

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the Ministry) Reconsideration Decision dated July 11, 2019, which found that the Appellant did not meet two of the 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). While the Ministry found that the Appellant met the age requirement and had a severe mental impairment which was likely to continue for at least two years, the Ministry was not satisfied that the evidence establishes that:

- The Appellant's daily living activities (DLA) are, in the opinion of a prescribed professional, directly and significantly restricted either continuously or periodically for extended periods; and,
- As a result of these restrictions, the Appellant requires the significant help or supervision of another person, the use of an assistive device, or the services of an assistance animal to perform DLA.

PART D – RELEVANT LEGISLATION

EAPWDA, Section 2

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

PART E – SUMMARY OF FACTS

The evidence before the Ministry at the time of the Reconsideration Decision included the PWD Application comprised of a Self Report (SR) dated June 20, 2018, a Medical Report (MR) dated January 16, 2019 and completed by a General Practitioner (GP) who has known the Appellant for more than 5 years and has seen the Appellant 2 – 10 times in the past year, and an Assessor Report (AR) also dated January 15, 2019, and also completed by the GP.

The evidence also included:

1. A Request for Reconsideration (RFR) form dated June 12, 2019, which states that the Appellant is requesting an extension of the deadline to file an RFR as the Appellant was under the care of the internal medicine unit of a community Health Authority (HA) and had an appointment with a specialist on June 17, 2019; and
2. An email dated March 6, 2019 from a Ministry adjudicator to the GP indicating that the Ministry required more information to assess the Appellant's application for a PWD designation "*in the form of a narrative describing how much longer the applicant takes completing (DLA and) what kind of help (the Appellant) needs*". In the email, the adjudicator also asks the GP to:
 - Complete the section of the AR which is designed to obtain information from the assessor as to the level of support or supervision required by the applicant to perform certain specified areas of social functioning (e.g. making appropriate social decisions, developing and maintaining relationships);
 - Identify whether the applicant was independent in each activity or required periodic or continuous supervision;
 - Explain or describe each requirement in more detail, including a description of the degree and duration of the support or supervision required; and,
 - Provide any additional comments.

The copy of the email included as evidence, in which none of the above details are provided, bears the unattributed handwritten comment "*which pt?*", possibly in the handwriting of the GP.

Diagnoses

The section of the MR in which the prescribed professional, in this case the Appellant's GP, is asked to specify diagnoses relating to the Appellant's impairments, has not been completed. In the section of the MR where the GP is asked to indicate the severity of medical conditions relevant to the applicant's impairment, the GP has written "*Severe Anxiety and Panic attacks +*".

Mental Impairment

The Ministry is satisfied that the information provided establishes a severe mental impairment.

Physical Impairment

The Ministry is not satisfied that the information provided establishes a severe physical impairment.

The GP has not provided any indication of a physical impairment in the section of the MR where the prescribed professional is asked to indicate how the Appellant's medical condition impairs the Appellant's physically. In another section of the MR, the GP has indicated that the Appellant has no restrictions or limitations with respect to the Appellant's ability to walk unaided on a flat surface, how many stairs the Appellant can climb unaided, the Appellant's ability to lift objects, or how long the Appellant can remain seated. The GP has not completed the section of the MR where the prescribed professional is asked to provide any additional information considered relevant to understanding the significance of the Appellant's medical condition, the nature of the Appellant's impairment, and the impact the impairment has on the Appellant's daily functioning.

Where asked in the AR what physical impairments impact the Appellant's ability to manage DLA, the GP has written "see previous".

In the SR, the Appellant indicates a recent diagnosis of thyroid disorder that requires the Appellant to take unspecified medication(s) but does not indicate any resulting physical impairments.

