

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the “ministry”) reconsideration decision of March 6, 2015, which found that the appellant did not meet three of five statutory requirements of section 2 of the *Employment and Assistance for Persons With Disabilities Act* (“EAPWDA”) for designation as a person with disabilities (“PWD”). The ministry found that the appellant met the age requirement and that in the opinion of a medical practitioner the appellant’s impairment is likely to continue for at least two years. However, the ministry 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 that
- as a result of those restrictions, the appellant requires the significant help or supervision of another person, an assistive device, or the services of an assistance animal.

PART D – Relevant Legislation

EAPWDA, section 2

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

PART E – Summary of Facts

The information before the ministry at the time of reconsideration included the following:

- The appellant's PWD application form consisting of the appellant's self-report form dated October 22, 2014 ("SR"), a physician's report ("PR") completed by the appellant's general practitioner (the "physician") on November 27, 2014; and an assessor's report ("AR") completed by a registered nurse on November 6, 2014
- The appellant's Request for Reconsideration dated February 17, 2015
- Consult report from an ophthalmologist dated August 28, 2013 with referral from the physician dated June 7, 2013
- Consult report from a Registered Hearing Instrument Practitioner dated June 7, 2013 with audiogram
- X-Ray right ankle, lumbar spine and left hip report dated June 15, 2012
- Referral from the physician dated May 29, 2012 for assessment regarding chronic right heel pain
- Letter from an ophthalmologist dated August 10, 2011
- Letters from an optometrist dated June 24 and June 29, 2011 with vision test results
- X-Ray right foot report dated February 5, 2010
- X-Ray right foot report dated June 5, 2008
- Cast Clinic Discharge report and records June 1 and September 20, 2007 with imaging reports right foot
- Hospital records May 17-20, 2007 with ankle exam May 14, 2007
- X-Ray lumbar spine report dated October 29, 2004

Diagnoses

- In the PR the physician (who had known the appellant for 14 ½ years and seen him two to ten times in the past 12 months) diagnosed the appellant with right ankle subtalar osteoarthritis, osteoporosis, lumbar degenerative disc disease, facet joint osteoarthritis, hearing loss, glaucoma, and depression. The physician did not indicate the date of onset for any of the conditions.
- In the AR, the nurse states that the appellant's physical or mental impairments that impact his ability to manage DLA are: hard to stand for long periods, hard to put weight on foot, seizes up in the morning and takes a while to get going.

Physical Impairment

- In the Health History portion of the PR the physician commented that the appellant has severe right ankle pain and moderate lumbar pain, both of which limit his mobility considerably
- In terms of physical functioning the physician reported in the PR that the appellant can walk 1 to 2 blocks, cannot climb any stairs unaided as he always requires handrails, can lift 5 to 15 pounds and can remain seated 1 to 2 hours.
- In the AR the nurse reported that the appellant independently manages walking indoors and outdoors, climbing stairs, and standing, noting that it takes him half hour longer than normal going for groceries and that he uses railing for climbing stairs. The nurse reported that he

requires periodic assistance with lifting and carrying and holding. The nurse comments that the appellant is able to walk and do activities but needs to take breaks and sit down to rest. The nurse reports that he is not able to lift very much weight.

In the SR the appellant reported that he has a shattered right ankle from a scaffolding accident, glaucoma in both eyes, hearing loss, and pinched nerve in his left hip. He reports that he is in severe pain in the morning and it takes him a couple of hours to get mobile, that he has to keep his right foot elevated to keep the pressure off his ankle and reduce pain, he can only walk two blocks then has to rest, wears hearing aids to assist his hearing loss, has difficulty reading due to his eyes, has painful eyes requiring eye drops every night, and standing for longer than 10 minutes causes pain and he has to sit down and he uses a cane.

In the RFR the appellant states that he has severe impairments, is in chronic pain, has limited mobility and requires a cane for walking. He states that he can only stand for 10 minutes then has to sit down. He has hearing aids for both ears.

Mental Impairment

- In the PR the physician diagnoses the appellant with depression. In the Health History portion the physician states that the appellant suffers from residual psychological sequelae of residential school and frustration with right ankle loss of mobility.
- In the PR the physician indicated that the appellant has no difficulties with communication. In the AR the nurse described the appellant's speaking and reading as good and writing and hearing as satisfactory, noting that the appellant uses hearing aids.
- In the PR the physician indicated that the appellant suffers significant deficits in three of twelve categories of cognitive and emotional function: memory, emotional disturbance and attention. The physician comments that the appellant is depressed secondary to mobility restrictions, forgets appointments and is easily distracted.
- In the AR the nurse did not complete question 4 of section B, Mental or Physical Impairment.

