

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 February 7, 2019, which held that the appellant did not meet 3 of the 5 statutory requirements of section 2 of the *Employment and Assistance for Persons with Disabilities Act* for designation as a person with disabilities (PWD). The ministry found that the appellant met the age and duration requirements, but was not satisfied that:

- in the opinion of a medical practitioner or nurse practitioner the appellant has a physical and/or mental impairment that is likely to continue for 2 years or more;
- the appellant has a severe physical and/or mental impairment;
- the appellant's daily living activities (DLA) are, in the opinion of a prescribed professional, directly and significantly restricted either continuously or periodically for extended periods; and
- as a result of those restrictions, the appellant requires an assistive device, the significant help or supervision of another person, or the services of an assistance animal to perform DLA.

PART D – RELEVANT LEGISLATION

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

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

PART E – SUMMARY OF FACTS

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

- The information before the ministry at the time of reconsideration included the appellant's PWD application comprised of a Medical Report (MR), and an Assessor Report (AR), dated December 17, 2018, both of which were completed by the appellant's general practitioner (the "GP"). The GP has known the appellant since August 28, 2018 and saw the appellant 2-10 times in the past 12 months prior to completing the PWD application. The PWD application also included the appellant's Self-Report (SR) dated November 20, 2018. (*Note: The manners in which the MR and AR are completed are further discussed in this decision under 'Admissibility of Additional Information'.*)
- Request for Reconsideration (RFR), signed and dated March 18, 2019, which, in part, stated the following: 1) Health conditions include: heart, abnormal glucose levels, chronic obstructive pulmonary disease (COPD), back pain and iliotalband pain that are likely to continue for more than 2 years; 2) there has been new investigations since the PWD application which demonstrate continued degeneration of the knee, spine and heart conditions, which affects the severity of the impairment and the ability to carry out my DLA; and 3) The appellant's health conditions impact his ability to lift items, walk long distances, carry shopping, prepare meals, manage stairs, complete basic house hold chores such as laundry and cleaning, manage medication or remain seated.
- A note from the GP, signed and dated April 12, 2019, which stated "chronic back pain and knee pain: OT assessment regarding functional capabilities".

Diagnoses

In the MR, the GP diagnosed the appellant with "non-ST segment elevation myocardial infarction/ DES" (onset January 2018), "? Hypertension" (onset January 2018), "abnormal fasting glucose" (onset September 2018), "? COPD – chronic smoking", and "? back pain/IT band pain" (onset October 2018).

Duration

In the MR, the GP wrote "He needs to have cardiac rehab currently (presently on hold due to his MSK pain)". The GP left blank the 'yes' or 'no' boxes in response to whether or not the impairment is likely to continue for 2 or more years.

Physical Impairment

In the MR, the GP indicated the following about the appellant:

- "Coronary artery disease, with 2 DES. Normal LV function. No active symptoms of angina reported. No symptoms of heart failure".
- "? Back pain [right] sided IT band pain. He was going for active rehab and his cardiac active rehab was stopped due to the aforementioned pain"
- Functional skills assessment "based on his (the appellant's) reported symptoms: can walk 4+ blocks unaided, can climb 5+ steps unaided, lifting limitations are unknown and can remain seated for less than 1 hour.

In the AR, the GP indicated the following about the appellant:

- "Following information based on the reported symptoms by the patient (subjective)."
- Independent with walking indoors and outdoors, climbing stairs and standing (check marks were provided on top of the existing ones).
- Periodic assistance from another person with lifting and carrying/holding (check marks were

provided on top of the existing ones).

- “There may not be enough medical documentation in his chart supporting/mentioning his subjective concern.”

In the SR, the appellant described his disability as heart condition, iliotibial focus, and that his medication does not work effectively.

Mental Impairment

In the MR, the GP indicated the following about the appellant:

- “Language barrier – can speak [REDACTED] and communication was mainly done in this language”.
- No difficulties with communication (other than a lack of fluency in English).
- The GP did not indicate deficits with cognitive and emotional function but then noted that the appellant provided check marks in the areas of emotional disturbance and memory with the note “see below his reported symptoms”. The appellant provided a note “I had a heart surgery 7 months ago so I can’t walk, or lift anything”.
- Boxes under DLA were checked off but the entire page was crossed off.

In the AR, the GP indicated the following about the appellant:

- “Following information based on the reported symptoms by the patient (subjective)”.
- Good speaking and hearing with a comment “some limitation with the English language.”
- In terms of cognitive and emotional functioning: major impacts with memory and language, and moderate impacts with bodily functions, insight and judgment, and memory. All other listed items had either minor or no impacts. The GP commented “Following symptoms are self-reported by patient (not documented in medical records)”.
- The appellant independently performs all tasks related to ‘pay rent and bills’, ‘medications’ and ‘social functioning’ (check marks were provided on top of the existing ones). The appellant has marginal functioning with immediate and extended social networks.

