

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 August 13, 2020, 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* (EAPWDA) for designation as a person with disabilities (PWD). The ministry found that the appellant met the requirements of having reached 18 years of age and having a medical practitioner confirm that the appellant's impairment is likely to continue for at least 2 years.

However, the ministry was not satisfied that:

- the appellant has a severe physical or mental impairment;
- the appellant's daily living activities (DLA) are, in the opinion of a prescribed professional, directly and significantly restricted either continuously or periodically for extended periods; and
- as a result of those restrictions, in the opinion of a prescribed professional, 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 determined that the appellant is not in any of the classes of persons set out in section 2.1 of the *Employment and Assistance for Persons with Disabilities Regulation* who may be eligible for PWD designation on alternative grounds.

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

Information before the ministry at reconsideration

- The appellant's PWD application, comprised of:
 - A Medical Report (MR) and an Assessor Report (AR) both completed and dated January 26, 2020 by the appellant's general practitioner (GP) who has known the appellant since 2007 and saw the appellant 2-10 times in the twelve months preceding completion of the PWD application.
 - The appellant chose not to complete the Self-report (SR) section of the PWD application.

- The appellant's July 31, 2020 Request for Reconsideration, comprised of a written submission which the appellant indicates was prepared with assistance from another person.

Information provided on appeal and admissibility

The appellant's Notice of Appeal dated August 28, 2020, which did not contain any information.

Prior to the hearing, the appellant requested and was granted four adjournments to provide additional information. The following documents were submitted:

- September 29, 2020 letter from a retina specialist (the retinal specialist)
- November 13, 2020 note from the GP
- 6-page typewritten letter from the appellant received by the Tribunal on January 11, 2020
- 2-page January 11, 2021 letter from a cataract and corneal surgeon (the corneal specialist)

The appellant also provided oral testimony at the hearing. The ministry did not introduce new evidence and did not object to the admission of the appellant's appeal submissions.

The panel considered the information provided on appeal, all of which related to the appellant's visual medical conditions, to be required for full and fair disclosure of all matters related to the appeal and therefore admitted the information under section 22(4) of the *Employment and Assistance Act*.

Summary of relevant evidence

Diagnoses and Health History

The GP provides the following diagnoses:

- Congenital anterior segment dysgenesis
- Glaucoma
- Cataract

The retinal specialist notes that glaucoma resulted in left eye blindness and adds the following diagnoses:

- Optic nerve head pit with serous macular detachment
- Strabismus
- Corneal failure with resultant corneal transplant

Physical Impairment

In the MR, the GP responds “NA” when asked to assess these functional skills:

- How far the appellant can walk unaided on a flat surface;
- How many stairs the appellant can climb unaided;
- Limitations in lifting; and,
- Limitations respecting the length of time the appellant can remain seated.

Respecting walking, the GP comments “but requires care due to visual impairment.” [Note: the ministry found that the GP wrote “cane” rather than “care.” Based on the information provided by the appellant at the hearing together with the other information provided by the GP respecting assistive devices, the panel finds that the GP most likely wrote “care.”]

In response to “Does the applicant require any prosthesis or aids for his/her impairment?” the GP checks the “No” box.

In the AR, the GP reports that walking indoors and outdoors, climbing stairs, standing, lifting, and carrying/holding are managed independently, with walking indoors and outdoors being impacted by ability to see surroundings.

Commentary from the GP in the PWD application and November 13, 2020 note includes:

- Eye condition impacts daily function ++.
- Has visual distortion and significant daily eye pain. The appellant finds pain can be worsened even by exposure to hot air.
- Suffers from ++ tearing of eyes.
- Despite eye surgeries, continues to be significantly impaired re pain and vision.
- On examination, has segment dysgenesis, an anomalous optic nerve of right eye (optic pit), chronic sub-retinal fluid and intra-retinal edema. Has left eye glaucoma tube.

- The appellant notes increasing troubles with depth of field (hard to determine if someone is close or far away).

The retinal specialist reports:

- Multiple ocular issues have left the appellant severely visually impaired.
- While able to make out the 20/80 line on the Snellen chart, this is with extreme difficulty and is distorted. It is not a true representation of the appellant's visual acuity.
- Persistent macular detachment does not allow for consistent vision (similar to trying to make out features in the distance while sitting on a rocking boat).
- Functional monocular status leaves the appellant without the benefit of stereopsis.
- Surgical treatment options are high risk. Anterior segment dysgenesis puts the appellant at high risk for glaucoma with any vitreoretinal intervention. Multiple vitreoretinal surgeons have felt the risk outweighs the benefits at this time.
- "I believe she requires significant assistance to function."