In the SR the appellant reported his background in a residential school, being a victim of strapping, and his learning disabilities. In the RFR the appellant does not report any mental impairment.

DLA

- In the PR the physician indicated that the appellant has not been prescribed medication or treatment that interferes with his ability to perform DLA.
- In the PR the physician reported that the appellant is directly restricted with 5 of the 9 DLA of *meal preparation, basic housework, daily shopping, mobility outside the home, and management of finances*.
- In describing the degree of restriction, the physician indicates that the appellant has continuous restrictions with basic housework, mobility and management of finances and periodic restrictions with meal preparation and daily shopping. With respect to periodic the physician explains that the appellant has weak ankle and pain with stiffness in the morning and limited ability to stand and walk. The physician also notes that the appellant requires a vehicle due to his decreased mobility.
- In the AR the nurse indicated that the appellant independently manages all tasks related to personal care. She notes that he requires periodic assistance with laundry (needs help

carrying the basket) and basic housekeeping (cannot stand for long). With respect to shopping the nurse indicates that the appellant is independent with reading prices and labels, making appropriate choices and paying for purchases but is periodically restricted from going to and from stores (needs help carrying stuff, takes 1 hour longer than normal) and carrying purchases home (needs lots of breaks). With respect to meals the nurse indicates he is independent with meal planning, food preparation and safe storage of food but requires periodic assistance with cooking. The nurse indicates that with food preparation it takes him 20 minutes longer than normal as he needs to take breaks. The nurse indicates that the appellant is independent with all aspects of paying rent and bills. Regarding medications the nurse reports that the appellant requires periodic assistance filling/refilling prescriptions as he sometimes needs help picking them up, but is independent with taking medications as directed and safe handling and storage of medications. With respect to the DLA of social functioning, the nurse reports that the appellant is independent with making appropriate social decisions, developing and maintaining relationships, interacting appropriately with others and securing assistance from others, and dealing appropriately with unexpected demand, but requires periodic supervision regarding his ability to secure assistance from others. The nurse notes that the appellant's daughters provide assistance. The nurse did not answer the questions regarding the appellant's immediate or extended social networks.

In the SR the appellant stated that:

- He has severe pain first thing in the morning and it takes him a couple of hours to get mobile, that he has to keep his right foot elevated, that he can only walk 2 blocks then needs to rest, standing at the stove causes pain and he has to sit down after 10 minutes, he requires a vehicle to assist getting to the store and getting groceries home as he can only lift 10-15 pounds on a good day, he needs help with financial management (get H&R to do taxes), and that his housework needs to be done in stages because of his need to rest frequently.

In the RFR the appellant states that tasks take him significantly longer to do because of pain and limited mobility, that he can only stand for 10 minutes then has to sit down. He states that he tries to maintain his independence but housework and cooking take him twice as long and he needs a lot of rest.

Help

- In the PR the physician reports that the appellant requires a cane now and a walker in the future. With respect to DLA the physician reports that the appellant requires hearing aids, ankle brace, help with meal preparation, shopping and some correspondence.
- In the AR the nurse indicates that the appellant requires assistance from family, noting that he receives help from his daughters when they are able. The nurse indicates that the appellant requires hearing aids and ankle brace, and that he needs railings for his shower as he has difficulty getting out. The appellant does not have an assistance animal.
- In the additional information section of the AR the nurse states that the appellant needs help for activities that take any length of time, that he is able to stand for about 10 minutes then needs to sit down. She states that he is fairly independent but requires more and more assistance especially with carrying heavy objects.

In the SR the appellant states that he requires assistance with his income tax and that his adult children live upstairs and help with correspondence and house management. He states that he

wears 2 hearing aids to assist with his hearing loss, that he uses an ankle brace to walk and wears glasses for reading.

In the RFR the appellant states that he gets assistance with transportation from friends and family for shopping and accessing services. He has bilateral hearing aids and uses a cane for support in walking.

Additional information provided

In his Notice of Appeal the appellant states that his physician has confirmed a severe impairment to his right ankle that limits mobility, compounded by hearing impairment, poor eyesight, depression, degenerative disc disease and osteoporosis. He states that his DLA take significantly longer as a result.