In the SR, the appellant described his mental conditions as stress and depression.

Daily Living Activities

In the MR, the GP indicated the following about the appellant:

- No medications and/or treatments have been prescribed that would interfere with the ability to perform DLA.

In the AR, the GP indicated the following about the appellant:

- All listed tasks under ‘personal care’, ‘basic housekeeping’, ‘shopping’, ‘meals’, ‘pay rent and bills’, ‘medications’, ‘transportation’ and ‘social functioning’ are performed independently (check marks were provided on top of the existing ones).

In the SR, the appellant stated that he cannot pick up groceries.

Help

In the MR, the GP did not indicate that any prostheses or aids are required for the appellant’s impairment but comment: “may need in future based on his [MSK] symptoms”.

In the AR, the GP indicated the following about the appellant:

- The help required for DLA is provided by ‘family’ (check marks were provided on top of the existing ones).
- Assistance provided by assistive devices and assistance provided by assistance animals was

indicated as not required.

In the SR, the appellant did not indicate that help was required or needed.

Evidence on Appeal

Notice of Appeal (NOA), signed and dated March 23, 2019, which stated, in part, that the appellant suffers from pain due to his knees and back, which leads to anxiety and loss of sleep. He cannot perform his DLA due to his heart problems.

Evidence at the Hearing

At the hearing the appellant submitted the following additional information:

- Letter dated, April 11, 2019, from a physician in cardiac rehabilitations services, which stated in part that the patient (the appellant) came to exercise class with high hypertension. The patient indicated that he has not been taking his medication for 1 month due to financial need.
- Letter dated, March 13, 2019, from the GP to another physician requesting further management of the appellant's medical conditions as the GP's conservative measures have not improved the appellant's conditions. The letter lists the appellant's medical conditions and prescribed medications.
- X-ray referral, indicating that the appellant has an exam on March 9, 2019 and listed bilateral knees, lower extremity – extra view- bilateral, and lumbar spine as areas of investigation.
- March 9, 2019 X-ray results and assessment of degenerative changes from October 21, 2014. (The panel notes that the results of the X-ray indicated mild degeneration in all areas listed in point #3 but does not speak to the duration of the impairment, the severity of the physical impairment, the impact of the degeneration on DLA or the need for help).

At the hearing the appellant stated, in part, the following via his interpreter:

- If he could care for himself he would not be applying for PWD; he used to be able to but now cannot.
- He worked as long as he could in the [REDACTED] industry and carrying heavy material took a toll on him.
- He suffers from emotional and psychological problems, chest pain, heart problems and breathing problems.
- The PWD was completed by the GP and in the appellant's absence. The appellant only gave the GP reports and imaging reports and explained his conditions. The appellant has known the GP for 7-8 months.
- He does not know how to prove that he has a severe impairment and that he only understands his situation. He cannot carry 3 lbs and is becoming weaker with age.
- He is forgetful and has mental problems. He suffers from anxiety and worry about money. For his mental conditions he is not taking medication and has had no treatment.
- He stated that if he had more money, his anxiety and worries may go away.
- A social worker from the hospital completed (corrected) the PWD application formerly completed by the GP.
- He can manage his DLA but it is difficult to do and takes longer.
- His wife, who has her own physical problems, helps him and they work together to get things

done.

At the hearing the ministry relied on its reconsideration decision.

Admissibility of Additional Information

The ministry did not object to admitting the additional information submitted at the hearing.

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

The panel found that the all 4 documents submitted at the hearing provided additional detail or disclosed information that was in support of the information or corroborated the information addressed in the reconsideration. Accordingly, the panel has admitted this new information as being in support of information and records that were before the ministry at the time of reconsideration, in accordance with s. 22(4) of the *Employment and Assistance Act*. However, the panel finds that the information submitted does not speak to the duration of the impairment, the severity of the physical impairment, the impact of the degeneration on DLA or the need for help and as a result the panel place little weight on this additional information.