Restrictions in the Ability to Perform DLA

In the section of the MR where the prescribed professional is asked where the applicant's medical condition results in impairment, the GP has written "*Please refer to client's notes and I can confirm that this is in fact true and legitimate. (The Appellant's) severe anxiety and panic attacks have a severe impact on (the Appellant's) life 100% of the time. (The Appellant) can't seem to function with DLA or work or productivity*". The GP also indicates that the Appellant has been prescribed medications and/or treatments that interfere with the Appellant's ability to perform DLA, but, despite being asked on the form for an explanation, has not provided any indication as to what interfering medications or treatments have been prescribed or how they interfere with the Appellant's ability to perform DLA. The GP has also indicated that the Appellant's impairment directly restricts the Appellant's ability to perform DLA in the areas of personal self care, meal preparation, management of medications, basic housework, daily shopping, management of finances, and social functioning, but has not indicated whether the restrictions are periodic or continuous, and has not provided any explanations or additional comments in that section of the MR. With regard to impacts on social functioning, in the section of the MR where the prescribed professional is asked to provide any additional information considered relevant to understanding the significance of the person's medical condition, the nature and extent of the person's impairment, and the impact on the person's daily functioning, the GP has written "see previous". The previous comment regarding social functioning skills was "see client notes".

In the AR, the GP states that the Appellant has a good ability to speak, read, write and hear. With respect to whether the Appellant requires assistance in performing DLA, the GP states that the Appellant is independent with respect to all listed DLA in the areas of personal care (except for self feeding, for which the Appellant takes significantly longer than typical), that the Appellant takes significantly longer than typical with basic housekeeping activities, and that the Appellant is independent with all aspects of shopping. Regarding the DLA relating to meals, the GP indicates that the Appellant is independent in

storing food safely, but that the Appellant takes significantly longer than typical in meal planning, food preparation and cooking. The GP also indicates that the Appellant takes significantly longer than typical in budgeting, paying rent and bills, and filling and refilling medical prescriptions and taking medication as directed. With respect to transportation, the GP indicates that the Appellant is independent in all aspects. In assessing how the Appellant's mental impairment impacts the Appellant's immediate social network (family and friends) and extended social network relationships, the GP has ticked "very disruptive functioning" but has not provided any additional comments.

In the SR, the Appellant writes "*I can't even participate with society*" and that they forget doctor appointments, can't keep up with the laundry or keep the house organized. The Appellant also writes "*entering a store causes me to have panic attacks, there is too much stimulation and I get anxious and scared. My bills are not getting paid and I fear bankruptcy which adds to my stress level. I have lost jobs because I cannot get out the door on time and I have lost all time management. I feel like I'm spiraling out of control. I also find myself starting something and not being able to finish anything. I have pushed friends away, struggled with relationships and can't even have a phone conversation*".

Need for Help

In the MR the GP indicates that the Appellant does not require any prostheses or aids for impairment.

In the SR, the Appellant wrote "*I have the support of my family, my doctor and community volunteers. Without these supports I could not manage my finances or shop for personal needs. My family has encouraged me to seek emotional and mental health support and receive proper counselling in order to support my mental health*".

In the AR, the GP has not identified the type or amount of assistance the Appellant requires for any DLA, or provided any additional comments regarding the Appellant's need for help with respect to specified DLA. In the section of the AR where the assessor is asked to indicate the level of support or supervision required by the applicant in social functioning, the GP has not provided any information. Nevertheless, the GP does indicate in the AR that the Appellant receives the help required with DLA from family. As noted above, the GP has also confirmed in the AR that the Appellant's explanation regarding the support required from family, the Appellant's doctor and community volunteers, and the statement that the Appellant could not perform certain DLA without those supports, is "*true and legitimate*". The GP has not indicated whether the Appellant has an assistance animal.

Additional Information Submitted after Reconsideration

In the Appellant's Notice of Appeal (NOA) dated July 23, 2019, the Appellant states that they have recently been under the care of a medical specialist (First Internal Medicine Specialist). Prior to that the Appellant had been without a doctor and the Appellant's health had deteriorated over the past year and a half. The Appellant writes that they had a Magnetic Resonance Imaging (MRI) scan on July 18, 2019 and would be seeing an internal medicine medical team on July 30, 2019. The Appellant states that they have been diagnosed with a "Chronic Thyroid" which has severely impacted the Appellant's ability to perform DLA, and that without the support of the Appellant's family the Appellant would be unable to acquire the necessities of life.

