

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 27 October 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

With the appellant's consent, a ministry observer attended the hearing.

Evidence before the ministry at reconsideration

1. The appellant's PWD Designation Application signed on 05 June 2020. The Application contained:
 - A Self Report (SR) dated June 5, 2020.
 - A Medical Report (MR) dated 18 June 2020, completed by a general practitioner (GP) who has known the appellant for 23 years 2018 and seen her 2-10 times in the past year.
 - An Assessor Report (AR) dated 18 June 2020, completed by the same GP.
2. The appellant's Request for Reconsideration, undated. Under Reasons, the appellant refers to a typewritten submission provided by her son (see below).

Information provided on appeal and admissibility

1. The Notice of Appeal is dated 07 November 2020. Reasons for Appeal:
"The original Application was filled out by family doctor and is not completely accurate. The specialist, [name] should have filled out but could not be reached."
2. Final "Results Review Report" (the Report) of a January 20, 2021 follow up at a pre lung transplant/ [lung disease] clinic conducted as a tele visit due to the COVID-19 pandemic.
3. At the hearing, the appellant was represented by her son who described the appellant's functioning and difficulties obtaining medical information (details below under Summary of relevant evidence).
4. At the hearing, the ministry stated that it did not object to the admission of the Report or the son's evidence. The ministry reviewed the reconsideration decision but did not provide additional evidence. When asked by a panel member whether the ministry considered the Report as establishing severe impairment, the ministry responded that it could not offer an opinion, agreeing that the report contains specialized information likely to be understood by only specialists. The ministry noted that an advocate may be helpful in assisting applicants and that additional sources of information, including an Occupational Therapist's assessment of functioning, are considered by the ministry.

The panel admitted the son's oral testimony and the Report in accordance with section 22(4) of the *Employment and Assistance Act* on the basis that it was information required for the full and fair disclosure of all matters related to the appeal.

Summary of relevant evidence

Diagnoses

In the MR, the GP provides the following diagnosis related to the appellant's impairment: [rare lung condition], onset October 2008.

Physical impairment

MR:

Under Health History, the GP reports that the appellant had a lung biopsy in 2008, confirming the diagnosis of the rare, chronic lung condition. The GP writes, "This condition [is] consistent with the following impairment: shortness of breath on minor exertion. Hypoxemia → Oxygen dependent."

Regarding functional skills, the GP indicates that the appellant can walk 1 to 2 blocks unaided on a flat surface, can climb 2 to 5 steps unaided, is limited to no lifting, and has no limitations for remaining seated.

The GP indicates that the appellant has been prescribed medication and/or treatments that interfere with the ability to perform DLA, commenting "Oxygen with nasal prongs with ambulation." The GP adds that the anticipated duration of the medications/treatment will be "Life-long use: possible lung transplant."

AR:

Respecting mobility and physical ability, the GP assesses the appellant as independent for walking indoors, walking outdoors, standing and carrying and holding, and taking significantly longer than typical for climbing stairs. Regarding lifting, the GP comments, "Limited. 2–3 lbs. at most."

The appellant's SR states:

"My lungs pretty much look like "swiss cheese" I have a hard time breathing when mobile or asserting energy. I depend on oxygen on a daily basis. I'm out of breath when walking up one flight of stairs. I'm hooked up to oxygen when sleeping in case my oxygen level gets too low. I use a puffer every morning. I get my blood taken 4 times a year. Exercise and working without oxygen tank is out of the question."

In the submission attached to the Request for Reconsideration, the appellant's son writes in part:

"My mother [appellant's name] has been dealing with [rare lung condition] for over 10 years now. Her condition has gone progressively worse year by year. She now has to walk around with an oxygen tank the size of an orange pylon every time she moves or has to exert herself in any type of physical activity. At nighttime when she goes to sleep, she also requires oxygen through the night so she has an oxygen system setup beside her bed from [medical supplies provider]. She wakes up constantly throughout the night

