appellant:

- was independent in all aspects of personal care, basic housekeeping (including laundry), shopping, meals (including planning, preparation and cooking), medications and transportation; and,
- required periodic assistance from another person with respect to banking, budgeting and paying rent and bills. No information was provided regarding the type or amount of periodic assistance required.

With respect to social functioning DLA (ability to make appropriate social decisions, ability to develop and maintain relationships, ability to interact appropriately with others, ability to deal appropriately with unexpected demands, and ability to secure assistance from others), the GP indicated that the Appellant:

- requires periodic support and supervision, but did not include a description of the degree and duration of support or assistance required other than commenting: “friend helping partially”; and,
- has marginal functioning with respect to his immediate and extended social networks.

In the RQ, the Psychiatrist provided the following evidence (comments are provided in italics):

- the Psychiatrist agrees that the Appellant states that emotion/depression, attention/concentration, motivation/lack of interest, insight/judgement and poor awareness of self health all have a major impact on his daily functioning; and
- the Psychiatrist agrees that the Appellant states that he has no desire to have a shower or bath [*due to low mood/depression*], cook or prepare meals [*gets help from girlfriend*], or do his laundry [*neglects self and personal hygiene due to lack of motivation and loss of interest*].

Need for Help

In the MR and the AR, the GP indicated that:

- the Appellant’s friends help him “partially” with social functioning;
- the Appellant’s friends help him with other DLA; and
- the Appellant does not have an assistance animal or require any prosthesis or aids for his impairment.

In the SR, the Appellant states that he needs family and friends for support but that no one is helping him.

In the RQ, the Psychiatrist states that the Appellant:

- gets help from his girlfriend in preparing meals and cooking; and
- needs assistance “most of the time” with DLA.

Additional Information Submitted after Reconsideration

In his Notice of Appeal (NOA) dated July 6, 2017, the Appellant wrote that he was deeply depressed because his doctor recommended that he can’t work or look for work due to his poor health, that his “financial situation is very poor”, and that he is on anti-depression medication. He wrote that he cannot pay his bills. He also attached:

- A hand-written additional submission signed by the Appellant and date-stamped July 6, 2017 (Appellant’s Additional Submission) which reads “Please don’t give me more stress and depression. I am very badly suicidal and my doctor knows about it. Don’t push me to do it.”

- a letter of referral dated February 17, 2017 from his GP to a specialist in mental health (GP's Referral) requesting an "expert opinion" on the Appellant's condition; and
- a letter dated April 21, 2017 addressed "to whom it may concern" and signed by the Psychiatrist (Psychiatrist's Letter) certifying that the Appellant has started to see the Psychiatrist and that the Appellant is suffering from a major depressive disorder (MDD) and Adjustment Disorder. The Psychiatrist states that the Appellant is currently not functioning well and that he might require hospitalization for stabilization. The Psychiatrist also states in the letter that he has adjusted the Appellant's medications, that the Appellant will undergo cognitive behavioral therapy (CBT), and that the Psychiatrist will continue to review the Appellant's mental state on a regular basis.

At the hearing, the Appellant introduced the following additional documents:

- a Ministry Medical Report - Employability completed by the GP on behalf of the Appellant and dated March 21, 2017 (Ministry Medical Report Form) which identifies the Appellant's primary medical condition as being "Depression", further described as being a moderate overall medical condition (rather than mild or severe), and which is not episodic in nature, with an expected duration of 3 - 6 months;
- a one page Order and Directive form dated February 14, 2017 (Order and Directive Form) issued by a hospital in the Appellant's community, addressed to whom it may concern and signed by the Psychiatrist stating that the Appellant is currently in the hospital and was admitted on February 9, 2017; and
- a prescription dated July 22, 2017 and signed by the GP (Prescription) indicating that the Appellant has Type II Diabetes and prescribing medication for that medical condition.

