

PART C – DECISION UNDER APPEAL

The decision under appeal is the reconsideration decision of the Ministry of Social Development and Poverty Reduction (the ministry) dated 03 May 2019 that denied the appellant designation as a person with disabilities (PWD). The ministry determined that the appellant did not meet all of the required criteria for PWD designation set out in section 2 of the *Employment and Assistance for Persons with Disabilities Act*. Specifically, the ministry determined that the information provided did not establish that the appellant has a severe mental or physical impairment that in the opinion of a prescribed professional

(i) directly and significantly restricts his ability to perform daily living activities (DLA) either continuously or periodically for extended periods; and,

(ii) as a result of those restrictions, he requires help to perform those activities.

The ministry determined that the appellant satisfied the other 2 criteria: he has reached 18 years of age and his impairment in the opinion of a medical practitioner is likely to continue for at least 2 years.

The ministry also found that it has not been demonstrated that the appellant is in 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 *Employment and Assistance for Persons with Disabilities Regulation*. As there was no information or argument provided by the appellant regarding alternative grounds for designation, the panel considers this matter not to be at issue in this appeal.

PART D – RELEVANT LEGISLATION

Employment and Assistance for Persons with Disabilities Act (EAPWDA) – section 2
Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) – sections 2 and 2.1.

PART E – SUMMARY OF FACTS

The evidence before the ministry at reconsideration consisted of the following:

1. The appellant's PWD Designation Application dated 11 December 2018. The Application contained:
 - A Self Report (SR).
 - A Medical Report (MR) dated 28 February 2019, completed by a general practitioner (GP) who has seen the appellant 2-10 times over the past year.
 - An Assessor Report (AR) dated 08 November 2018, completed by the same GP.
2. Attached to the Application are the following medical reports:
 - A referral report dated 05 May 2016 by an optometrist.
 - A consult report dated 26 May 2016 by Ophthalmologist A.
 - A consult report dated 28 January 2017 by a specialist in rheumatology and internal medicine.
 - A consult report dated 15 February 2019 by Ophthalmologist B.
 - A consult report dated 28 February 2019 by Ophthalmologist B.
3. The appellant's Request for Reconsideration submission, dated 25 April 2019, with substantially the same reasons in handwritten and typewritten form.

In the MR, the physician provides the following diagnosis related to the appellant's impairment: chronic back pain (onset ?2016).

In the AR, the GP describes the appellant's impairment that impact his ability to manage DLA as "chronic pain [secondary] to HLA B27 arthritis."

The panel will first summarize the evidence from the MR and the AR as it relates to the PWD criteria at issue in this appeal.

Severity of impairment

Duration

MR:

The GP indicates that the appellant's impairment will continue for 2 years or more.

Physical impairment

MR:

Under Health History, the GP writes:

"According to the patient, he has had work related severe low back pain since 2016. He has not [been] able to work since then. As he says, he has no neurological deficit signs in legs. According to his saying, he has this severe pain almost always, which prevents him [from working]. Recently, he has had both eyes redness and pain and seen [an] ophthalmologist."

Regarding Functional Skills, the GP reports that the appellant can walk 4+ blocks unaided on a flat surface, can climb 5+ steps unaided, his lifting limitations are unknown, and he has no limitations remaining seated.

The GP indicates that the appellant has not been prescribed any medication and/or treatments that interfere with his ability to perform DLA. He also indicates that the appellant does not require any prostheses or aids to compensate for his impairment.

Under Additional comments, the GP adds:

“Is HLA B27 positive & has chronic pain in multiple joints.”

AR:

Respecting Mobility and Physical Ability, the GP assesses the appellant as independent in all listed aspects: waking indoors, walking outdoors, climbing stairs, standing, lifting, and carrying and holding.

Mental impairment

MR:

The physician indicates that the appellant has no difficulties with communication.

The GP indicates that the appellant has no significant deficits with cognitive and emotional function.

AR:

The GP assesses the appellant's ability to communicate as good in all listed areas: speaking, reading, writing, and hearing.

In the section relating to Cognitive and Emotional Functioning as a result of a mental impairment or brain injury, the GP provides no assessments.

Ability to perform DLA

MR:

The GP indicates that appellant's impairment does not directly restrict his ability to perform DLA. The GP further indicates that the appellant is not restricted in the following activities: personal self-care, meal preparation, management of medications, basic housework, daily shopping, mobility inside the home, mobility outside the home, use of transportation, and management of finances.

The GP does not indicate whether the appellant is restricted with regard to social functioning.