because her nose gets dry and at times causes her nose to bleed. We have since acquired a nose spray recommended by her specialist [name] to wake up on a night schedule to make sure her nose is moisturized throughout the night. In the morning she has to take 2 pills, one for her condition, and another to counter that pill because it ups her cholesterol, she then has to use a puffer also every morning after the medication. She goes for quarterly blood works and does anywhere between 5-10 visits per year for CT scans, MRIs, pulmonary function tests, echocardiograms and whatever else [the specialist] needs her to do. [The appellant] loses her breath after going up one flight of stairs unaided, sometimes her breath is gone so fast she needs to stop halfway up the stairs so she can catch her breath. She is not able to walk any distance without oxygen at any capacity, even during her walk test. [The specialist] specifically tells me to inform the therapist that she can not to do any sort of walking test without oxygen. [The appellant] is extremely vulnerable to public places during this pandemic due to her respiratory illness that if she catches Covid, it could be fatal for someone with her condition. She does not go out to any public places leaving the day-to-day life necessities to me and her husband. When she does go out for anything, she has to mask up, carry her oxygen tank, and her belongings and has to navigate stressfully while carrying all those things around for the duration of her outing.”

The son also made the following points:

- The appellant tries not to move too much because she has to go through the burden of wearing an oxygen tank.
- A lung transplant is a possibility if her condition gets even worse and she becomes immobilized.

The son added that when the appellant applied for PWD designation through her family doctor, there was a communication barrier and the son felt that the doctor didn't really want to fill out any form and filled out the form as fast as possible. In the son's view, this doctor also doesn't really understand the appellant's day-to-day life because the doctor was just needed as someone that could give the appellant basic prescriptions. Her functioning wasn't thoroughly assessed by the GP.

At the hearing, the son explained that the appellant doesn't want to come across as weak when describing her condition to the GP. Because the son was not at the appointment and therefore could not provide accurate information. However, he has done so in the reconsideration submission which clarifies the realities of the appellant's situation, which is not easy for her or her family. He believes his mom is still in denial about her condition.

The son explained that they tried to get the specialist to fill out the form but the specialist couldn't be reached after numerous attempts. They have also reached out to the specialist via email, asking him to fill out the reconsideration request for them, but he did not get back to them. In a recent virtual visit with the specialist the son asked him to provide the needed information but the specialist was only willing to provide the Report, not a letter. He hopes the Report, which confirms 100% oxygen dependence, clarifies some of the doubts and overturns what the GP said, as the GP doesn't look after the appellant for her lung condition and didn't thoroughly assess the appellant's functioning. The son stated that there is no way the appellant can live a normal life, especially in the pandemic. Every day she is struggling – walking a flight

of stairs leaves her out of breath, she needs oxygen for all walking tests, and any walking without supplemental oxygen causes dangerously low oxygen levels, despite what the GP said.

His mom is not able to do things on her own due to the pandemic. She can manage personal care, including using a washroom, and make a simple meals but other than that needs assistance. She cannot vacuum. The pandemic has made it worse: she has financial and mental hardship and can't go out because it is too dangerous. Everyone in the family had to adjust and assist his mom on a regular basis to make her life liveable. The appellant cannot work and needs financial assistance. The appellant is really restricted with anything that requires energy, her condition will only get worse and she is unable to get solid sleep because she has to get up through the night to adjust the oxygen level and to deal with nose irritation. The son expects that the stress of the pandemic will worsen his mom's condition.

Information included in the Report:

- The appellant reports:
 - stable respiratory status
 - not exercising that much due to the pandemic
 - continues to be oxygen dependent
 - does not require oxygen supplementation at rest
 - admits to not being very compliant with oxygen supplementation at night

- Test Results:
 - pulmonary function test
 - 6-minute walk test performed with oxygen supplementation (slight overall decline of the walked distance since September 2018)
 - Laboratory tests (ex. white blood cell count)
 - CT of the chest (December 15, 2020) – no interval change in appearance of the chest compared to August 20, 2020
 - Bone density scan – no significant change compared to previous values from 2016

- Assessment and Plan:
 - Patient with [rare lung disease] and related severe obstructive ventilator limitation with severely reduced DLCO (undefined)
 - On recent spirometry and pulmonary function test, there is a decline of the FVC (undefined), which is the first occurrence
 - Remains oxygen dependent with maintaining relative stable oxygenation upon exertion with the current level of oxygen therapy
 - Belongs to New York Heart Association Class 3 in terms of exercise tolerance and has MRC (undefined) grade 3 to 4 out of 5 dyspnea on exertion
 - Overall remains stable, although the worsening restriction needs further investigation

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 good for speaking, reading and writing, and satisfactory for hearing (commenting "impaired").