Admissibility of Additional Information

Section 22(4) of the *Employment and Assistance Act* (EAA) provides that panels may admit as evidence (i.e. take into account in making its decision) the information and records that were before the minister when the decision being appealed was made and "oral and written testimony in support of the information and records" before the minister when the decision being appealed was made – i.e. information that substantiates or corroborates the information that was before the minister at reconsideration. These limitations reflect the jurisdiction of the panel established under section 24 of the EAA: to determine whether the Ministry's reconsideration decision is reasonably supported by the evidence or a reasonable application of the enactment in the circumstances of an Appellant. That is, panels are limited to determining if the Ministry's decision is reasonable and are not to assume the role of decision-makers of the first instance. Accordingly, panels cannot admit information that would place them in that role.

The Ministry did not object to the admissibility of the information contained in the NOA, the Appellant's Additional Submission, the GP's Referral, the Ministry Medical Report Form and the Order and Directive Form. The Ministry objected to the admissibility of the Psychiatrists Letter and the Prescription because they contained information which was not in support of information that was before the Ministry at reconsideration.

The panel considered the information contained in the NOA, the Appellant's Additional Submission, the GP's Referral, the Ministry Medical Report Form and the Order and Directive Form admissible as they represented written information in support of information that was before the Ministry at reconsideration. In addition, the panel accepted some of the evidence contained in the Psychiatrist's Letter, specifically the diagnosis of MDD and the impact of legal stressors on his life, as information in support of information before the Ministry at reconsideration. Therefore, the panel admitted this additional testimony in accordance with Section 22(4)(b) of the EAA.

The panel considered the other information contained in the Psychiatrist's Letter and the information in the Prescription inadmissible because the other information in the Psychiatrist's letter referred to adjustments that the Psychiatrist had made to the Appellant's treatment and medication and was not before the Ministry at reconsideration, and the information in the Prescription did not relate to the GP's diagnosis of the Appellant's medical condition included in the PWD application. Therefore, the panel did not admit this additional testimony as being in support of information and records that were before the Ministry at the time of the reconsideration, in accordance with Section 22(4)(b) of the EAA.

Verbal Evidence at the Hearing

At the hearing, the Appellant stated that he had provided the Ministry with everything they had asked for. He stated that the written information in the MR and the AR did not accurately reflect the situation he was going through and that he alone could understand the severity of the depression he was suffering from. The Appellant also expressed frustration with the fact that he had described the significance of his medical condition verbally to staff at the Ministry office in his community and that they had seemed to understand the severity of his impairment, but that he had still been denied the PWD designation. He explained that he could not afford to take a bus, so he has to walk many km to the Ministry office and back from his home to deliver the PWD application form and other documentation. He stated that "what was written on the paper is not what (he) was going through".

The Appellant also explained that he does not talk to his friends any more, and that, while she still helps him financially from time-to-time, he hardly ever sees his girlfriend of late, so he no longer has any help with meal preparation. He stated that he did not eat much, did not do housekeeping or laundry and rarely washed. He said that he has been diagnosed with diabetes. He explained that he is confused, scared, stressed and depressed and that he hates himself. He explained that the legal stressors referred to by his Psychiatrist and GP in the PWD application related to family law matters. He also stated that he was in the hospital in May 2017 for 10 days because of his depression and that he is now receiving mental health counselling.

At the hearing, the Ministry relied on its reconsideration decision and stated that the decision was based on the written information contained in the SR, the MR and the AR and other relevant documents submitted with his application. The Ministry explained that a Ministry adjudicator makes a decision based on the written information provided, not on what a social worker or other Ministry staff member might observe at an office visit. The Ministry explained that the legislation requires that a person must have a severe physical or mental impairment which, in the opinion of a prescribed professional, directly and significantly restricts that persons DLA, and that there must be a causal link between the medical condition, impacts to mental and/or physical functioning identified in the assessments provided by prescribed professionals, resulting in significant restrictions in the applicant's ability to manage DLA, and that the applicant must need help as a result. The Ministry explained that based on the evidence provided, the ministry concluded that the Appellant's impairment was moderate rather than severe and that the GP and the Psychiatrist had both indicated that there was no impact to DLA. The Ministry also stated that if the panel decide that the Ministry

was reasonable and the Appellant was not successful in his appeal, there was nothing to stop the Appellant from reapplying for the PWD designation, and if he did reapply he would need to ensure that all of the information required in the application form was provided and that the prescribed professionals' assessments were consistent.