AR:

With regard to the assistance required related how the appellant's impairment directly restricts his ability to manage DLA, the GP assesses the appellant as independent in all aspects of all listed activities: personal care, basic housekeeping, shopping, meals, pay rent and bills, medications, and transportation.

Social functioning

AR:

The GP assesses the appellant as independent for all listed areas where support/supervision may be required to compensate for a mental impairment: making appropriate social decisions, developing and maintaining relationships, interacting appropriately with others, dealing appropriately with unexpected demands, and securing assistance from others.

The GP does not provide an assessment of the appellant's relationship with either his immediate or extended social network.

Help provided/required

AR:

The GP indicates that assistance is provided by family.

The GP does not indicate that the appellant routinely uses any of the listed assistive devices to help compensate for his impairment.

Self Report

In describing his disability, the appellant writes:

“I wake up with stiff joints, even at times my ribs and breast bone are affected and it hurts to move.

Sometimes my joints burn at the end of the day, or maybe it's my tendons in areas of my feet, shoulders, and hands. Excessive use of movements or holding a position causes discomfort and pain.

I lack education and experience to find a job that won't physically trigger and exacerbate my arthritis.

Stress also triggers a bad physical feeling in me. Even when words are stumbled by others (TV) or unnatural smells are in the air, I get physical unease in my body.

Any lifting or moving of objects during the course of the day, the next day I wake up to a stiff back and this could last for a week depending on the amount of lifting or work, or little rest I get after the initial day. Pain can manifest itself through my breast bone and ribs at times.

My low-budget diet is a contributing factor for my various flares of inflammation.”

Medical Reports

In the report by the specialist in rheumatology and internal medicine, the specialist notes that the appellant is HLA-B27 positive and has an inflammatory eye disease. The specialist notes that the appellant had been given recommendations on how to manage his back pain. At the visit that day he refused to have x-rays or any imaging done of his spine, and was not interested in taking any medications. That day he told the specialist that he was having moderate back pain, nothing major. The specialist provided a note stating that the appellant had experienced back pain as well as inflammatory eye disease around April (of the previous year), which would have prohibited him from working at that time.

The reports by the ophthalmologists and optometrist diagnose the appellant with acute anterior uveitis in the right eye, recommend/prescribe treatment with prescription steroidal and other eye drops, and note a history/tendency toward non-compliance with such treatment. The most recent report, by Ophthalmologist B, noted that his eye condition was in the setting of HLA-B28+and reactive arthritis, and considering his refusal to comply with treatment, suggested that the GP arrange for psychiatric evaluation.

Request for Reconsideration

In his Request for Reconsideration, the appellant writes (both typed and handwritten):

“Around Dec, 2018, my health was already starting to worsen, that is when I completed my portion of the package. After having my joints get swollen twice, my inflammation then hit my eye which left me in great [pain] and a month of blurriness [name of optometrist]. Over time I have noticed that most foods, other than fruit, are a contributing factor to my arthritis. If I fast or am able to afford fruits (which I can't on a base budget), I am able to somewhat walk and do daily tasks... but when I get hit with inflammation flares of arthritis, it is as if I was hit by a truck when I wake up in the mornings. Flares can last for weeks, with the most painful, it is painful to go to the bathroom even after an hour of waking up. Cartilage around my breast bone, ribs, back (up and down my spine), stiffens and causes great pain with movement. I have yet to see my new specialist [Name] after a 2 year wait.”

Attached to the Request for Reconsideration is a note dated 28 February 2019 from the GP stating that the appellant has a chronic HLA B27 arthritis and cannot work.

Notice of Appeal

The appellant's notice of appeal is dated 14 May 2019. Under Reasons for Appeal, he writes that his arthritis has intensified and that he cannot read. He is suffering from ankylosing spondylitis, irritable bowel syndrome, and once again painful and blinding iritis, but this time in the other eye. The GP's blood tests and analysis for a stomach virus had no results. He asks that his disability request be discontinued until at least after he sees a real specialist. [Despite this last sentence, the appellant signed and submitted his Notice of Appeal.]

Attached to the Notice of Appeal are the following:

- An Emergency Discharge Summary dated 02 February 2019 regarding a visit to the ER as a result of “3 days of right eye redness pain and redness. Some photophobia. No visual change.” He was given a prescription for steroidal eye drops.
- An Emergency Discharge Summary dated 08 May 2019 regarding a visit to the ER as a result of “a 3-day history of pain and conjunctival injection [sic] to his left eye.” He was given a prescription for steroidal eye drops.
- An affidavit sworn by the appellant, dated 09 February 2018, regarding a WorkSafeBC claim and his allegations of a breach of natural justice and lack of medical expertise in dealing with his claim.