Together with the NOA, the Appellant also provided a note from the First Internal Medicine Specialist dated June 17, 2019 (First Internal Medicine Specialist's Note) which reads "*This patient is currently being followed by internal medicine (First Specialist's name) at (name of HA). (The Appellant) is being treated for a medical issue affecting (the Appellant's) functioning and mood*".

On August 23, 2019 the Appellant provided additional written evidence (the August 23 Submission) to the Tribunal comprising:

- One page note dated August 23, 2019 from the Appellant (August 23 Note) in which the Appellant writes that they had dropped off unspecified paperwork to a rehabilitation medicine specialist (Rehab Specialist), but that the Rehab Specialist was on holidays until early September 2019. The Appellant states that they had an appointment with the Rehab Specialist on September 7, 2019, and that the Appellant was enclosing a second internal medicine specialist's letter (Second Internal Medicine Specialist's Letter) in support of treatment; and
- Second Internal Medicine Specialist's letter, dated August 7, 2019, stating that the Appellant has had severe hypothyroidism since April 2019. The Second Internal Medicine Specialist also states that "*(The Appellant) has quite severe symptoms, which have prevented (the Appellant) from ... having normal daily functional lifestyle. (The Appellant's) hypothyroidism has been quite difficult to treat and quite refractory to medications, (the Appellant) has been improving chemically but is not anywhere close to being at target range quite yet. Hopefully as we improve (the) hypothyroidism, (the Appellant's) symptoms will improve as well ... I would anticipate that (the Appellant) would be within the normal range within the next year but (I) cannot give a closer time frame (than) that. Between April 2019 and now... (the Appellant) has been quite disabled... "*

On September 17, 2019, the Appellant provided additional written evidence (the September 17 Submission) to the Tribunal in the form of a three page letter written by the Rehabilitation Specialist (Rehab Specialist's Letter) dated September 6, 2019. The Rehab Specialist's Letter states that the information provided with the Appellant's application for a PWD designation is incomplete, and (the Rehab Specialist includes with the letter a significant amount of additional information regarding the Appellant's medical condition, severity of impairment, ability to perform DLA and need for help, as set out below.

Rehab Specialist's Knowledge of the Appellant's Diagnosis and Treatment

The Rehab Specialist states that the Rehab Specialist has known the Appellant since the Rehab Specialist began providing the Appellant with patient care on April 18, 2019. At that time, the working diagnosis of the Appellant's impairment was carpal tunnel syndrome (CTS), which the Rehab Specialist describes as severe, adding "*... (the Appellant's) presentation in a more global sense was severe endocrine dysfunction*". The Rehab Specialist also states that the Rehab Specialist "*originally thought that (the Appellant) might have a pituitary tumor to account for the degree of hormonal dysfunction*" and that the Appellant was referred to a medical evaluation clinic where the First Internal Medicine Specialist and the Second Internal Medicine Specialist have also examined the patient.

In summary, the Rehab Specialist provides the following diagnoses in the Rehab Specialist Letter:

1. Severe hypothyroidism with median neuropathy at the wrist and a severe form of CTS for which release surgery would likely be ineffective;
2. Affective disorder with depressed mood; and
3. Global anxiety.

The Rehab Specialist states that the Appellant is currently on maximal doses of hormone replacement treatment and that "*often full recovery is not complete*".

Rehab Specialist's Assessment of Mental Impairment

The Rehab Specialist writes that the cognitive and emotional dysfunctions of the Appellant's hypothyroid state are underrepresented in the Appellant's application, and the Rehab Specialist provides further evidence of impairment (which the Panel feels is unnecessary to expand upon as the Ministry was satisfied that the information provided establishes that a severe mental impairment exists).

Rehab Specialist's Assessment of Physical Impairment

Contrary to the evidence provided by the GP in the MR, the Rehab Specialist indicates that the Appellant's ability to walk unaided on a flat surface is limited to 2 – 4 blocks, that the Appellant can only climb 2 – 5 stairs unaided, and that they can lift a maximum of 2 – 7 kg for frequent lifts and 7 – 16 kg for occasional lifts. The Rehab Specialist agrees with the GP that the Appellant has no limitations in the amount of time that they can remain seated, "*provided the seating is supportive*". In addition, the Rehab Specialist states that the Appellant is limited in "*fine hand functions, grasp, and release*", which the Rehab Specialist identifies as direct motor impairments of hypothyroidism and CTS.