PART F – Reasons for Panel Decision

The issue on the appeal is whether the Ministry's reconsideration decision, which found that the Appellant is not eligible for designation as a person with disabilities (PWD), was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the circumstances of the Appellant. The Ministry found that the evidence does not establish that the Appellant has a severe mental or physical impairment that is likely to continue for at least two years, and that his/her DLA are not, 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 ...

Part 1.1 — Persons with Disabilities

Alternative grounds for designation under section 2 of Act

2.1 The following classes of persons are prescribed for the purposes of section 2 (2) [persons with disabilities] of the Act:

- (a) a person who is enrolled in Plan P (Palliative Care) under the Drug Plans Regulation, B.C. Reg. 73/2015;
- (b) a person who has at any time been determined to be eligible to be the subject of payments made through the Ministry of Children and Family Development's At Home Program;
- (c) a person who has at any time been determined by Community Living British Columbia to be eligible to receive community living support under the *Community Living Authority Act*;
- (d) a person whose family has at any time been determined by Community Living British Columbia to be eligible to receive community living support under the *Community Living Authority Act* to assist that family in caring for the person;
- (e) a person who is considered to be disabled under section 42 (2) of the Canada Pension Plan (Canada).

Duration of Impairment

In its reconsideration decision, the Ministry was not satisfied that the information provided establishes an impairment which was likely to continue for two years. The GP had indicated in the MR that it was not known whether the impairment would last at least 2 years, and the Psychiatrist had indicated in the RQ the Appellant's medical *condition* is likely to continue for at least 2 years, but did not speak to how long the Appellant's mental *impairment* might last.

Panel Decision

The panel acknowledges that the GP stated that he did not know whether the Appellant's impairment would last at least 2 years, and further notes that the Appellant confirmed at the hearing that he was now undergoing mental health counselling. In addition, the panel noted that the information in the Ministry Medical Report regarding the duration of the Appellant's impairment (i.e. an expected duration of 3 - 6 months) corroborated the evidence provided by the GP in the MR.

The panel finds that the Ministry's determination that there is not sufficient evidence to establish that the Appellant has an *impairment* which was likely to continue for two years was reasonably supported by the evidence before the Ministry at reconsideration.

Severity of Impairment

A diagnosis of a serious medical condition does not in itself determine PWD eligibility or establish a "severe" impairment. Section 2(2) of the EAPWDA requires that in determining whether a person may be designated as a PWD the Ministry must be satisfied that the individual has a severe physical or mental impairment. An "impairment" is a medical condition which results in restrictions to a person's ability to function independently or effectively. With respect to assessing the severity of an impairment, Section 2(2)(b)(i) of the EAPWDR requires that a mental or physical impairment *directly and significantly* restrict the person's ability to perform daily living activities either *continuously*, or *periodically for extended periods*. Therefore, to assess the severity of an impairment, the Ministry must consider both the nature of the impairment and the extent of its impact on daily functioning as evidenced by functional skill limitations and the degree to which the ability to perform DLA is restricted. In making its determination the Ministry must consider all the relevant evidence, including that of the Appellant. However, the legislation is clear that the fundamental basis for the analysis is the evidence from a prescribed professional – in this case the Appellant's GP and the Psychiatrist.