The corneal specialist confirms the aforementioned diagnoses and provides the following descriptive information:

- Very limited vision in both eyes, left eye is worse (advanced glaucoma with a drainage device).
- Chronic irritation and light sensitivity with tearing, especially in the left eye.
- Had left eye corneal transplant several years ago mainly for treatment of significant ocular irritation. There was a slight improvement in vision and some improvement of irritation and pain however the transplant has gradually become edematous and the pain and irritation have increased. When last seen, the patient asked about the possibility of removing the eye because of the pain.
- Can only see hand movement in the left eye and vision is limited to about 20/60 in the right eye.
- Vision is not good enough to drive.
- "The vision at night would be very limited in (sic) even mobilizing in the daytime would be difficult from a visual standpoint."
- Very limited vision interferes with ability to work. More importantly, has chronic pain in the eye that interferes with ability to concentrate and work. These problems also significantly affect her quality of life on a daily basis.

In her reconsideration and appeal submissions the appellant reports:

- Deteriorating vision in her right eye, with surgery a dubious option.
- Vision in the left eye vision is poor and heavily distorted with constant pain.
- Being hardly able to see most of the time.
- If outside in the sun, it is absolutely impossible to see because of the non-seeing eye's response to light.
- Leaving the house at all is difficult, made more difficult in the pandemic due to the need to touch items to see prices and seek assistance from others.

- Right eye is the only real source of vision. Distortion, pain, lack of visual acuity, hypersensitivity, limited visual field and many other obstacles are either constant or fluctuate.
- Right eye is unable to distinguish between a puddle or a texture on a sidewalk and a small dog, partly due to lack of visual acuity and depth perception, until being within a couple of metres (or less, if visibility is poor).
- Right eye cannot read anything unless it is within six centimetres of the appellant's face.
- Struggling to see what needs to be seen at home, on the street, on public transit, in stores and anywhere else making activities such as adjusting the thermostat to signing for deliveries a little bit impossible.
- Right eye vision distortion due to fluid and scarring results in "wavy lines." Have not seen a straight edge, line, surface, texture or anything that didn't actively wave and ripple like seaweed in a fishbowl since being a child. Varies day to day but is never gone.
- Also get headaches, exhausted vision, nausea, and fatigue.
- At times, cannot tell if building are moving, if their windows are rectangular, if a sidewalk or other surface the appellant is on is flat, or if the appellant is actually reaching for and connecting with an object (door handles or something being handed to the appellant).
- Activity based struggles include selecting correct spices, chopping vegetables, cooking, reading recipes and labels, identifying spots to clean, taking medications, paperwork and websites of all kinds, maintaining a safe physical distance, staying out of the way of cyclists and joggers, knowing when to cross the street, knowing how to get into buildings (glass doors are especially difficult), navigating hallways.
- Does many things by feel, including dishes and cutting nails.
- Pain and sensitivities of the left eye range include burning, itching, sharp stabbing pain, aching, feeling as though a foreign object is in the eye. Blinds the appellant regularly with pain and weepiness.
- Unable to continue studies due to severe eye strain.
- Functions in a manner that feels incomplete and insufficient.
- Relies heavily on support from others and the technology and tools she can afford.

At the hearing, the appellant stated that she didn't answer the GP's questions as she should have: she answered with optimism and politeness, rather than reality. Also, because there isn't much the GP can do, the appellant doesn't see the GP about problems with managing DLA. The GP thought PWD designation was the right approach for the appellant and that qualification would be a "slam dunk." The appellant says that she requires a lot of assistance from other people and relies heavily on her spouse. Her life is impacted on a daily basis – taking care of everything she needs is beyond her a lot of the time – she requires every conceivable type of help from her spouse.

Pain in her left eye is also a problem – for reasons she doesn't understand, it even causes pain when eating. She cannot have a synthetic cornea because of too many other eye issues and the cornea replacement she had has become cloudy. The pain keeps coming back because of the condition of the cornea due to the implant that is needed due to the glaucoma. She discussed removing the eye to stop the pain and irritation, but the corneal specialist didn't want to do that. The GP prescribed a synthetic opioid for the pain, at least a couple of years ago, but the appellant doesn't like to take it because of the resulting fogginess. She has never used a

cane, though she does trip when walking.

Mental Impairment

In the MR, the GP does not identify significant deficits in any of the 11 specified areas of cognitive and emotional function, but comments “vision is poor.”

Difficulties with communication are not identified with the GP writing “NA.”