It is noted that many areas of the MR and AR appear to have been completed by someone other than the GP in terms of comments and check marks. In many areas, it appears that the GP has either provided check marks over top of the existing check marks or crossed out the existing check marks in favour of another option. The GP also indicated in the MR the reported impact on cognitive and emotional function, including the narrative was provided by the appellant. On page 1 of the AR, the GP indicated that the information provided was based on the appellant's self-report and it is visible that check marks were either corrected as described previously or another check mark was provided by the GP over top of the existing ones. On page 2 of the AR, the GP indicated that the symptoms described under cognitive and emotional functioning were provided by the appellant. Here there is no duplication of the check marks on top of the existing ones. In the AR, under DLA, there are check marks over top of the existing ones, which is indicative of the GP agreeing with checks marks previously provided by the appellant. The panel found that, based on the GP's remarks and the markings on the reports, the MR and AR are consistent with a self-report rather than the GP's independent opinion. Though the MR and AR are admitted as evidence, the panel places limited weight on them.

PART F – REASONS FOR PANEL DECISION

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

- in the opinion of a medical practitioner or nurse practitioner, the appellant has a physical and/or mental impairment that is likely to continue for 2 years or more;
- the appellant has a severe physical and/or mental impairment;
- the appellant's daily living activities (DLA) are, in the opinion of a prescribed professional, directly and significantly restricted either continuously or periodically for extended periods; and
- as a result of those restrictions, in the opinion of a prescribed professional, the appellant requires help, as it is defined in the legislation, to perform DLA?

Relevant Legislation**EAPWDA**

2 (1) In this section:

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

"**daily living activity**" has the prescribed meaning;

"**prescribed professional**" has the prescribed meaning.

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

(a) in the opinion of a medical practitioner or nurse practitioner is likely to continue for at least 2 years, and

(b) in the opinion of a prescribed professional

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

(A) continuously, or

(B) periodically for extended periods, and

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

(3) For the purposes of subsection (2),

(a) a person who has a severe mental impairment includes a person with a mental disorder, and

(b) a person requires help in relation to a daily living activity if, in order to perform it, the person requires

(i) an assistive device,

(ii) the significant help or supervision of another person, or

(iii) the services of an assistance animal.

(4) The minister may rescind a designation under subsection (2).

EAPWDR**Definitions for Act**

2 (1) For the purposes of the Act and this regulation, "**daily living activities**",

(a) in relation to a person who has a severe physical impairment or a severe mental impairment, means the following activities:

- (i) prepare own meals;
- (ii) manage personal finances;
- (iii) shop for personal needs;
- (iv) use public or personal transportation facilities;
- (v) perform housework to maintain the person's place of residence in acceptable sanitary condition;
- (vi) move about indoors and outdoors;
- (vii) perform personal hygiene and self care;
- (viii) manage personal medication, and

(b) in relation to a person who has a severe mental impairment, includes the following activities:

- (i) make decisions about personal activities, care or finances;
- (ii) relate to, communicate or interact with others effectively.

(2) For the purposes of the Act, "**prescribed professional**" means a person who is

(a) authorized under an enactment to practice the profession of

- (i) medical practitioner,
- (ii) registered psychologist,
- (iii) registered nurse or registered psychiatric nurse,
- (iv) occupational therapist,
- (v) physical therapist,
- (vi) social worker,
- (vii) chiropractor, or
- (viii) nurse practitioner, or

(b) acting in the course of the person's employment as a school psychologist by

- (i) an authority, as that term is defined in section 1 (1) of the *Independent School Act*, or
- (ii) a board or a francophone education authority, as those terms are defined in section 1 (1) of the *School Act*,

if qualifications in psychology are a condition of such employment.

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

Panel Decision**Severe Impairment**

In the reconsideration decision, the ministry was not satisfied that the information provided establishes a severe physical or mental impairment. Determining a severe physical or mental impairment requires

weighing the evidence provided against the nature of the impairment and its reported functional skill limitations. 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, the ministry must consider the nature of the impairment and the extent of its impact on daily functioning.

The panel finds that employability is not a consideration for eligibility for PWD designation because employability is not a criterion in section 2(2) of the EAPWDA nor is it listed among the prescribed daily living activities in section 2 of the EAPWDR.

Duration

The appellant argued that his physical impairments are likely to continue for 2 years or more and mentioned that his mental impairments will likely disappear if he does not have to worry about money.

The ministry argued that it cannot be established that in the opinion of a medical practitioner or nurse practitioner the appellant impairment is likely to continue for at least 2 years.

The ministry noted that in the MR, the GP did not indicate that the appellant's impairment(s) are likely to continue for 2 years or more and that the April 12, 2019 document from the GP, which was provided to the ministry after it had rendered its reconsideration decision, did not indicate that the appellant's impairment(s) are likely to continue for 2 years or more.