Physical Functioning

In its reconsideration decision, the Ministry was not satisfied that the information provided establishes a severe physical impairment because the GP does not provide a diagnosis of a medical condition causing a medical impairment. In addition, the Appellant did not argue that he has a physical impairment in his original application or at the hearing.

Panel Decision

The panel finds that the Ministry's determination that there is not sufficient evidence to establish that the Appellant has a severe physical impairment which directly and significantly restricts the Appellant's ability to perform daily living activities either continuously or periodically for extended periods, pursuant to Section 2(2) of the EAPWDA was reasonable.

Mental Functioning

In its reconsideration decision, the Ministry notes that it finds assessing the Appellant's eligibility for the PWD designation problematic due to inconsistencies between information provided by the GP in the application for a PWD designation and the information provided by the Psychiatrist in the RQ.

In its reconsideration decision, the Ministry points out that the GP's assessments in the MR provided evidence of *significant deficits* with respect to cognitive and emotional functioning in the areas of emotional disturbance, motivation and attention or sustained concentration. The Ministry noted that

while the GP had indicated in the AR that there are moderate impacts to 6 areas (emotion, impulse control, attention/concentration, memory, motivation, and motor activity), and minimal impacts to another 6 areas (bodily functions, insight and judgement, executive, psychotic symptoms, other psychological problems, or other emotional or mental problems), he described *no major impacts* to any of the aspects of cognitive and emotional functioning. While the Psychiatrist agreed in the RQ that there are major impacts to the areas of emotion, attention/concentration, motivation, and insight and judgement, the ministry pointed out that the Psychiatrist concluded his assessment by characterizing the medical condition as mild to moderate in severity. In addition, the Ministry noted that in the RQ, the Psychiatrist does not indicate whether the Appellant is following a treatment plan or whether his symptoms may be ameliorated with treatment.

On balance the Ministry found that the consensus amongst the Appellant's medical practitioners was that the impacts to his mental functioning were moderate in severity. The Appellant takes the position that his depression is a severe impairment and that no one else knows what he is going through.

Panel Decision

The panel notes that, while the Ministry asks a person applying for PWD designation for an SR, the Ministry takes into account the self assessment in conjunction with the assessment of prescribed professionals who are clearly professionally qualified to make those assessments and who are identified in the Section 2(2)(b) of the EAPWDA as the assessors in whose opinion the Ministry must rely in determining the duration of any severe impairment and whether it directly and significantly restricting the person's ability to perform DLA continuously or periodically for extended periods.

The panel finds that the evidence shows that most of the cognitive and emotional functions are not significantly impacted by the Appellant's mental impairment and that, for functions where impacts are identified, there is no additional information provided by the GP in either the MR or the AR. In addition, the panel finds that the ministry reasonably relied on the Psychiatrist's conclusion in the RQ that the Appellant's medical condition is "mild to moderate" and not severe. The panel also finds that the Ministry reasonably considered the Psychiatrist's statement that "ongoing legal stressors causing impact on mood" suggested that the Appellant's depression may be situational in nature and that the Ministry was reasonable in drawing a distinction between a medical condition and an impairment, as it is reasonable to assume that it might be possible to reduce or eliminate an impairment to functioning using drugs or treatment even though the underlying medical condition might remain.

Therefore the panel finds that the Ministry reasonably determined that a severe mental impairment was not established pursuant to Section 2(2) of the EAPWDA.

Restrictions in the ability to perform DLA

In its reconsideration decision, the Ministry notes that there are significantly different levels of impairment identified by the GP in the Appellant's application and the assessments made by the Psychiatrist two months later in the RQ, and that there is no explanation provided to describe why the discrepancy exists. As a result, the Ministry finds that it is difficult for it to determine which depiction accurately reflects the Appellant's level of impairment and assistance required to perform DLA. In addition, the Ministry notes that the GP does not describe the nature, duration and frequency of those periods during which the Appellant's ability to manage the few DLA for which the Appellant has periodic restrictions. In the RQ, the Psychiatrist indicated that the Appellant needed help "most of the time with his (DLA)", but did not elaborate. At the hearing the Appellant stated that he no longer performs many DLAs including washing, cooking and basic housekeeping, and gets little to no support from his friends in performing DLA.

