

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the ministry) reconsideration decision dated July 25, 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 April 19, 2017, a physician report (PR) dated and an assessor report (AR) both dated April 17, 2017 completed by a general practitioner (GP) who has known the appellant for over 20 years and has seen him 2 to 10 times in the past 12 months.

The evidence also included the following documents:

- 1) Medical Imaging Report dated March 28, 2017 for a CT scan of the appellant's lumbar spine;
- 2) Letter dated April 12, 2017 from a neurosurgeon to the GP acknowledging the referral and advising that the wait time for a consultation can be up to approximately 24 months; and,
- 3) Request for Reconsideration dated July 11, 2017.

Diagnoses

In the PR, the GP diagnosed the appellant with left lumbar disc herniation, with an onset in January 2017, and discogenic low back pain. The GP commented: "recurrence of acute severe pain on top of chronic discogenic low back pain." There was no diagnosis of a condition within the mental disorders diagnostic category of the PR. Asked to describe the mental or physical impairments that impact the appellant's ability to manage daily living activities (DLA), the GP wrote in the AR: "chronic back pain with recent acute severe worsening- limited activity tolerance."

Physical Impairment

In the PR and the AR, the GP reported:

- With respect to the health history, "...acute worsening of pain in lower back with radiating pain to left leg is present (illegible) 3 months. Functional impairment is high. Requires use of a cane to mobilize slowly. CT scan shows large disc bulge which may require surgical management."
- The appellant requires an aid for his impairment as he "uses a cane to mobilize short distances, a walker for longer distances."
- Regarding the degree and course of impairment, the GP commented that "acute symptoms may settle but chronic back pain also limits function. No guarantees of benefit with surgery."
- In terms of functional skills, the appellant can walk less than 1 block unaided on a flat surface, climb 5 or more steps unaided, lift under 2 kg. (under 5 lbs), and remain seated less than 1 hour.
- In the additional comments to the PR, the GP wrote that the appellant is "...not fit for gainful employment. Requires family support for some ADLs [activities of daily living]. Not able to use opioid analgesia due to past narcotic addiction caused by previous use of opioids for back pain."
- The appellant is assessed as being independent but taking significantly longer than typical with all aspects of mobility and physical ability, specifically: walking indoors and walking outdoors, climbing stairs (note: "limited, avoids"), standing (note: "[illegible] tolerance"), lifting, and carrying and holding. The appellant also uses an assistive device with walking indoors and walking outdoors, described as "at least 3 times slower with cane/walker." The appellant also uses an assistive device for carrying and holding described as "walker basket." The GP did not provide further comments.
- In the section of the AR relating to assistance provided, the GP indicated a cane and walker are routinely used to help compensate for the appellant's impairment.
- In the additional information, the GP wrote: "severe low back pain. Large disc protrusion on CT scan. Long waiting time for surgical assessment and surgical wait time- likely 12 to 24 months."

In his self-report, the appellant wrote:

- His back problems started 6 years ago and have cost him his career.
- His daily chronic pain makes day-to-day tasks hard. Nobody understands what chronic back pain and sciatica pain really feels like. He has been to the hospital for pain shots and he has had MRI scans.
- Over the years, he has had bulging discs/ herniated discs and a floating bone spur.
- His most recent sciatica attack left him immobile and needing a walker to get around.
- He cannot walk without a walker or cane.
- He is hoping that he can get surgery to help fix him.
- He broke his heel a few years ago at work and it causes pain after standing for a few hours.