The panel finds that the ministry reasonably concluded that the information provided by the GP regarding the appellant's impairment does not indicate that his impairment(s) are likely to continue for 2 years or more. The panel also finds that the NOA and additional information submitted at the hearing also do not indicate that the appellant's impairment(s) are likely to continue for 2 years or more. As a result, the legislative criteria have not been met because the legislation clearly states that the impacts to DLA must be in the opinion of the medical practitioner or nurse practitioner, who in this case is the GP.

Given the assessment of the appellant's impairment provided in the PWD application and the lack of detail in additional information provided at appeal, the panel finds that the ministry was reasonable in its determination that the evidence does not support a finding that the appellant suffers from a severe physical impairment or mental impairment that will likely continue for 2 years or more and that the legislative criteria outlined in Section 2(2) of the EAPWDA has not been met.

Physical Impairment

The appellant's position is that due to his medical conditions he is unable to walk long distances, manage stairs or remain seated.

The ministry argued that based on the information provided in the PWD application, a severe impairment of the appellant's physical functioning has not been established. The ministry noted that the April 12, 2019 note from the GP does not speak to the limitations or restrictions in physical functioning, mental functioning or the ability to perform DLA, or the help required with DLA.

The ministry noted the narrative provided by the GP in the MR, and that the GP indicated that the appellant can walk 4+ blocks unaided, can climb 5+ steps unaided, lifting limitations are unknown and can remain seated for less than 1 hour, however information was not provided to explain how much the appellant can lift or how long he can remain seated.

The ministry noted that in the AR, the GP indicated that the appellant is independent with walking indoors and outdoors, climbing stairs and standing, and that periodic assistance is required with lifting and carrying/holding however the GP did not describe the frequency or duration of the periodic assistance required with lifting and carrying/holding.

The ministry also highlighted that the information provided in the MR and AR was based on the self-reported information from the appellant and was subjective. It concluded that the majority of the information provided in the PWD application is representative of the appellant's self-assessment as opposed to the medical assessment of the GP.

The ministry concluded that the ability to walk 4+ blocks unaided and climb 5+ steps unaided is not considered indicative of a severe impairment of physical functioning.

The panel finds that the ministry reasonably concluded that the information provided by the GP regarding the appellant's physical functioning does not support a finding of a severe physical impairment. That is, the ability to walk 4+ blocks unaided, climb 5+ steps, stand independently and the lack of information provided in terms of how long he can sit or lift, or the frequency or duration of the assistance he requires with lifting and carry/holding is insufficient to conclude that the appellant suffers from a severe physical impairment. The panel finds that the evidence provided by the GP establishes that the PWD application and the information contained within it is largely the appellant's self-assessment and not based on the GP's assessment. As a result, the legislative criteria have not been met because the legislation clearly states that the impacts to DLA must be in the opinion of the medical practitioner or nurse practitioner, who in this case is the GP.

Given the assessments of the appellant's functional ability, and mobility and physical ability in the PWD application and the lack of explanation or detail in the additional information provided at appeal, the panel finds that the ministry was reasonable in its determination that the evidence does not support a finding that the appellant suffers from a severe physical impairment and that the legislative criteria outlined in Section 2(2) of the EAPWDA have not been met.

Mental Impairment

The appellant argued that he suffers from depression, lack of sleep, worry and anxiety and he is unable to manage medications.

The ministry's position is that based on the assessments provided in the PWD application, a severe impairment of mental functioning has not been established.

In its reconsideration decision, the ministry noted that the GP indicated that there is a language barrier and no difficulties with communication. The GP did not indicate whether or not the appellant has deficits with cognitive and emotion function but that the appellant's self-assessment is that he suffers from deficits with memory and emotional disturbance. The ministry noted that the GP did not describe the severity of the deficits to memory and emotional disturbance and that in the AR memory is indicated as having a moderate impact.

The ministry noted that in the AR, the GP indicated that the information in the section on cognitive and emotional functioning was provided by the appellant's self-assessment and indicated major impacts to motivation and language, moderate impacts to bodily function, insight/judgment and memory and minimal or no impacts to all remaining areas in this category. The ministry concluded that the cumulative impact to cognitive and emotional functioning as indicated in the PWD application is indicative of a moderate as opposed to a severe mental impairment.

The ministry noted that the GP indicated that the appellant is independent in all listed areas of social functioning, has marginal functioning with immediate and extended social networks, there is no indication of safety issues and the GP did not describe what support or supervision is required to help the appellant in the community. The ministry also noted that the GP indicated that the information provided in the MR and AR was mainly based on the appellant reported subjective symptoms as opposed to the medical assessment of the GP.

The ministry concluded that the information provided by the appellant's GP does not provide evidence of a severe mental impairment.