Panel Decision

Section 2(2)(b) of the EAPWDA requires that the Ministry be satisfied that a prescribed professional has provided an opinion that an applicant's severe impairment *directly* and *significantly* restricts his DLA, continuously or periodically for extended periods. In this case, the GP is the prescribed professional with respect to the assessments provided in the Appellant's application for a PWD designation, and the Psychiatrist is the assessor for the RQ submitted with the RFR. DLA are defined in Section 2(1) of the EAPWDR and are also listed in the MR and, with additional details, in the AR. Therefore, prescribed professionals completing these forms have the opportunity to indicate which, if any, DLA are significantly restricted by the Appellant's impairments either continuously or periodically for extended periods, and to further elaborate so that the nature and extent of the restrictions to DLA are clear. Prescribed professionals are further encouraged to elaborate on the nature and extent of the limitations or restrictions in the instructions provided in those sections of the forms. For example, in Part C of the AR the assessor is instructed to identify whether assistance is required in each case with respect to the full range of DLAs, and if the applicant is not independent, to describe the type and amount of assistance required.

In the MR, the GP has identified that periodic restrictions apply to the Appellant's ability to prepare meals, perform basic housekeeping, undertake daily shopping and function socially. The additional commentary provided by the GP in this section of the MR is "(Appellant) activities vary on day to day basis (depending) on his depression symptoms". There is no additional information identifying the nature, frequency or extent of restrictions on other DLA identified as being subject to periodic restrictions. In the AR, the GP reported that all DLA are performed independently by the Appellant, including all of the tasks of the meals DLA, the basic housekeeping DLA, and the shopping DLA. The only DLA for which the GP indicated the Appellant requires assistance is the pay rent and bills DLA, and the periodic assistance from another person has not been specified by the GP with respect to frequency or duration.

In the RQ, the Psychiatrist indicated an impact to the tasks of bathing and laundry, with no assistance noted, and the tasks of cooking and preparing meals, for which the Appellant receives help from his girlfriend. The panel acknowledges the Ministry's finding that the information provided by the GP and the Psychiatrist is inconsistent and/or unclear for specific areas DLA as outlined above. As well the panel finds that the Ministry reasonably concluded that the GP and the Psychiatrist have provided insufficient evidence in terms of the nature, frequency and/or duration of the assistance required to perform those DLA for which the Appellant is not independent, in order to establish that the periodic assistance is required for extended periods of time.

Therefore, the panel finds that the Ministry reasonably concluded that there is not enough evidence from the prescribed professional to establish that the Appellant's impairment *significantly* restricts his ability to manage his DLA either continuously or periodically for extended periods, thereby not satisfying the legislative criterion of Section 2(2)(b)(i) of the EAPWDA.

Help with DLA

In its reconsideration decision, the Ministry states that it cannot be determined that significant help is required because it has not been established that DLA are significantly restricted. The Appellant's position is that he needs help with most of his DLA but has no one to help him.

Panel Decision

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

The panel finds that the Ministry reasonably determined that, as direct and significant restrictions in the Appellant's ability to perform DLA have not been established, it cannot be determined that the Appellant requires help to perform DLA as a result of those restrictions, as required under Section 2(3)(b) of the EAPWDA.

Conclusion

Having reviewed and considered all of the evidence and relevant legislation, the panel finds that the Ministry's reconsideration decision, which determined that the Appellant was not eligible for PWD designation under Section 2 of the EAPWDA, was reasonably supported by the evidence and was a reasonable application of the EAPWDA in the circumstances of the Appellant, and therefore confirms the decision. The Appellant's appeal, therefore, is not successful.