The hearing

With the consent of both parties, the hearing was conducted in writing pursuant to section 22(3)(b) of the *Employment and Assistance Act*.

In a submission dated 30 May 2019, the appellant writes that he is the recipient of income assistance and cannot afford the special diet he needs to keep down the inflammation in his body. He explains that some fruits that don't cause problems are unaffordable, starches, vegetables, some meats and even apples or oranges can be problematic. He thinks that his irritable bowel and arthritis are connected.

He writes that in 2019 he has had iritis/anterior uveitis (eye inflammation) attacks in both of his eyes, with one eye still having blurry vision.

He believes that he is suffering from ankylosing spondylitis: his muscles and joints ache and hurt, and his back, chest bone and neck are usually stiff in the morning. Major flares are painful and extremely stressful as he fears having an eye get damaged. His flares can last for weeks – a physical handicap.

He notes that the last doctor he saw was unable to diagnose his specific arthritis and that the ministry does not support diets for arthritis. Another doctor (the GP) had given him a note for a stomach supplement request but the ministry denied such a diet request.

In an email dated 04 June 2019, the ministry states that its submission in this matter will be the reconsideration summary provided in the Record of Ministry Decision.

Admissibility of additional information

In its submission, the ministry did not object to the information provided by the appellant in his Notice of Appeal or submission on appeal.

The panel finds that the information provided by the appellant in his Notice of Appeal and in his submission is in support of the information and records before the ministry at reconsideration, as this information tends to update the information before the ministry, including the information regarding the appellant's continuing eye problems. Pursuant to section 22(4) of the *Employment and Assistance Act*, the panel therefore admits this information as evidence.

PART F – REASONS FOR PANEL DECISION

The issue in this appeal is whether the ministry decision that determined that the appellant did not meet three of the five statutory requirements of Section 2 of the EAPWDA for designation as a person with disabilities (PWD) is reasonably supported by the evidence or is a reasonable application of the legislation in the circumstances of the appellant. Specifically, the ministry determined that the information provided did not establish that the appellant has a severe physical or mental impairment that, in the opinion of a prescribed professional,

(i) directly and significantly restricts his ability to perform daily living activities (DLA) either continuously or periodically for extended periods; and,

(ii) as a result of those restrictions, he requires help to perform those activities.

The ministry determined that the appellant satisfied the other 2 criteria: he has reached 18 years of age; and his impairment in the opinion of a medical practitioner is likely to continue for at least 2 years.

The following section of the EAPWDA applies to this appeal:

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 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.

The following section of the EAPWDR applies to this appeal:

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.

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) 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).

Analysis

Severity of impairment

Preliminary considerations

As the ministry noted in its decision, the diagnosis of a serious medical condition does not in itself determine PWD eligibility or establish a severe impairment. An impairment, as defined by the ministry in the MR and AR, is a loss or abnormality of psychological, anatomical or physiological structure or function causing a restriction in the ability to function independently, effectively, appropriately or for a reasonable duration. To assess the severity of impairment, the

ministry must consider the nature of the impairment and the extent of its impact on daily functioning.

For the minister to be “satisfied” that the person’s impairment is severe, the panel considers it reasonable for the ministry to expect that the information submitted by the independent and professional medical practitioner and prescribed professional (in this case the GP) completing the application provides the minister with sufficient information on the nature and extent of the impacts of the person’s medical conditions on daily functioning. As the legislation requires the minister to make determinations regarding the degree of impairment, the degree of restrictions in the ability to perform DLA and the resulting degree of help required, it is therefore important that the MR and the AR include explanations, descriptions or examples in the spaces provided so that the minister has the information needed to make these determinations. Significant weight must also be placed on the evidence of the applicant, unless there is a legitimate reason not to do so. Such information provided by the applicant, while not necessary under the legislation, may be helpful in fleshing out the general picture provided by the medical practitioner/prescribed professional. The reconsideration process provides the opportunity for the prescribed professionals and applicant to clarify or add to the information provided on application, and the panel hearing an appeal must consider any information provided on appeal, as long as the panel finds it admissible.

Mental impairment

The legislation provides that the minister must be satisfied that the applicant has a severe mental or a severe physical impairment (or both). In this case, the ministry did not differentiate between the two types of impairment, addressing only the physical aspects of the appellant’s impairment. The ministry noted that Ophthalmologist B had written that the appellant experiences ongoing active inflammation in his right eye in the setting of non-compliance and recommends to the GP that the appellant have a psychiatric evaluation. The ministry further noted that despite the ophthalmologist’s concerns, in the MR and AR the GP does not raise any concerns about the appellant’s mental health.