In the AR, where asked to indicate to what degree (no impact, minimal, moderate or major impact) mental impairment or brain injury restricts or impacts daily functioning for 14 listed areas of cognitive and emotional functioning, the GP reports a moderate impact for emotion and a major impact for other neuropsychological problems (e.g. visual). No impact is reported for all remaining areas.

The GP reports poor reading and writing abilities (distorted vision and difficult acuity). Speaking and hearing abilities are good.

In the reconsideration and appeal submissions, the appellant reports being unreasonably stressed and anxious – eyes have always played a huge part in that. Also, the ability to socialize is impacted – eyes are streaming tears, cannot see faces of family members, cannot say yes to activities or shared experiences. Avoiding pain is isolating, but treating the pain also further isolates as the only medications that are effective are very strong. Her eyes have created an intense awkwardness in the appellant’s social outlook.

DLA

In the MR, the GP indicates:

- The appellant has not been prescribed medications or treatments that interfere with ability to perform DLA.
- Personal self-care, meal preparation, management of medications, basic housework, daily shopping, mobility inside and outside the home, use of transportation, and management of finances are continuously restricted. “The patient is physically able to do the ADL/IADL [activities of daily living/instrumental activities of daily living] but vision and pain are the limiting factors.” Struggles with small print/mobilizing if needs to read directions, read labels, read small print.
- Social functioning is not restricted.

In the AR, the GP reports:

- Poor vision impacts the ability to manage DLA.
- All listed tasks of personal care, basic housekeeping and social functioning are managed

independently.

- Periodic assistance is required with one task of shopping – reading prices and labels (“impacted if labels are small, unable to see clearly”).
- For meals, planning and safe storage are managed independently. Continuous assistance from another person is required for food preparation and cooking (cannot see tiny details/read small labels).
- For pay rent and bills, banking and pay rent and bills require continuous assistance from another person (difficult because cannot see small print, needs help if not given information verbally or in large print). Budgeting is managed independently.
- All listed tasks of medications are managed independently.
- For transportation, getting in and out of a vehicle is managed independently. Using public transit and using transit schedules/arranging transportation require continuous assistance from another person (needs help if must read to find way, otherwise not physically impacted).
- All listed aspects of social functioning are managed independently. Does however find the pain and tearing impacts overall emotional well-being. Feels socially awkward with tearing and poor vision.

On appeal, the GP writes that the appellant reports worsening of symptoms over the past year and is no longer able to read, extremely short sighted and has visual distortion and needs more and more assistance from others with “shopping, food preparation, paying bills, reading instructions... not possible.”

In the reconsideration submission, the appellant reports “I need help desperately. I am in pain, cannot see, cannot be helped by the medical community (yet), and cannot live life properly.”

Need for Help

The GP indicates that assistance with DLA is provided by family and friends. The appellant does not have an assistance animal.

The retinal specialist believes that the appellant requires significant assistance to function and the appellant reports relying on her spouse for assistance for every conceivable activity.

PART F – REASONS FOR PANEL DECISION

Issue on Appeal

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. That is, was the ministry reasonable when determining that the appellant is not a person described in section 2.1 of the EAPWDR and that the requirements of section 2(2) of the EAPWDA were not met because:

- a severe physical or mental impairment was not established;
- the appellant's DLA are not, 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 does not require an assistive device, the significant help or supervision of another person, or the services of an assistance animal to perform DLA?

Panel Decision

Eligibility under section 2.1 of the EAPWDR

In the absence of any evidence or argument respecting eligibility for PWD designation under section 2.1 of the EAPWDR, the panel finds that the ministry reasonably determined that it has not been established that the appellant falls within the prescribed classes of persons under that section. The panel's discussion below is limited to eligibility for PWD designation under section 2 of the EAPWDA and section 2 of the EAPWDR.

Eligibility under section 2 of the EAPWDA

Physical Impairment

Positions of the Parties

The appellant's position is that a her multiple eye conditions cause distorted vision, pain, lack of visual acuity, hyper-sensitivity, and limited visual field which result in functioning in a manner that feels incomplete and insufficient to the extent that she is heavily dependent on her spouse and others for assistance on a daily basis.