Mental Impairment

In the PR and the AR, 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 and motivation. The GP commented: “mild depression symptoms caused by chronic pain.”
- The appellant has a good ability to communicate in all areas, specifically with speaking, reading, writing and hearing.
- With respect to daily impacts to the appellant’s cognitive and emotional functioning, the GP did not assess any major impacts. There are moderate impacts to bodily functions (e.g. sleep disturbance), emotion and motivation. There are minimal impacts to attention/concentration, executive, and memory. The GP wrote that “depressed mood (depression or major mood disorder) is common in persons with chronic pain.”
- The appellant is independent in all aspects of his social functioning, specifically: with making appropriate social decisions, developing and maintaining relationships, interacting appropriately with others, dealing appropriately with unexpected demands, and securing assistance from others.
- The appellant has marginal functioning in both his immediate social network (note: “family conflict”) and his extended social network (note: “isolated due to disability, mobility”).
- Asked to describe the support/supervision required to help maintain the appellant in the community, the GP wrote: “family or regular daily support.”

Daily Living Activities (DLA)

In the PR and the AR, the GP reported:

- The appellant has been prescribed medication that interferes with his ability to perform DLA as they “can result in drowsiness.” The anticipated duration of the medication is “likely more than 12 months.”
- For additional comments to the PR, the GP wrote that the appellant is “not fit for gainful employment. Requires family support for some ADLs. ”
- The appellant is independent with all of the tasks of the personal care DLA and takes significantly longer than typical with the tasks of dressing, grooming and bathing. The GP wrote “slower” regarding these tasks.
- Regarding the basic housekeeping DLA, the appellant is independent and requires periodic assistance from another person and takes significantly longer than typical with doing laundry and basic housekeeping
- For the shopping DLA, the appellant is independent with the tasks of reading prices and labels, making appropriate choices and paying for purchases. He requires periodic assistance, uses an assistive device and takes significantly longer than typical with the physical tasks of going to and from stores and carrying purchases home (note: “use walker basket”).

- Regarding the meals DLA, the appellant requires periodic assistance from another person with meal planning (note: “assisted by family”), food preparation and cooking (note: “aggravates back pain”). The appellant is independent with safe storage of food.
- The appellant is independent with all tasks of the pay rent and bills DLA and the medications DLA.
- For the transportation DLA, the appellant is independent with all tasks and takes significantly longer with getting in and out of a vehicle and uses an assistive device and takes longer with using public transit (note: “avoid due to distances to walk”).

In his self-report, the appellant wrote:

- His daily chronic pain makes day-to-day tasks hard.
- Employment is impossible because of needing time off always because of back pain.

Need for Help

With respect to the assistance needed, the GP reported in the AR that the appellant receives help from his family. In the section of the AR for identifying assistance provided through the use of assistive devices, the GP indicated a cane and a walker.

Additional information

In his Notice of Appeal dated August 4, 2017, the appellant expressed his disagreement with the ministry’s reconsideration decision and wrote that every day he has to deal with his disability. It has changed his life’s path in so many ways. He would not ever wish to be like this and he hopes that this will be seen.

At the hearing, the appellant stated:

- He worked for 15 years in his trade and now many of the discs in his back are touching nerves. It affects him “24/7.” He might have one good week, but he has many bad weeks.
- He cannot pay extra so he has to remain on a waiting list for surgery that may take months or years. There is no guarantee of improvement with surgery, just that they can take the swelling out of the discs.
- He does not do any DLA. He lies on the couch and does some stretches. He lives in a suite in his parents’ home. His parents help him with everything. He has been there for 4 or 5 years when this started. About 4 or 5 years before that, he started having pain but he was younger and he was able to work through it. Now, if he sneezes, he can have extreme pain.
- He cannot put on his socks. He needs help doing everything.
- Some days he cannot even move and they have to call the ambulance to take him to the hospital. He “gets stuck” about once a month and it will last for a few days.
- He is taking anti-inflammatory medication and nerve blockers.
- He realizes the doctor did not put everything in the forms. He would not have told the doctor about the problems he is having with his DLA. He left the forms with the doctor and he had them ready about a month later. He thought there would be no problem getting approved.
- In a typical day, he is by himself all day. He rolls out of bed and makes his way to the couch. His parents make him meals and do his laundry.
- His last episode was at work over a year ago. Since it happened at work, he was dealing with Work Safe BC [the office responsible for the provincial *Workers Compensation Act*] and he took a year off work. They paid for some physiotherapy sessions, but he cannot afford to pay for it on his own. Work Safe BC wanted him to go back to work. He tried to go back, but he could only work a couple of days and then he would have to take a few days off.
- When there is no nerve pain, the chronic pain feels like arthritis in his low back.
- He can walk without a cane but he uses it to take the weight off the left side. He has received

injections of an anti inflammatory medication right into the spot in his back.

