

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 20 February 2020 that denied the appellant designation as a person with disabilities (PWD) under section 2 of the *Employment and Assistance for Persons with Disabilities Act*. The ministry found that the appellant meets the age and duration requirements, but was not satisfied that:

- the appellant has a severe mental or physical impairment;
- the appellant's impairment, in the opinion of a prescribed professional, directly and significantly restricts the ability to perform daily living activities ("DLA") either continuously or periodically for extended periods; and
- as a result of restrictions caused by the impairment, the appellant requires an assistive device, the significant help or supervision of another person, or the services of an assistance animal to perform DLA.

The ministry also found that the appellant is not 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* ("EAPWDR"). As there was no information or argument provided for PWD designation on alternative grounds, the panel considers that 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

Evidence before the ministry at reconsideration

1. The appellant's PWD Designation Application submitted on 15 January 2020. The Application contained:
 - A Self Report (SR).
 - A Medical Report (MR) dated 09 January 2020, completed by a general practitioner (GP) who has known the appellant since April 2018 and seen the appellant 2-10 times in the past year.
 - An Assessor Report (AR) dated 09 January 2020, completed by the same GP.
 - A Medical Report – Employability (MR–E) dated 03 January 2020, completed by a different general practitioner who has known the appellant for less than 6 months.
2. The appellant's Request for Reconsideration, dated 05 February 2020. Under Reasons, the appellant provides a typewritten submission (see below).

Accompanying the Request for Reconsideration are 70 pages (with some pages duplicated) of medical reports from the years 2017 and 2018 (see below)

In the MR, the GP provides the following diagnoses related to the appellant's impairment: "Chronic bilateral lower leg pains due to soft tissue injuries as a result of an MVA" (onset June 2016 [sic]).

In the MR–E, the other general practitioner describes the appellant's medical condition as "Chronic lower leg injuries due to MVA in Mar 2014."

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

Severity/health history

Physical impairment

MR:

Under Health History, the GP reports:

"Has bilateral lower leg pains with prolonged walking & standing.
Able to stand for 45 mins maximum prior to experiencing pain & then would have to sit.
Able to walk for 45-60 mins on flat ground.
Can walk 1-2 flights of stairs holding on to rails.
Can lift maximum of 20 lbs but unable to do repetitive lifting."

Regarding functional skills, the GP indicates that the appellant can walk 4+ blocks unaided on a flat surface, can climb 5+ steps unaided, is limited to lifting 7 to 16 kg, with no limitations for remaining seated.

The GP indicates that the appellant has not been prescribed medication and/or treatments that interfere with the ability to perform DLA.

AR:

Respecting mobility and physical ability, the GP assesses the appellant as independent for walking indoors, walking outdoors and standing, and requiring periodic assistance from another person for lifting and carrying and holding (commenting, "Able to lift up to max 20 lbs.")

Mental impairment

MR:

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

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

AR:

The GP assesses the appellant's ability to communicate as satisfactory for speaking, reading, writing, and hearing.

The GP marks "N/A" regarding the degree to which the appellant's mental impairment impacts daily functioning

Ability to perform DLA

AR:

In describing the mental or physical impairments that impact the ability to manage DLA, the GP writes, "Difficulty in prolonged standing over 45 minutes. Difficulty walking more than 45-60 minutes. May have difficulties cooking if it involves prolonged standing."

The GP provides the following assessments of the assistance the appellant requires in performing DLA:

- Personal care – independent for all tasks.
- Basic housekeeping – independent for all tasks.
- Shopping – independent for all tasks.
- Meals – independent for meal planning and safe storage of food; periodic assistance from another person required for food preparation and cooking.
- Pay rent and bills – independent for all tasks
- Medications – independent for all tasks.
- Transportation – independent for all tasks.

Under Additional Information, the GP writes:

"Able to carry light bags with grocery shopping. Able to stand for maximum 45 mins, prepare simple meals. Able to lift up to 20 pounds maximum, able to walk for 45 minutes to 60 minutes maximum on flat. Able to do a flight of stairs.