The ministry's position is that the assessments provided by the GP in the PWD application and

the appellant's information at reconsideration do not establish a severe physical impairment. The ministry acknowledges that the appellant's visual distortion and eye pain are notable but finds that the GP's assessments provide limited evidence to suggest that daily physical functioning is severely impaired. The GP indicates that aids/prostheses are not required, all areas of functional skills are not applicable, a cane is required to walk, and that all aspects of mobility and physical ability are managed independently, though impacted by the ability to see surroundings. The ministry notes the GP's comments that the appellant's eye condition impacts daily function but finds that the GP does not provide a causal link between this statement and the assessment of functional skills or mobility and physical ability. The ministry notes that it analyzes medical assessments to determine if a physical impairment impacts the ability to walk, climb stairs, lift, and sit. The ministry notes the appellant's own information respecting difficulties, but finds that it does not state that the appellant is unable to independently mobilize or physically function in a variety of ways.

Panel Analysis

Section 2 of the EAPWDA requires that the minister "is satisfied" that a person has a severe physical or mental impairment, giving the minister discretion when making the determination. When exercising this discretion, the legislation's requirement for information from a medical or nurse practitioner (and other prescribed professionals) makes it clear that the fundamental basis for assessing PWD eligibility is information from one or more prescribed professional. The panel also notes that the legislation does not identify employability or financial constraints as considerations when determining PWD eligibility.

The appellant is diagnosed with a number of serious medical conditions affecting both eyes. The retinal specialist describes vision in the left eye as limited to CF [count fingers] and blindness resulting from glaucoma. The retinal specialist reports that right eye visual acuity is about 20/80 "with extreme difficulty and is very distorted" - similar to trying to make out features in the distance while sitting on a rocking boat. The appellant reports experiencing pain and tearing in her left eye that makes it impossible to see when outside in the sun, with the GP describing "significant daily eye pain" and the corneal specialist confirming chronic irritation and light sensitivity with tearing, especially in the left eye.

While the evidence does not reflect limitations with mobility due medical conditions resulting in symptoms such as back pain, limited range of motion or limited endurance, the appellant and the physicians identify impacts on the ability to mobilize due to continuous visual limitations. The GP notes that care must be taken with walking and that the appellant has troubles with depth of field, confirmed by the retinal specialist's statement that the appellant is without the benefit of stereopsis. The retinal specialist reports that the appellant is severely visually impaired and requires significant assistance to function. The corneal specialist reports that "even mobilizing in the daytime would be difficult from a visual standpoint." The appellant describes being unable to distinguish between various surfaces on a sidewalk or see what objects are ahead until being within a couple of metres, or less if visibility is poor, due to problems with depth perception and visual acuity. The panel finds that with the additional information provided on appeal, a causal link between the GP's statement "eye condition impacts daily function ++" and the ability to mobilize is established.

Furthermore, the legislation does not define “physical impairment” and is therefore not limited to impairment resulting from particular medical conditions, such as musculoskeletal or neurological diagnoses. However, a significant portion of the information requested in the PWD application respecting functional skills and mobility/physical ability does not assess functioning as it relates to sensory impairment. For example, the degree of a sensory impairment is not reflected by identifying the ability to stand, the amount of weight a person can lift/carry/hold or how long a person can remain seated. Sensory impairments, visual and auditory, are clearly physical impairments and are listed among the diagnostic codes in the MR section of the PWD application. In the appellant’s case, the GP reports continuous restrictions with all DLA, except social functioning, due to poor vision and pain, with the appellant providing a more detailed description of the restrictions on her ability to effectively manage routine physical tasks within and outside her home, necessitating what the appellant and the retinal specialist identify as significant assistance. The panel finds that this information together with the specialists’ description of the degree to which the appellant’s vision is limited reflects severe physical impairment.

For these reasons, the panel finds that the ministry was not reasonable in concluding that the appellant’s markedly reduced vision and associated sensitivity and pain result in a severe physical impairment.

Mental Impairment

Positions of the Parties

The appellant’s position is that her limited vision and the symptoms of pain and tearing result in anxiety and social isolation.

The ministry’s position is that while it acknowledges the emotional difficulties the appellant reported, the GP does not diagnose a medical condition that explicitly gives rise to mental impairment, identifies moderate impact on functioning due to emotion and indicates independence in all areas of social functioning. Therefore, the ministry finds that the information provided does not establish a severe mental impairment.

Panel Analysis

The appellant is not diagnosed with a mental health condition. The GP identifies a significant deficit in the area of emotional functioning. However, the GP also reports that the appellant has no communication difficulties and independently manages all social functioning. In addition to the moderate impact on emotional functioning, the GP identifies a major impact on daily functioning by circling “visual” under the heading “Other neuropsychological problems.” Noting that this section of the PWD application is intended to assess the impacts of mental impairment or brain injury, and given the strong emphasis on visual impairment by the GP in the PWD application and subsequent note, the panel finds that the major impact on daily functioning relates to impacts from the appellant’s visual impairment, not mental impairment or brain injury. While the panel appreciates that the appellant’s visual problems cause anxiety and other social

difficulties, the information respecting the impact on daily functioning was reasonably viewed by the ministry as insufficient to establish a severe mental impairment.