At the hearing the appellant provided oral evidence indicating that he did not recall completing the SR but agrees that he signed it and that his advocate helped him complete it. He stated that it is hard for him to get going in the morning as it takes him 20-30 minutes to limber up his ankle. He reports that his pinched nerve bothers him in his left hip, which has been there for 20 years, particularly noticeable with cold weather or a change in weather. In 2007 he was working at home and fell off a scaffold, fracturing his right ankle and he needs to hold a handrail when going up and down stairs and carrying items. He used to have a pillow to elevate his foot and give his ankle support but now he only uses a pillow occasionally, typically after shopping. He states that he borrows a car when necessary, usually from his daughter but if no car is available he can use the bus or walks. He does his laundry at a laundromat and his daughter usually helps carry the basket, but if she is not available he will use a shopping cart, put the basket on the cart, and then push it to the laundromat. He has no problems pushing the cart. The appellant states that he can walk to the nearest grocery store but has to take frequent rests. He reports that he is not using a cane, walking stick or anything else to support him when walking as he is "way too stubborn". He reports that his wife has a disability and has a seat to sit in in the shower and railings for the toilet, so he uses those too. He attends a support group to assist him with respect to personal issues. He reports that his sleep is "not bad" and that his pain does not wake him up during at night.

The appellant also provided a submission from his advocate dated April 11, 2015 setting out the appellant's position with respect to his PWD application and reasons why the ministry's position was not reasonable.

Admissibility of New Information

The panel has admitted the appellant's oral testimony and information in his Notice of Appeal as it is evidence in support of information and records that were before the ministry at the time of reconsideration, in accordance with section 22(4) of the *Employment and Assistance Act*. In particular, the new information substantiates the information at reconsideration respecting the appellant's physical diagnosis and his ability to perform DLA.

PART F – Reasons for Panel Decision

The issue on this 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 in determining that the appellant does not have a severe physical or mental impairment, and that in the opinion of a prescribed professional the appellant's impairments do not directly and significantly restrict her from performing DLA either continuously or periodically for extended periods, and that as a result of those restrictions the appellant does not require help to perform DLA?

The relevant legislation is as follows:

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 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.

EAPWDR section 2(1):

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.

Severe Physical Impairment

The appellant's position is that as the physician indicates that he has severe right ankle pain that considerably limits mobility exacerbated by the additional diagnosis of osteoporosis, facet joint osteoarthritis, hearing loss, glaucoma and depression the evidence establishes a severe physical impairment. The advocate's submission states that the severity of the appellant's depression will hopefully be identified when he obtains the funding of a psychologist but the physician confirms the severe impairment based on his mobility restrictions alone.

The appellant, through his advocate, also noted his concern that in the reconsideration decision, the ministry refers to a doctor but the name is wrong. The advocate did confirm that the information referred to does match the information provided by the physician but questioned how carefully the ministry reviewed the PWD application in light of this error.

The ministry's position, as set out in its reconsideration decision, is that the information provided is not evidence of a severe physical impairment. The ministry argued that the functional skill limitations are not significantly restricted and in particular states that although the physician reports that the appellant requires a handrail, that is not considered to be an assistive device so it is unclear to the ministry how many stairs the appellant is able to climb. The ministry notes that as the nurse in the AR indicates that the appellant can independently climb stairs, this limitation, reported by the physician does not appear to be significant. The ministry's position is that although the nurse indicates that it takes the appellant 5-10 minutes longer to climb stairs and an extra ½ hour to get groceries, this information does not confirm a significantly longer time than normal time to manage these tasks. The ministry also notes that although the nurse reports that the appellant is not able to lift very much weight, the physician indicates that the appellant can lift up to 15 pounds.

The ministry representative confirmed that there was an error with respect to the appellant's physician's name.

Panel Decision:

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.

To assess the severity of an impairment one must consider 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 performing DLA is restricted. The legislation makes it clear that the determination of severity is at the discretion of the minister, taking into account all of the evidence. However, the legislation is also clear that the fundamental basis for the analysis is the evidence from a prescribed professional – in this case, the appellant's physician.

Although the physician indicates that the appellant's restriction is severe and considerably limits his mobility, the panel finds that the evidence establishes that the appellant's physical functional skills as described by the physician in the PR indicate only moderate limitations. In particular there are inconsistencies between the PR and AR in that the physician states that the appellant can only walk 1-2 blocks unaided but the nurse indicates that the appellant is independent with walking indoors, walking outdoors, climbing stairs and standing. Although the nurse indicates that it takes the appellant ½ hour longer to get groceries and 5 -10 minutes to climb stairs, the panel finds that these limitations are more of a moderate nature rather than significant. In addition the appellant's evidence indicates that he is managing with frequent rests and is not using a cane or other assistive walking aid. Although the nurse indicates that the appellant cannot lift much weight the physician reports that the appellant is able to lift 5 to 15 pounds.