The panel finds that the ministry reasonably concluded that the information provided by the GP regarding the appellant's mental functioning does not support a finding of a severe mental impairment because the overall cognitive and emotional functioning of the appellant is indicated as good. The panel also notes that the GP indicated that the appellant independently performs all aspects of 'paying rent/bills' and 'medication', and that the appellant is independent in all aspects of social functioning including. Furthermore, the panel notes that the GP did not diagnose the appellant with a mental impairment. The panel notes that at the hearing the appellant described his mental impairment as anxiety and worry over money and the future, and that if he had more money or did not need to worry about money his anxiety and worry would likely recede. Again the panel finds that the evidence provided by the GP establishes that the PWD application and the information contained within it is largely the appellant's self-assessment and not based on the GP's assessment. As a result, the legislative criteria have not been met because the legislation clearly states that the impacts to DLA must be in the opinion of the medical practitioner or nurse practitioner, who in this case is the GP.

Given that the assessment of the appellant's mental functioning provided in the PWD application does not indicate a severe mental impairment, the information provided in the PWD application is largely based on self-assessment, and that the additional information from the GP provided at appeal did not support the appellant's position, the panel finds that the ministry was reasonable in its determination that the evidence does not support a finding that the appellant suffers from a severe mental impairment and the legislative criteria outlined in Section 2(2) of the EAPWDA have not been met.

Restrictions in the ability to perform DLA

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

DLA are defined in section 2(1) of the EAPWDR and are listed in both the MR and the AR sections of the PWD application with the opportunity for the prescribed professional to check marked boxes and provide additional narrative.

The appellant argued that due to his medical condition he is unable to lift, carry groceries, walk, prepare meals or complete basic house hold chores (such as laundry and cleaning).

The ministry argued that it is not satisfied that the information provided establishes that the impairment directly and significantly restricts DLA continuously or periodically for extended periods.

The ministry noted the GP's narrative as indicated above (including the fact that no medication or treatment has been prescribed interferes with the appellant's ability to perform DLA) and that the GP indicated that the appellant independently performs all listed tasks of DLA listed in 'personal care', 'basic housekeeping', 'shopping', 'meals', 'paying rent/bills', 'medications', 'transportation' and 'social functioning'.

The ministry concluded that since the GP indicated that he independently perform all listed tasks of DLA, it is difficult to establish that the appellant experiences significant restrictions to DLA.

The panel finds that the ministry reasonably concluded that the evidence does not confirm that the appellant has a severe impairment that directly and significantly restricts his ability to perform his DLA continuously or periodic for extended periods. The panel notes that the information provided established that the appellant is able to perform the all of his DLA independently. Additionally, the panel notes that at the hearing, the appellant stated that he is able to perform his DLA but it takes him longer.

Again the panel finds that the evidence provided by the GP establishes that the PWD application and the information contained within it is largely the appellant's self-assessment and not based on the GP's assessment. As a result, the legislative criteria have not been met because the legislation clearly states that the impacts to DLA must be in the opinion of the medical practitioner or nurse practitioner, who in this case is the GP.

The panel considered the assessment by the GP in the PWD application of independence with all of the DLA and that insufficient additional or supporting information was provided from a prescribed professional at appeal to support the appellant's position. The panel finds that the evidence provided by the GP does not describe or indicate that a severe impairment restricts the appellant's ability to perform his DLA either continuously or periodically for extended periods. Given the evidence as a whole, the panel finds that the ministry reasonably concluded that the evidence does not establish that an impairment significantly restricts DLA continuously or periodically for extended periods, pursuant to Section 2(2)(b)(i) of the EAPWDA.

Help to perform DLA

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

The appellant indicated that his wife helps him with his DLA.

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

The panel notes that, in the AR, the GP did indicate that assistance is required from family but did not indicate who provides the help, with what, or the frequency or duration of this help. The panel notes that

the GP did not indicate that any prostheses or aids were required and commented that the appellant "may need in future based on" MSK symptoms. The GP did not indicate that assistance was required by an assistive device or assistance animal. The panel is of the opinion that if the appellant cannot manage his DLA and needs help as he claimed, then the PWD application, which is largely his self-assessment, should have reflected as such.

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

Conclusion

The panel finds that the ministry's reconsideration decision, which determined that the appellant was not eligible for PWD designation, was reasonably supported by the evidence and is a reasonable application of the applicable enactment, and therefore confirms the decision. The appellant is not successful on appeal.

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

Neena Keram

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2019/05/14

PRINT NAME

Kulwant Bal

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2019/05/14

PRINT NAME

Jeremy Sibley

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2019/05/14