Restrictions in the ability to perform DLA

Positions of the Parties

The appellant's position is that her many eye conditions result in limited vision, pain, irritation, and tearing that impact her ability to manage routine tasks to the point that she requires assistance, primarily from her spouse, with every conceivable activity.

Noting that it relies on the medical opinion and expertise of the GP when assessing DLA restrictions, the ministry finds that while in the MR the GP assesses continuous restrictions with all DLA but social functioning, in the AR the GP notes that vision and pain limit the ability to perform DLA but that the appellant independently manages the majority of DLA tasks, despite needing assistance with small and fine print. The ministry also finds that while the need for assistance with reading is established, it is difficult to ascertain why continuous assistance is needed for certain activities, such as food preparation and cooking, not all of which involves reading small labels or print. Similarly, the ministry finds that there is no indication why the appellant would continuously be without the option of financial information being provided verbally or in large font or why the appellant would not be able to manage public transit without assistance in familiar situations. The ministry also notes that the appellant reports that pain and tearing impact her day-to-day and that she feels socially awkward due to continuous tearing. The ministry concludes that given the appellant's medical history it is reasonable to expect restrictions in the ability to perform DLA and a resulting requirement for assistance, however, there is not enough evidence to confirm that impairment significantly restricts the appellant's ability to perform DLA continuously or periodically for extended periods.

Panel Analysis

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 it is satisfied, 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.

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 GP and both specialists are prescribed professionals.

In the MR, the GP assesses continuous restrictions with all DLA except social functioning. In the

AR, the GP indicates that the appellant independently manages all listed DLA tasks except for requiring periodic assistance for reading prices and labels and continuous assistance with food preparation, cooking, banking, paying rent and bills, using public transit, and using transit schedules. Based on the GP's description of the need for assistance due to the inability to read small print, the ministry questions why continuous assistance would be required. The panel finds that the GP's description of assistance as relating only to the inability to read small print is not consistent with other information provided in the PWD application that reflects broader and more significant limitations on physical functioning - the assessment of continuous restrictions with all physical DLA in the MR, the impact of pain on the ability to function and the comment that the appellant's "eye condition impacts daily function ++." Additionally, the GP's information on appeal endorses the appellant's need for increasing assistance with shopping, meal preparation and management of bills and medications.

Moreover, the panel finds that describing the need for assistance as relating only to reading small or fine print is not consistent with the specialists' information. The corneal specialist reports that mobilizing during the daytime would be difficult from a visual standpoint and that chronic pain and limited vision "significantly" affect the appellant's quality of life on a daily basis. The retinal specialist equates the appellant's ability to see to trying to make out features in the distance while sitting on a rocking boat, resulting in the need for significant assistance to function. The panel considers the degree of visual impairment described by both specialists to be consistent with the appellant's description of the impacts on her ability to manage DLA including mobility, especially outdoors, meal preparation, medications, and using public transit.

Based on the information, including that admitted on appeal, the panel finds that the ministry was not reasonable when concluding that direct and significant continuous restrictions in the ability to perform DLA were not established.

Help to perform DLA

Positions of the Parties

The appellant's position is that she requires continuous assistance from another person, relying heavily on her spouse for any conceivable activity.

The ministry's position is that because direct and significant restrictions with DLA have not been established the need for help to perform DLA cannot be established.

Panel Analysis

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.

As the ministry notes, establishing direct and significant restrictions with DLA is a precondition of the need for help criterion. For the reasons discussed above, the panel found that this

precondition was met. The panel also finds that the GP's evidence respecting the need for assistance and the retinal specialist's assessment of the need for "significant assistance to function" establish the need for the significant assistance from another person. Therefore, the panel finds that the ministry was not reasonable in concluding that it cannot be determined that the appellant requires help to perform DLA.

Conclusion

The panel finds that the ministry's reconsideration decision, which determined that the appellant was not eligible for PWD designation, was not reasonably supported by the evidence, and therefore rescinds the decision. The appellant is successful on appeal.

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 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.C. Reg. 73/2015;
- (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).

APPEAL NUMBER
2020-00204

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

Jane Nielsen

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2021/1/14

PRINT NAME

Bill Haire

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2021/1/14

PRINT NAME

Joan Cotie

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2021/1/14