Rehab Specialist's Assessment of Restrictions in the Ability to Perform DLA

The Rehab Specialist states that the Appellant has "*continuing challenges*" with the following DLA (additional comments in parentheses): personal care (independent but requiring "*an inordinate amount of time to perform these activities*"), meal preparation, management of medications, basic housework (all of these activities take longer to perform), daily shopping (all of these activities take longer to perform), mobility outside the home, and management of finances. In addition, the Rehab Specialist states that all of the above-noted DLA are "*affected to a moderate or severe degree*".

The Rehab Specialist also disputes the GP's assessment of the Appellant's ability to speak, read, write and hear, which the Rehab Specialist assesses as satisfactory to poor depending on the Appellant's level of fatigue, adding "*(the Appellant) cannot take in new learned information in a cohesive manner or efficiently. (The Appellant) is relying heavily on assistive methods to support (their) memory*".

Rehab Specialist's Assessment of Need for Help

The Rehab Specialist states that the Appellant is receiving family support to be functional in all DLA. The Rehab Specialist explains that the Appellant is able to manage their finances but requires oversight and support from family "*while (the Appellant's) memory is so impaired*". The Rehab Specialist states that, while the information provided by the GP in the AR indicating that it takes the Appellant considerably longer to complete most DLA activities is accurate, it fails to "*itemize the supervision and*

assistance that (the Appellant) receives periodically for all ... meal planning and preparation, financial planning and performance, medication management and follow-through. For the medication follow-through, (the Appellant) is being supported by the pharmacy, and ... physicians, isolating (the Appellant) to a single prescriber and making sure that (the Appellant's) diet (is modified) to absorb the medication to be successful in ... thyroid replacement".

The Rehab Specialist also states that the Appellant's impairments have had an enormous social impact, adding "*It may be implied that this is based on (the Appellant's) mental and affective disorder, but the main order of concern ... is (the Appellant's) activity tolerance in general. (The Appellant) has very significant dysfunction in terms of initiating and sustaining activities that require physical activity and cognitive initiation".*

The Rehab Specialist concludes by saying "*I am continuing to be involved in terms of supporting (the Appellant) for psychological and emotional support, medication trials, all with judicious care to not work at cross purposes with my internal medicine colleagues".*

Admissibility of Additional Information

Section 22(4) of the 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 Ministry when the decision being appealed was made and "*oral and written testimony in support of the information and records*" before the Ministry when the decision being appealed was made – i.e. information that substantiates or corroborates the information that was before the Ministry at reconsideration. Because a panel can only accept oral and written testimony in support of the information and records before the Ministry when the decision was made, there is limited discretion for a panel to admit new evidence. Once the panel has determined which additional evidence is admissible under EAPWDA Section 22(4), instead of asking whether the decision under appeal was reasonable at the time it was made, panels must determine whether the decision under appeal was reasonable based on all admissible evidence.

The Ministry did not indicate whether it objected to the Panel admitting the evidence contained in the NOA, the August 23 Note or the IMS Letter. In a letter dated September 19, 2019 (following its review of the information provided in the September 17 Submission) the Ministry wrote "*Had the ministry had (the information contained in the September 17 Submission), the ministry may have found (the Appellant's) request had met the criteria for PWD designation".* The Panel found this comment to be particularly unhelpful. It is not relevant as evidence and, because of the admissibility limitations under EAPWDA Section 22(4), it cannot affect the Panel's decision.