The panel has concluded that while the appellant's functioning is impacted by his physical impairments, the ministry reasonably determined that the evidence falls short of establishing that he has a severe physical impairment as contemplated by the legislation.

Severe Mental Impairment

The appellant's advocate confirmed that the appellant is not taking the position that he has a severe mental impairment.

The ministry's position is that there is not enough information to establish a severe mental impairment.

Panel Decision:

As the appellant, through his advocate, confirmed that he is not disputing this part of the reconsideration decision, the panel finds that the ministry reasonably determined that the information provided does not demonstrate a severe mental impairment.

Significant Restrictions to DLA

The appellant's position is that his evidence and that of the physician and nurse, establishes that he has significant restrictions to DLA, particularly mobility (standing, climbing stairs, walking) and limitations with lifting and carrying. The appellant's position is that with an unstable ankle it is hazardous to lift too much weight which results in the need for a vehicle to bring home groceries and other heavy purchases. The advocate's submission also notes that the physician confirms that the appellant needs help with meal preparation, shopping, forms and correspondence as well as continuous help with basic housework, mobility outside the home and management of finances.

The appellant argues that based on *Hudson v. Employment and Assistance Appeal Tribunal, 2009 BCSC 1461*, there is no statutory requirement for more than 2 DLA to be restricted and that an application is sufficient if either the physician or nurse confirms that the appellant's severe impairment directly and significantly restricts his ability to perform DLA. The advocate argues that the evidence must be read in its entirety, and in a broad way, that significant weight must be placed on the evidence of the appellant unless there is a legitimate reason not to do so, that any ambiguities must be resolved in favor of the appellant and that when read together, the evidence confirms that the appellant has a severe impairment that directly and significantly restrict his ability to perform DLA.

The ministry's position is that it relies on the medical opinion and expertise of the appellant's physician and nurse and finds that there is not enough evidence to establish that the appellant's impairments directly and significantly restrict his DLA either continuously or periodically for extended periods. In particular the ministry notes that physician reports that although the appellant requires a vehicle due to reduced mobility he has indicated that the appellant is not restricted in his ability to manage his transportation and that the appellant independently manages the following tasks: dressing, grooming, toileting, bathing, feeding self, regulating diet, transfers in/out of bed, transfers on/off chair, reading prices and labels, making appropriate choices, paying for purchases, meal planning, food preparation, safe storage of food, banking, budgeting, paying rent and bills, taking prescriptions as directed, safe handling and storage of prescriptions, getting in and out of a vehicle, using public transit and using transit schedules and arranging transportation.

The ministry states that with respect to DLA tasks of laundry, basic housekeeping, going to and from stores, carrying purchases home, cooking and filling/refilling prescriptions, the appellant requires periodic assistance yet the physician indicates that the appellant is independent with several of these same tasks. The ministry notes that the nurse does not provide additional comments including a description of the type and amount of assistance required, has not identified any safety issues, and does not provide an explanation of the duration and frequency of this periodic assistance required.

Panel Decision:

The legislation – s. 2(2)(b)(i) of the EAPWDA – requires 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. 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 it is periodic it must be for

extended periods. 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 of the duration and frequency of the restriction in order to be "satisfied" that this legislative criterion is met.

In the appellant's circumstances, the PR and AR both indicate that the appellant is independent with all tasks of personal care. The PR indicates that the appellant requires periodic assistance with meal preparation, but in the AR the nurse indicates that the appellant is independent with food preparation though it takes him 20 minutes longer than typical to prepare because he requires, breaks, and periodic assistance with cooking. However, the nurse does not explain the nature, frequency or duration of the assistance required. The appellant states that his adult daughters provide some assistance with meals when they are able but he confirmed that if they are not able to help he is able to plan and prepare meals himself.

With respect to management of medications, the PR indicates that the appellant is independent and the AR indicates that the appellant requires periodic assistance as he sometimes needs help picking up his prescriptions. In the PR, the physician reports that the appellant is continuously restricted with basic housekeeping, but in the AR, the nurse reports that the appellant requires only periodic assistance from others with basic housekeeping and laundry, noting that he needs help carrying the laundry basket, and cannot stand for long periods. In the PR the physician indicates that the appellant's daily shopping is periodically restricted and in the AR the nurse reports that he has periodic restrictions with respect to going to and from stores and carrying purchases home as he needs help carrying stuff, and needs lots of breaks.