Social functioning

AR:

The GP assesses the support/supervision required for social functioning as follows

- Making appropriate social decisions – independent.
- Developing and maintaining relationships – independent.
- Interacting appropriately with others – independent.
- Dealing with unexpected demands – independent.
- Securing assistance from others – independent.

The GP assesses the appellant's relationship with both immediate and extended social networks as “good functioning.”

Help provided/required

MR:

The GP indicates that the appellant does not require any prostheses or aids to compensate for impairment.

AR:

The GP indicates that assistance for DLA is provided by friends, commenting, “Friends help to cook/prepare meals for him.”

The GP does not indicate that the appellant uses any of the listed assistive devices.

The GP indicates that the appellant does not have an assistance animal.

Self Report

In the SR, the appellant describes being a pedestrian and being struck by a motor vehicle a little over five years ago, suffering lower extremity injuries, specifically both feet, ankles, right calf and left knee. As a result, the appellant experiences occasional flareups and muscle spasms of shooting pain. The pain varies from mild to moderate depending on daily activities, sometimes severe pain by doing strenuous and sustained activities like running, going uphill, and climbing. This means having 3 better and 4 worse days a week, and when walking, getting mild pain 10% of the time and moderate to severe pain 80% of the time.

The appellant reports

- Wearing an ankle brace from time to time.
- If taking longer walks, starting to limp and feet swelling up. This is why orthotics are sometimes used.
- Also experiencing frequent headaches and lack of sleep, waking up about 5 to 6 times and being awake about two hours during the night.
- These symptoms causing occasional stress, fatigue, anxiety, mood swings and changes in diet (has gained and lost weight) and thyroid changes, requiring medication.
- The injuries being sensitive to cold temperature, especially with the left knee getting tension-type and pinching pain.
- Also getting this type of pain when sitting down, bending, kneeling or reaching overhead.

The appellant concludes that these functional limitations and chronic pain in the legs impact daily living activities and all aspects of personal and professional life.

Request for Reconsideration

In the Request for Reconsideration, the appellant writes in part:

"[...] I have a very difficult time to get back to normal life after i suffered lower extremity injuries from the car accident in 2014. I don't mean to make excuses, my extensive work and medical records, and in the opinions of different medical professionals, who i saw in the past, clearly show that I have been suffering for over 5 years and it is more likely that i will continue to feel pain and suffering for the rest of my life.

I honestly tried very hard to get back to normal life during the last 6 years period, i even tried to maintain full-time job after the car accident despite of my injuries, but my overall health was slowly deteriorating to the point where i could not even walk normally without pain and limping, I was completely burned out, felt anxious, lost appetite and weight which led to thyroid disease. If you look at my medical and financial records, you would see that I went through extensive medical and physiotherapy treatments. I tried counselling, various exercises and used numerous assistive devices, such as ankle braces, compression socks, orthotics insoles to help me with daily living activities, but unfortunately, the level of my impairments has not been helped effectively and has in fact continued.

If you ask my friends, they would tell you that I was always active and outgoing person before I suffered the injuries. If you ask my previous employers, they would tell you that I was always hard working individual, who could handle the workload, was among the best in terms of work performance; however, my injuries caused by the accident affected all of my ability to healthy lifestyle.

Needless to say, I learned throughout the years what forms of sustained daily living activities cause the most pain and take a long time to recover for me afterwards, so I always adjust myself in order to keep the pain at its minimum level by avoiding strenuous and sustained physical activities, such as extensive walks, walking uphill, climbing stairs, carrying extra weight, running etc. The intensity of daily living activities directly and significantly affects me, so the more intensive activity, the more I feel pain, stiffness, tenderness over affected joints, start to limp more visibly and have muscle spasms. I honestly thought could handle all of this pain and suffering, loss a fair mount of income, but my injuries always remind me of my functional limitations no matter what I do and where I am at."