The Panel considered the written information contained in the NOA relating to the diagnosis of Chronic Thyroiditis to be information that was neither before the Ministry when the decision being appealed was made nor written testimony in support of information and records before the Ministry when the decision being appealed was made because the information available to the Ministry at the time the reconsideration decision was made did not include a diagnosis of Chronic Thyroiditis. Therefore the Panel finds that the information relating to that particular impairment and its impact on the Appellant's DLA is not admissible. The Panel finds that the information in the NOA regarding the Appellant's upcoming appointment for an MRI and consultations with the internal medicine team to be information in support of information before the Ministry when the decision being appealed was made because it

represents an additional medical test relating to the Appellant's medical condition, but assigns no weight to the evidence as the appointment occurs after the Ministry's reconsideration was made and the results of the tests are not provided. The Panel considers the information in the NOA relating to the Appellant's need for family support to be a restatement of evidence previously provided by the Appellant in the SR.

Regarding the information included in the August 23 Submission, the Panel finds the information contained in the August 23 Note to be admissible because it is in support of information and records before the Ministry at reconsideration, but assigns no weight to the evidence as the appointment occurs after the Ministry's reconsideration was made and the results of the tests are not provided. The Panel finds the information contained in the Second Internal Medicine Specialist's August 7 letter regarding a diagnosis of severe hypothyroidism to be inadmissible because the information available to the Ministry at the time the reconsideration decision was made did not include a diagnosis of hypothyroidism.

The Panel considered the information contained in the September 17 Submission relating to Appellant's severe hypothyroidism and severe CTS to be not admissible as those diagnoses were not included in the evidence before the Ministry at reconsideration. The Panel considers the information relating to the Appellant's affective disorder with depressed mood and global anxiety, their impact on the severity of the Appellant's impairment and their impact on the Appellant's ability to perform DLA and need for help to be admissible as it is information in support of the written information and records that were before the Ministry at reconsideration. Because the Rehab Specialist is a prescribed professional, the Panel assigns full weight to the admissible evidence in the Rehab Specialist's letter.

PART F – REASONS FOR PANEL DECISION

The issue under appeal is whether the Ministry's Reconsideration Decision, which found that the Appellant is not eligible for designation as a PWD, was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the circumstances of the Appellant. Having been satisfied that the Appellant had a severe mental impairment, was it reasonable for the Ministry to determine that the evidence, in the opinion of a prescribed professional, does not establish that the Appellant's DLA are directly and significantly restricted either continuously or periodically for extended periods? Was it reasonable for the Ministry to determine that as a result of those restrictions, it could not be determined that the Appellant requires the significant help or supervision of another person, the use of an assistive device, or the services of an assistance animal to perform DLA?

The criteria for being designated as a PWD are set out in Section 2 of the EAPWDA as follows:

Persons with disabilities

2 (1) In this section:

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

"daily living activity" has the prescribed meaning;

"Prescribed professional" has the prescribed meaning.

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

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

(b) in the opinion of a prescribed professional

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

(A) continuously, or

(B) periodically for extended periods, and

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

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

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

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

(i) an assistive device,

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

(iii) the services of an assistance animal.

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

The EAPWDR provides as follows:

Definitions for Act

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

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

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

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

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

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

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

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

Severe Physical Impairment

The Ministry's position is that the functional skill limitations as assessed by the GP do not describe a severe degree of physical impairment. Therefore, the Ministry is not satisfied that the information provided is evidence of a severe physical impairment. Based on the information before the Ministry at

reconsideration and all of the admissible evidence, the Appellant has not indicated that they have any physical impairments. The Appellant has not argued that they have a severe physical impairment.

Panel Decision

The Panel notes that neither the GP nor the Appellant have described a diagnosis representing a severe degree of physical impairment.

Based on the records and information available at the time that the reconsideration decision was made, including all admissible evidence in support of the information and records, the Panel finds that the Ministry reasonably determined that the Appellant does not have a severe physical impairment.

Restrictions in the Ability to Perform DLA

The Ministry position is that, based on the assessments provided by the GP, while the Appellant experiences some restrictions to DLA as a result of a medical condition, there is not enough evidence to confirm that a severe mental or physical impairment significantly restricts the Appellant's ability to perform DLA either continuously or periodically for extended periods. The Appellant's position is that they feel like they are spiraling out of control and that their social functioning is severely impaired because the Appellant struggles with relationships, forgets doctor appointments and can't keep up with laundry or keep the house organized. In addition, the Appellant suffers panic attacks upon entering a store because the Appellant gets anxious and scared, and that they fear bankruptcy, which adds to the Appellant's stress level.