In the PR the physician indicates that the appellant is not restricted with mobility inside the home and the appellant's evidence confirms this information. In the PR the physician indicates that the appellant's mobility outside the home is continuously restricted but the appellant's own evidence is that although he has pain and must take frequent rests when walking to and from the store, he is not using a cane or other assistive device and he is managing with the ankle brace. Both the PR and AR confirm that the appellant is independent with all aspect of transportation and in the AR, the nurse states that the appellant only requires 5 minutes longer than typical to get in and out of a vehicle.

In the PR the physician reports that the appellant is continuously restricted with management of finances but in the AR the nurse indicates that the appellant is independent with paying rent and bills. In the SR the appellant states that he requires assistance with management of finances, but only notes that he requires assistance with his income tax.

In the PR the physician indicates that the appellant is not restricted with respect to social functioning and in the AR the nurse confirms that the appellant is independent with the listed tasks, except that he requires periodic assistance securing assistance from other, which his daughters do, but there is no further description identifying the frequency or duration of support or supervision provided.

In the panel's view, the ministry reasonably determined that the information provided by the physician and the nurse in the AR does not provide enough information to demonstrate that the appellant satisfies the legislative criteria, namely that he has a severe impairment which directly and

significantly restricts the appellant's ability to perform DLA either continuously or periodically for extended periods.

While the appellant argues that based on the *Hudson* decision, only two DLA must be restricted to meet the legislated criteria, the panel finds that while restrictions are noted for some tasks of 5 DLA, the information does not sufficiently indicate that the restrictions are either continuous or periodic for extended periods. For example, while the physician in the PR indicates continuous restrictions with basic housework, the nurse in the AR only indicates periodic restrictions with basic housework and laundry, noting that the appellant needs help carrying the basket and cannot stand for long periods. However the appellant's own evidence is that he can manage the laundry independently if no help is available and that he is managing his basic household tasks. In addition, there are inconsistencies between the PR and AR, as noted above, with respect to the appellant's ability to perform DLA and for the tasks requiring continuous or periodic assistance the information provided does not indicate that the restrictions are significant. For example, in the PR the physician reports that the appellant is continuously restricted with management of finances but in the AR the nurse indicates that the appellant is independent with paying rent and bills. The appellant's information in the SR confirms that of the nurse as he states that he requires assistance with management of finances with respect to his income tax.

In addition the appellant's own evidence contradicts some of the information provided by the physician and the nurse. For example, the physician indicates that the appellant is using a cane but the appellant confirmed that he is not using a cane. The appellant also confirmed that while a vehicle is preferable for transportation he is able to take the bus if no vehicle is available and that he is able to take his laundry to and from the laundromat on his own.

In addition, although the SR and the submission indicate that it takes the appellant either a couple or several hours to get mobile in the morning the appellant stated that it typically takes him 20-30 minutes to limber up.

Based on the foregoing analysis, the panel concludes that the ministry reasonably determined that the evidence is insufficient to show that the appellant's ability to perform his DLA is significantly restricted either continuously or periodically for extended periods.

Help with DLA

The appellant's position is that he requires significant assistance with DLA particularly with respect to meal preparation, housework and daily shopping. He requires bilateral hearing aids, use of an ankle brace and vehicle and relies on support from his adult children and grandchildren who live in the same housing complex.

The ministry's position is that the physician indicates the appellant requires a cane whereas the nurse indicates that he requires the use of an ankle brace and hearing aids. The ministry's position is that there has not been enough information to establish that DLA are significantly restricted so it cannot be determined that significant help is required from other people. The ministry also states that the appellant does not require the services of an assistance animal.

Panel Decision

A finding that a severe impairment directly and significantly restricts a person's ability to manage his DLA either continuously or periodically for an extended period is a precondition to a person requiring "help" as defined by section 2(3)(b) of the EAPWDA. For the reasons provided above, the necessary precondition has not been satisfied in this case.

Although the physician reports that the appellant requires a cane now and will require a walker in the future, the appellant's own evidence is that he is not using a cane or other assistive walking device. Although the physician indicates that he requires some assistance with management of finances, the appellant's SR indicates the help needed is with his income tax, but the panel notes that this help does not appear to directly relate to the appellant's impairment. Although the physician and nurse indicate that the appellant requires assistance with laundry the appellant confirmed that if he does not have help he can manage independently.

Accordingly, the panel finds that the ministry reasonably concluded it could not be determined that the appellant requires help with DLA as defined by section 2(3)(b) of the EAPWDA.

Conclusion

The panel acknowledges that the appellant's medical conditions affect his ability to function. However, having reviewed and considered all of the evidence and the relevant legislation, the panel finds that the ministry's decision finding the appellant ineligible for PWD designation is a reasonable application of the legislation in the circumstances of the appellant. The panel therefore confirms the ministry's decision.