Panel finding

Considering that the GP did not diagnose the appellant with a mental health condition as an impairment, did not identify any significant deficits with cognitive or emotional function, did not report any difficulties with communications, and did not assess any impacts of mental impairment on daily functioning, the panel finds that the ministry was reasonable in addressing only the appellant’s physical impairment as the impairment at issue at reconsideration.

Employability

In the MR, the GP writes that as a result of his medical conditions, the appellant is unable to work.

In the reconsideration decision, the ministry noted that for the purposes of determining eligibility for PWD designation, a medical barrier to the applicant’s ability to engage in paid employment is not a legislated criterion for severity of impairment.

Panel finding

The panel notes that section 2(2) of the EAPWDA can be read as *“The minister may designate a person ... as a person with disabilities ... if the minister is satisfied that the person ... has a severe mental or physical impairment that (b) ...*

(i) directly and significantly restricts the person's to perform daily living activities ...

(ii) as a result, ..., the person requires help to perform those activities.”

As the focus is on whether an impairment *“directly and significantly restricts the person's ability to perform daily living activities ...”*, and as employability or ability to work is not listed in section 2(1) of the EAPWDR as a DLA, the panel finds that ministry was reasonable in not taking into account any reported employability restrictions in applying the impairment criteria set out in section 2(2) of the EAPWDA. In other words, it is unreasonable to expect the ministry to assume that difficulty in attending or performing a job extends to other areas of daily functioning.

Panel note

Employability can be an indirect factor for PWD designation. The legislation provides for “alternative grounds” for PWD designation, one of which, listed in section 2.1 of the EAPWDR, is a person who is considered to be disabled under section 42 (2) of the *Canada Pension Plan (Canada)* – i.e. a person meeting the disability criterion for a CPP disability pension eligibility. This section of the federal statute reads in part:

(a) a person shall be considered to be disabled only if he is determined in prescribed manner to have a severe and prolonged mental or physical disability, and for the purposes of this paragraph,

(i) a disability is severe only if by reason thereof the person in respect of whom the determination is made is incapable regularly of pursuing any substantially gainful occupation, and

(ii) a disability is prolonged only if it is determined in prescribed manner that the disability is likely to be long continued and of indefinite duration or is likely to result in death;

Note that the determination must first be made, not by the BC ministry, but “in prescribed manner” – that is, through the federal CPP application and adjudication process prescribed by federal regulation, including consideration of CPP contribution history.

The appellant's eye inflammation

The appellant has submitted evidence from the ophthalmologists and optometrist that shows that he has a history of eye inflammation – anterior uveitis – and the GP in the MR noted he had recently experienced this condition, as corroborated by Emergency Discharge Summaries submitted on appeal. The appellant has also emphasized the severity of this condition in his Request for Reconsideration, his Notice of Appeal and in his submission for the hearing,

In the reconsideration decision, the ministry notes that despite the GP's knowledge of issues with the appellant's eyes, the GP provides only a diagnosis of chronic back pain when asked in the MR to list the diagnoses that cause the appellant's impairment. The ministry was therefore not satisfied that the appellant's eye condition is considered severe.

Panel finding

As noted above, the diagnosis of a serious medical condition does not in itself establish a severe impairment. An impairment is a medical condition diagnosed by a medical practitioner (the GP) that in the opinion of a prescribed professional results in restrictions to a person's ability to function independently, effectively, or for a reasonable time. Because the GP did not diagnose the eye inflammation as an impairment, and since there is little information provided in the MR, the AR or the medical reports that suggest that the eye inflammation (provided the appellant complies with prescribed treatment) significantly restricts the appellant's ability to perform DLA, the panel finds that the ministry reasonably concluded that this condition did not constitute a severe impairment under the legislation.

Physical impairment

The position of the appellant, as explained in his Notice of Appeal and in his submission for the hearing, is that his arthritis has intensified, with major flares being painful and extremely stressful. These flares can last for weeks, with such a physical handicap constituting a severe physical impairment.

The appellant also argues that he cannot afford the special fruit diet he needs to keep down the inflammation in his body – another reason for granting him PWD designation.

In the reconsideration decision, the ministry found that it is not satisfied that the information provided is evidence of a severe impairment. In reaching this conclusion, the ministry notes that in the MR under Health History, the GP writes "According to the patient...." and "As he says..." in front of sentences when asked to describe the severity of impairment, suggesting the information he provides is more a reiteration of the information the appellant provided to him, rather than his own medical assessment.

The ministry also noted that when assessing the appellant's functional skills (ability to walk, climb stairs, etc.) the GP does not indicate any restrictions. Further, although the GP writes that the appellant experiences chronic pain due to HLA B27+ arthritis, he indicates that this does not restrict or affect his ability to perform daily tasks – this does not suggest a severe impairment, especially to the degree described by the appellant.