Panel Decision

Section 2(2)(b) of the EAPWDA requires that the Ministry be satisfied that a prescribed professional has provided an opinion that an applicant's severe impairment *directly* and *significantly* restricts their DLA, continuously or periodically for extended periods. In this case, the GP is the prescribed professional. DLA are defined in Section 2(1) of the EAPWDR and are also listed in the MR and, with additional details, in the AR.

The Panel notes that the Appellant has provided detailed evidence regarding the nature of the Appellant's mental impairments and their impact on the Appellant's ability to perform DLA. The Panel further notes that, while the GP has not given a full and thorough explanation of the impacts of the Appellant's severe mental impairments on the Appellant's DLA in some sections of the application form, the GP has confirmed that the Appellant's testimony is "*in fact true and legitimate*" and that "*(the Appellant's severe anxiety and panic attacks have) a severe impact on (the Appellant's) life 100% of the time. (The Appellant) can't seem to function with DLA or work or productivity*".

Therefore, because the GP states that the Appellant's severe mental impairments have a severe impact on the Appellant's DLA 100% of the time, the Panel notes that ministry assertion in its reconsideration decision that "*(the Appellant's) medical practitioner does not identify whether (the Appellant's restrictions) are periodic or continuous in nature*" is not accurate. To the contrary, the GP has stated that the Appellant's impairments are continuous. Furthermore, the Rehab specialist, who is a prescribed professional and whose evidence is admitted and given full weight by the Panel, states that all of the Appellant's DLA are "*affected to a moderate or severe degree*", that the Appellant's ability to speak, read,

write and hear is only satisfactory to poor depending on the Appellant's level of fatigue, and that "*(the Appellant) cannot take in new learned information in a cohesive manner or efficiently*". The Panel finds that the Rehab Specialist's assessments further confirms both the Appellant's self-assessment and the GP's assessment, which is that the Appellant has a severe mental impairment that significantly and continuously restricts the Appellant's ability to perform DLA.

Therefore, having reviewed all of the evidence, the Panel finds that the Ministry was not reasonable in determining that there is not sufficient evidence to confirm that the Appellant's ability to perform DLA is significantly restricted by a severe mental impairment.

Help with DLA

The Ministry's position is that it cannot be determined that significant help is required because it has not been established that DLA are significantly restricted. The Appellant's position is that without the support of their family, doctor and community volunteers they could not manage finances or shop for personal needs.

Panel Decision

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

The Panel notes that the Appellant has stated that they rely on the support of family, doctor and community volunteers, and that without those supports the Appellant would not be able to manage their finances or shop for personal needs. In addition, as indicated above, the GP has stated that the Appellant's self-assessment is both true and legitimate.

The evidence provided by the Appellant and the GP is further supported by the Rehab Specialist who states that the Appellant requires periodic supervision and assistance for numerous DLA, including meal planning and preparation, financial planning and performance, and medication management and follow-through. Regarding medication management, the Rehab Specialist states that the Appellant is being supported by the pharmacy and physicians, who work together to isolate the Appellant to a single prescriber and make sure that the Appellant's diet is modified to absorb medications. The Rehab Specialist also states that the Appellant's impairments have had an enormous social impact, that the Appellant "*has very significant dysfunction in terms of initiating and sustaining activities that require physical activity and cognitive initiation*", and that the Rehab Specialist is involved in providing psychological and emotional support.

Having reviewed all of the admissible evidence, the Panel finds that the Ministry was not reasonable in determining that it could not be demonstrated that the Appellant requires significant help in order to perform DLA.

Conclusion

Having reviewed and considered all of the evidence and relevant legislation, the Panel finds that the Ministry's Reconsideration Decision, which determined that the Appellant was not eligible for the PWD designation under Section 2 of the EAPWDA, was not reasonably supported by the evidence, and therefore rescinds the decision. The Appellant's appeal, therefore, is successful.

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

Simon Clews

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2019/10/11

PRINT NAME

Wesley Nelson

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2019/10/11

PRINT NAME

Anne Richmond

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2019/10/14