- If he really stretched it, he could walk a whole block. He was not prescribed a cane or a walker but he needed the walker to be able to go and see his doctor.
- The episode of nerve pain is not predictable. It can occur when he is going to the washroom, tying his shoes, or standing in the shower.

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 raise an objection to the admissibility of the appellant's oral testimony. 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*.

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 left lumbar disc herniation with an onset in January 2017, discogenic low back pain, with recurrence of acute severe pain on top of the chronic discogenic low back pain and noted that the GP commented that chronic low back pain has resulted in underemployment for several years. At the hearing, the

appellant emphasized that he used to do physical labour work and he can no longer do this work as his significant back pain is a barrier 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 DLA 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 limitations to his physical functioning due to back pain, but the ministry was not satisfied that the combination of his functional skills and 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 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's functional skills as being able to walk less than 1 block unaided on a flat surface, lift under 5 lbs, and remain seated less than 1 hour, but that he remains able to climb 5 or more steps unaided. The ministry considered the GP's assessment of independence with all aspects of mobility and physical ability, although the appellant takes significantly longer with each aspect, specifically: walking indoors and walking outdoors, climbing stairs (note: "limited, avoids"), standing (note: "[illegible] tolerance"), lifting, and carrying and holding. The appellant also uses an assistive device with walking indoors and walking outdoors, described as "at least 3 times slower with cane/walker," and a "walker basket" for carrying and holding. The ministry noted that the GP indicated that the appellant requires an aid for his impairment as he "uses a cane to mobilize short distances, a walker for longer distances." At the hearing, the appellant stated that he can walk without a cane but he uses it to take the weight off the left side. He was not prescribed a cane or a walker but he needed the walker to be able to go and see the GP.

In his self-report, the appellant wrote that his back problems started 6 years ago and have cost him his career. His most recent sciatica attack left him immobile and needing a walker to get around. He cannot walk without a walker or cane and he is hoping that he can get surgery to help fix him. The ministry considered that the GP commented in the PR that the appellant has had "...acute worsening of pain in lower back with radiating pain to left leg is present (illegible) 3 months. Functional impairment is high. Requires use of a cane to mobilize slowly. CT scan shows large disc bulge which may require surgical management." In discussing the degree and course of impairment, the GP commented that "acute symptoms may settle but chronic back pain also limits function. No guarantees of benefit with surgery." In the letter dated April 12, 2017, a neurosurgeon acknowledged the referral by the GP and advised that the wait time for a consultation can be up to approximately 24 months. There was no further information from the specialist provided on the appeal.

At the hearing, the appellant stated that his last episode was at work over a year ago and, since it happened at work, he was dealing with Work Safe BC and he took a year off work and then they wanted him to go back to work. He tried to go back to work, but he could only work a couple of days and then he would have to take a few days off. The appellant also stated that he worked for 15 years in his trade and now many of the discs in his back are touching nerves and that it affects him "24/7." He might have one good week, but he has many bad weeks. The appellant stated that he is taking anti-inflammatory medication and nerve blockers, and he has received injections of an anti-inflammatory medication right into the spot in his back. The ministry considered that the GP wrote in the PR that the appellant is "not able to use opioid analgesia due to past narcotic addiction caused by

previous use of opioids for back pain” and the GP reported that the appellant is “not fit for gainful employment. “

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.

When asked to describe the mental or physical impairments that impact the appellant’s ability to manage DLA, the GP wrote in the AR: “chronic back pain with recent acute severe worsening- limited activity tolerance.” The appellant stated at the hearing that he “gets stuck” about once a month where he cannot even move and he has to go by ambulance to the hospital, and it lasts for a few days. The episode of nerve pain is not predictable and it can occur when he is going to the washroom, tying his shoes, or standing in the shower. At the hearing, the appellant stated that when there is no nerve pain, the chronic back pain feels like arthritis in his low back.