The appellant concludes by providing a summary of the impairments and symptoms affecting day-to-day activities. This summary is set out below in Part F (Reasons for Panel Decision) in respect to the appellant's position related to severity of physical impairment. The appellant adds, "disability assistance in general can improve my well-being and it can give me more opportunities for job training programs and perhaps a second chance to get back to normal life that's worth living."

Medical reports

In the reconsideration decision, the ministry noted that the prior medical records submitted with the Request for Reconsideration describe the appellant's medical history, medical conditions, treatments, and impacts to physical functioning. However, the ministry noted the impacts to physical functioning, as described in these records, were reassessed as recently as January 9, 2020 by the GP in the PWD Application. The ministry took the position

that it is the current level of functioning on which eligibility for PWD designation is assessed. Although the prior medical records provide context in terms of medical history and the duration of the medical condition, the ministry relied on the PWD Application with regard to physical functioning.

The panel has reviewed this material, including an 18 page report on “Functional Capacity Evaluation and Cost of Care Recommendations” for the appellant dated 14 December 2017 prepared by a Consultant Occupational Therapist (OT). The OT reported that with regard to Activities of Daily Living / Leisure Status, the appellant:

- is able to sit for up to 2 hours at a time,
- is able to stand although this is with additional symptom aggravation,
- can walk at a normal pace for 1.5 – 2 hours at a time,
- is able to lift up to 50 pounds He has difficulty with repetitive or frequent lifting even if this is at a lighter weight (i. e. 20 pounds),
- is able to climb 1 flight of stairs at a slow pace. He is limited from fast paced or repetitive stair climbing,
- reported being able to perform most household chores: cooks infrequently, having difficulty with standing and does not have patience for this task, gets prepared meals or eats out; able to clean the floors, clean the bathroom, do grocery shopping and do the laundry

The panel finds that the ministry was reasonable in relying on the assessments provided by the GP in the PWD Application for the following reasons: (i) the assessments in the medical records were made over 2 years ago; and (ii) in some respects show somewhat less restriction than those made by the GP. Further, the legislation is written in the present tense, which the panel views as meaning PWD designation is to be based on the applicant’s current situation.

Notice of Appeal

The Notice of Appeal is dated 23 February 2020. Under Reasons for Appeal, the appellant writes:

“I [am] dissatisfied with this decision, because I think I’ve provided enough reasoning and supporting documentation that I have physical restrictions, which have been affecting my life for almost 6 years now. The chronic pain in my legs prevent me [from] doing many activities, which I enjoyed doing before the car accident in 2014. I am hoping for a positive outcome and help.”

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*.

The appellant did not provide a submission for the hearing.

In an email dated 26 March 2020, the ministry stated that its submission will be the reconsideration summary provided in the Record of Ministry Decision.

Admissibility of additional information

The panel accepts as argument the appellant's statement in the Notice of Appeal.

PART F – REASONS FOR PANEL DECISION

The ministry 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). Specifically, the ministry determined that the information provided did not establish that:

- the appellant has a severe mental or physical impairment;
- the appellant's impairment, in the opinion of a prescribed professional, directly and significantly restricts the ability to perform daily living activities ("DLA") either continuously or periodically for extended periods; and
- as a result of restrictions caused by the impairment, the appellant requires an assistive device, the significant help or supervision of another person, or the services of an assistance animal to perform DLA.

The ministry determined that the appellant satisfied the other criteria of having reached 18 years and the impairment continuing for at least 2 years.

The issue in this appeal is whether the ministry decision is reasonably supported by the evidence or is a reasonable application of the legislation in the circumstances of the appellant.

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 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.

The following sections 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

The designation of a person as a person with disabilities arises from the application of legislation – section 2 of the EAPWDA reproduced above. It is clear from this legislation that PWD designation is at the discretion of the minister. However, it is also clear that this discretion

is limited, by requiring the minister to be “satisfied” that the applicant meets the criteria set out in section 2.

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 material 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.

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. Therefore, it is 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 optional in the Application form, 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.