In addition, the ministry noted that the information provided by the rheumatologist is over two years old and not necessarily a current reflection of his medical conditions. Regardless, the rheumatologist explains that the appellant was experiencing only moderate back discomfort at the time ("nothing major").

Panel finding

The panel notes that while increased financial benefits may be an outcome of PWD designation, financial need is not a criterion for PWD designation or severity of impairment.

In the information he provides, the appellant has focused on the symptoms of his arthritis. For

instance, in his SR, he writes:

“I wake up with stiff joints, even at times my ribs and breast bone are affected and it hurts to move.

Sometimes my joints burn at the end of the day, or maybe it's my tendons in areas of my feet, shoulders, and hands. Excessive use of movements or holding a position causes discomfort and pain.”

And

“Any lifting or moving of objects during the course of the day, the next day I wake up to stiff back and this could last for a week depending on the amount of lifting or work, or little rest I get after the initial day. Pain can manifest itself through my breast bone and ribs at times.”

However, severity of impairment is not a function of the gravity of symptoms, but, as explained above, the degree to which daily functioning is directly restricted by the medical condition giving rise to the symptoms. As the ministry pointed out, in the MR the GP has not indicated any restrictions to the appellant's functional skills (ability to walk, climb stairs, etc.). In addition, in the AR the GP has assessed the appellant as independent for all aspects of mobility and physical ability (walking, standing, lifting, etc.). Considering the absence of any restrictions reported by the GP in the appellant's daily physical functioning, the panel finds that the ministry was reasonable in determining the severe physical impairment has not been established.

Direct and significant restrictions in the ability to perform DLA

Assessing the degree of restriction in the applicant's ability to perform DLA is central to the ministry's determination of PWD designation. The legislation requires the ministry to assess direct and significant restrictions to DLA in consideration of the opinion of a prescribed professional, in this case the GP. This does not mean that other evidence, such as from the applicant, should not be factored in as required to provide clarification of the professional evidence, but the legislative language is clear that a prescribed professional's evidence is fundamental to the ministry's determination whether it is “satisfied.” And for the minister to be “satisfied,” it is reasonable for the ministry to expect that the evidence provides a clear picture of the extent to which the ability to perform DLA is restricted, as assessed in terms of the nature and duration of help required or extra time needed, in order for the ministry to determine whether the restrictions are “significant.”

In its decision, the ministry noted that the GP indicates that the appellant is unrestricted and independent in every aspect of his DLA. Noting that the appellant explains his inflammation and pain, the ministry referred to the legislation that requires it to be in the opinion of the prescribed professional that he experiences significant restrictions. Therefore, even though the ministry acknowledges that the appellant may have limitations as a result of his medical conditions, it found that the information provided does not establish that an impairment significantly restricts DLA continuously or periodically for extended periods.

Panel finding

The appellant has provided little information on restrictions in his ability to perform DLA as a result of his arthritis, except to note in his Request for Reconsideration that during a flare, it is painful to go to the bathroom even an hour after waking up.

As the ministry noted, in the MR and AR the GP, as the prescribed professional, assessed the appellant as unrestricted and independent in every aspect of his DLA. Given these assessments, with no information provided on how, to what extent and under what circumstances the appellant's arthritis restricts his ability to manage DLA, the panel finds that the ministry was reasonable in determining that this criterion has not been met.

Help required

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.

Panel finding

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.

Though the GP indicates that the appellant benefits from assistance from family, given that the GP did not report any detailed information on the assistance required from another person, the use of an assistive device or the services of an assistance animal, and since 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 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 that determined that the appellant was not eligible for PWD designation was reasonably supported by the evidence. The panel therefore confirms the ministry's decision. The appellant is thus not successful on appeal.

APPEAL NUMBER

PART G – ORDER

THE PANEL DECISION IS: (Check one) UNANIMOUS BY MAJORITY

THE PANEL CONFIRMS THE MINISTRY DECISION RESCINDS THE MINISTRY DECISION

If the ministry decision is rescinded, is the panel decision referred back to the Minister
for a decision as to amount? Yes No

LEGISLATIVE AUTHORITY FOR THE DECISION:

Employment and Assistance Act

Section 24(1)(a) or Section 24(1)(b)

and

Section 24(2)(a) or Section 24(2)(b)

PART H – SIGNATURES

PRINT NAME

Richard Roberts

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2019 June 20

PRINT NAME

Kent Ashby

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2019 June 20

PRINT NAME

Wesley Nelson

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2019 June 20