Given the GP’s assessment of independence with all aspects of mobility and physical ability as well as the use of an assistive device for some aspects, the report of limited activity tolerance during acute episodes of pain and the inconsistent evidence regarding the frequency and duration of these episodes, 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 reported significant deficits with cognitive and emotional functioning in the areas of emotional disturbance and motivation and noted that the GP wrote there is “...mild depression symptoms caused by chronic pain.” The ministry considered that the GP reported that these deficits have a moderate impact on the appellant’s daily cognitive and emotional functioning, and there is a moderate or minimal impact to other identified areas. The ministry also considered that the GP assessed no difficulties with communication and reported that the appellant is independent in all aspects of his social functioning. The ministry considered that the GP indicated the appellant has marginal functioning in both his immediate and extended social networks and that family or regular daily support will help to maintain him in the community.

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. 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 been prescribed medication that interferes with his ability to perform DLA as it "can result in drowsiness." The GP also concluded in the PR that the appellant is "not fit for gainful employment" and he "...requires family support for some ADLs" and, as previously discussed, employability is not a consideration for the PWD designation.

The ministry considered that the GP indicated in the AR that the appellant is independent with performing all of the tasks of the personal care DLA (taking longer with dressing, grooming and bathing), the pay rent and bills DLA, the medications DLA, and the transportation DLA (taking longer with getting in and out of a vehicle and using an assistive device and taking longer with using public transit). At the hearing, the appellant stated that he cannot put on his socks, and he needs help doing everything. The appellant stated that he does not do any DLA, that every day he lies on the couch and does some stretches. He lives in a suite in his parents' home and his parents help him with everything. He has been in his parents' home for 4 or 5 years, when this started. When he was younger, he was able to work through it but now if he sneezes he can have extreme pain.

The ministry considered that the GP assessed the appellant as being independent with the tasks of laundry and basic housekeeping and taking longer than typical and also requiring periodic assistance from another person with these tasks, described as "assisted by family." At the hearing, the appellant stated that his parents do his laundry. For the shopping DLA, the appellant is assessed by the GP as independent with the tasks of reading prices and labels, making appropriate choices, and paying for purchases, and requiring periodic assistance, using an assistive device, and taking significantly longer than typical with going to and from stores and carrying purchases home (note: "use walker basket"). The ministry wrote that the GP assessed the appellant with requiring periodic assistance from another person with the tasks of meal planning, food preparation and cooking, as part of the meals DLA. As an explanation/description of the need for periodic assistance, the GP wrote: "assisted by family" and "aggravates back pain," and did not provide information about how often the appellant requires assistance with these tasks, or for how long. The appellant stated at the hearing that his parents prepare meals for him.

Section 2(2) of the EAPWDA requires that a severe impairment directly and significantly restricts the appellant's ability to perform the prescribed DLA either continuously or periodically for extended periods. The direct and significant restriction may be either continuous or periodic. If the restriction is periodic, it must be for an extended time. Inherently, any analysis of periodicity must also include consideration of the frequency. All other things being equal, a restriction that only arises once a year is less likely to be significant than one which 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 from the prescribed professional of the duration and frequency of the restriction in order to be "satisfied" that this legislative criterion is met.

At the hearing, the appellant stated that he realized the doctor did not put everything in the PR and AR forms and he did not go into detail with his doctor about the problems he is having with his DLA. He left the forms with the doctor and he had them ready about a month later. There was no further information from the GP available on the appeal to update or clarify the assessments as in the PR and the AR.

Given the GP's report of the appellant's independence with most tasks of DLA and the lack of a description of the extent of periodic assistance required for some tasks 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 GP indicated that the appellant receives help from his family and uses a cane and walker, and the appellant stated that his parents help him with everything, 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.