Physical impairment

The appellant’s position

The appellant, in the Notice of Appeal submits that “I’ve provided enough reasoning and supporting documentation that I have physical restrictions, which have been affecting my life for almost 6 years now. The chronic pain in my legs prevent me [from] doing many activities, which I enjoyed doing before the car accident in 2014.”

In the Request for Reconsideration, the appellant summarizes the factors that point to a severe impairment as follows:

“Here's a list of my impairments affecting my day-to-day activities:

- environmental restrictions (my left knee is sensitive to cold temperature)
- physical restrictions (rapid movements, bending, running, strenuous and sustained lifting weights)
- postural restrictions (inability to squat, stoop, bend kneel and reach overhead continuous and rapidly)

Here's a list of my symptoms affecting my day-to-day activities:

- chronic pain, muscle spasms, cramps in feet, ankles increase with extensive walking, lifting weights and other forms of sustained physical activities.
- occasional tension-type, shooting pain in left knee with rapid movements.
- migraine and insomnia.”

The ministry's position

In the reconsideration decision, the ministry determined that the appellant does not have a severe physical impairment. In making this determination, the ministry reviewed the assessments of the GP in the MR and AR and by the other general practitioner in the MR–E. In particular, the ministry noted the following appellant's abilities as reported in the MR:

- Able to stand for 45 mins maximum prior to experiencing pain & then would have to sit,
- Able to walk 45 - 60 mins on flat ground,
- Can walk 1 - 2 flights of stairs holding on to rails
- Can lift maximum of 20 lbs. but unable to do repetitive lifting

And also in the MR:

- Able to walk 4+ blocks unaided,
- Climb 5+ steps unaided,
- Lift 15 lbs.,
- Remain seated without limitation,

And as reported in the AR:

- Independent for walking indoors, walking outdoors, climbing stairs, and standing,
- Requiring periodic assistance from another person with lifting and carrying / holding, though "Able to lift & carry up to a max 20 lbs." and with no information provided on the frequency of such assistance.

And from the MR–E:

- Can stand max 45 mins and walk 45 - 60 mins on flat surface, stopping intermittently if walking uphill.
- Can lift 20 lbs. max, but not repetitive.
- Can only walk 1 - 2 flights of stairs.

The ministry held that these assessments are not indicative of a severe impairment of physical functioning. The ministry acknowledged that though the appellant experiences physical impacts due to the medical condition, based on the information provided by the GP, by the other general practitioner, and in the medical records provided at reconsideration and in the appellant's self-reports, a severe impairment of physical functioning has not been established.

Panel finding

In the MR and AR forms, the ministry defines "impairment" as "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." The panel finds this definition of impairment to be reasonable, given the emphasis in the legislation on restrictions and help required. Thus, as the ministry noted, a diagnosis of a serious medical condition does not in itself determine PWD eligibility or establish a severe impairment – i.e. information on the nature and extent of the resulting restrictions is required to assess the severity of impairment.

Given the detailed medical practitioners' assessments as reviewed by the ministry above, the

panel finds that the ministry reasonably canvassed the most recent information provided by medical professionals and concluded that these assessments are not indicative of a severe impairment of physical functioning. In terms of the appellant's ability to manage DLA, the assessments of physical functioning relate to the DLA of Moving about indoors and outdoors. The only impact of the appellant's medical condition on the ability to perform the other DLA requiring physical effort (those listed in section 2(1)(a) of the EAPWDR) relates to the GP's assessment in the AR that the appellant requires the periodic assistance of another person for some tasks of the DLA of Prepare own meals. As the ministry noted, the GP did not provide any information on how often or for how long such assistance is required. Without such information, it would be difficult for the ministry to determine whether the restriction and resulting help required is significant. (See also *Direct and significant restrictions in the ability to perform DLA* below.)

Based on the foregoing, the panel finds that the ministry was reasonable in determining that a severe physical impairment has not been established.

Mental impairment

Panel finding

In the SR, the appellant states that the injuries sustained in the motor vehicle accident have resulted in stress, fatigue, anxiety, mood swings and changes in diet. However, as noted by the ministry in the reconsideration decision, 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, did not assess any impacts of mental impairment on daily functioning, and did not indicate the appellant experiences any restrictions in social functioning. Accordingly, the panel finds that the ministry was reasonable in determining that a severe mental impairment has not been established.

Direct and significant restrictions in the ability to perform DLA

The appellant's position

The panel understands from the Request for Reconsideration that the appellant's position is that having learned over the years what forms of sustained daily living activities cause the most pain and take a long time to recover, the appellant makes adjustments to keep the pain at its minimum level by avoiding strenuous and sustained physical activities, such as extensive walks, walking uphill, climbing stairs, carrying extra weight, running etc. The intensity of daily living activities have a direct and significant effects on daily functioning, because the more intensive the activity, there is more pain, stiffness, tenderness over affected joints, while starting to limp more visibly and having muscle spasms.

The ministry's position

In the reconsideration decision, the ministry found that, based on the assessments provided by the appellant's prescribed professionals, there is not enough evidence to confirm that the appellant has a severe impairment that significantly restricts the ability to perform DLA

continuously or periodically for extended periods. In reaching this conclusion, the ministry reviewed in particular the evidence provided in the MR and AR, noting specifically:

- The appellant has not been prescribed medication and/or treatments that interfere with the ability to perform DLA.
- While in the MR the GP has stated that the appellant may have difficulties cooking if it involves prolonged standing, the GP also states that the appellant can stand for up to 45 minutes.
- In the AR, the GP has assessed the appellant as independent for all listed DLA except for requiring periodic assistance from another person for the tasks of food preparation and cooking, within the DLA of Prepare own meals, without describing the frequency or duration of the periodic assistance required.
- In the AR, the GP also noted, “Able to carry light bags with grocery shopping. Able to stand for maximum 45 mins, prepare simple meals.”

Panel finding

The panel notes that, according to the legislation, the direct and significant restriction in the ability to perform DLA must be the result of a severe impairment, a criterion not established in this appeal. The legislation – section 2(2)(b)(i) of the EAPWDA – requires the minister 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 should not be factored in as required to provide explanation 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 a prescribed professional provides sufficient information as to the extent to which the ability to perform DLA is restricted, as assessed in terms of the nature and duration of help required or the time it takes to perform a task, in order for the ministry to determine whether the restrictions are “significant.” Any information submitted by the applicant or others could be useful in adding context and detail to the picture provided by the prescribed professional.

The assessments provided by the GP in the MR and AR indicate some degree of restriction in 2 DLA – the DLA of Moving about indoors and outdoors and Preparing own meals. However, the relevant detail described by the GP tends to point to at most a moderate level of restriction. For example, the appellant is limited to lifting and carrying / holding less than 20 lbs., but as the GP notes, “Able to carry light bags with grocery shopping. Able to stand for maximum 45 mins, prepare simple meals.” In the panel’s view, it cannot be said that the degree of restriction described by the GP is “significant.” The panel therefore finds that that the ministry was reasonable in determining that the information provided does not establish that, in the opinion that a prescribed professional, the appellant’s ability to perform DLA is significantly restricted either continuously or for extended periods.

Help required

Section 2(2)(b)(ii) of the EAPWDA requires that, as a result of being directly and significantly restricted in the ability to perform DLA either continuously or periodically for extended periods, a person must also require help to perform those activities. That is, the establishment of direct

and significant restrictions under section 2(2)(b)(i) is a precondition of meeting the need for help criterion. Help is defined in subsection (3) as the requirement for an assistive device, the significant help or supervision of another person, or the services of an assistance animal in order to perform a DLA.

The GP reported that assistance is provided by friends who “help to cook / prepare meals” for the appellant. However, neither the GP, the other general practitioner, nor the appellant reported any detailed information on the nature, type, frequency or duration of assistance required from another person, or the use of an assistive device or the services of an assistance animal. Because 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 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 not successful on appeal.

APPEAL NUMBER
2020-00062

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)

2020 April 20

PRINT NAME

Wesley Nelson

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2020 April 20

PRINT NAME

Anne Richmond

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2020 April 20