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

In the submission attached to the Request for Reconsideration the son writes:

- She is also dealing with depression as a result of Covid-19 restrictions.
- Her daily life mostly consists of dealing with her illness, whether it would be waking up in the middle of the night to moisturize her nose or spending time adjusting her oxygen tank.
- She has really lost a lot of enjoyment in her life under these circumstances.

Ability to perform DLA

AR:

In describing the mental or physical impairments that impact the ability to manage DLA, the GP writes, "Shortness of breath on minor exertion. Oxygen use."

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 laundry; no ✓ in any column for basic housekeeping, but comment "Husband does all the house chores."
- Shopping – independent for going to and from stores, reading prices and labels, making appropriate choices and paying for purchases; no ✓ in any column for carrying purchases home, but comment "Husband carries all purchases home."
- Meals – independent for meal planning; no ✓ in any column for food preparation, cooking and safe storage of food, but comment "Other family members (husband and mother-in-law) do these chores."
- Pay rent and bills – independent for all tasks
- Medications – independent for all tasks.
- Transportation – independent for getting in and out of a vehicle; no ✓ in any column for using public transit and using transit schedules, but comment "N/A, [the appellant] drives."

The GP provides no additional information in the space provided.

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 family, with no additional commentary.

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.

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 relevant legislation is set out in the Appendix to this decision.

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 in the Appendix. 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 any other prescribed professional 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.

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."

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's position, as expressed by her son, is that she is severely physically impaired by her lung condition which leaves her completely dependent on supplemental oxygen for any activity and at night. She is unable to walk any distance without oxygen, work and exercise without oxygen are out of the question, and she is dependent on family members.

The ministry's position

Noting that it determines severity of impairment based on the extent a medical condition limits daily functioning as evidenced by limitations/restrictions in mobility, physical ability and functional skills, the ministry concludes that the limitations described by the GP in the MR (functional skills) and AR (mobility and physical ability) do not describe a severe degree of physical impairment. The ministry also notes that the GP reports that the appellant does not require any prostheses or aids or the assistance from another person to help manage physical functioning.

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.

In the appellant's case, there is substantial, clear information that the appellant suffers from a serious medical condition resulting in the need for supplemental oxygen and which may, in the future, require lung transplantation. However, at issue is the resulting degree of impairment of the appellant's physical functioning.

The GP reports that the appellant has shortness of breath on minor exertion and is oxygen dependent but also reports that the appellant independently manages walking indoors and

outdoors (1 to 2 blocks unaided), climbing stairs (2 to 5 steps unaided, taking significantly longer), and is able to lift 2-3 lbs. Additionally, the GP reports that the appellant does not require any prostheses/aids or assistance from another person to manage mobility/physical ability, though the GP notes that "Oxygen with nasal prongs" interferes with ambulation.

The appellant's son disagrees with the GP's information, stating that the appellant was not forthcoming when speaking with the GP and that the specialist who completed the Report is better able to assess the appellant because it is the specialist whom the appellant sees regarding her lung disease. The appellant's son asks that his information and the specialist's information in the Report be relied on instead.

While the Report confirms that the appellant is oxygen dependent and states that the appellant's lung disease causes severe obstructive ventilator limitation, the resulting impact on physical functional abilities is unclear. The Report indicates that overall the appellant remains stable and assesses the appellant in terms of exercise and exertion based on medical classifications. However, no explanation or frame of reference regarding the classifications is provided and the degree of activity meant by "exercise" and "exertion" is not described. Accordingly, the panel finds that the information in the Report does not contain sufficient explanatory description to determine the appellant's physical functional abilities.

The panel acknowledges the appellant's son's reporting of a physical functional level worse than that assessed by the GP, impacts related to the pandemic and the appellant's need for financial assistance due to the inability to work. However, employability and financial need are not legislated considerations, instead the legislative language is clear that the fundamental basis upon which severity of impairment is determined in an independent assessment by medical professionals. The panel also notes that the GP has known the appellant for 23 years, has access to test results and reports and indicates that the assessment was based on file/chart information, not only an office interview with the appellant.

The panel acknowledges the serious nature of the appellant's medical condition and appreciates the difficulties in obtaining medical information, particularly during the Covid-19 pandemic, but finds that the ministry was reasonable in relying on the information from the GP and concluding that a severe physical impairment has not been established.

Mental impairment

Panel finding

In the Request for Reconsideration submission, the appellant's son states that the appellant is suffering from depression due to restrictions arising from the Covid-19 pandemic. 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. Additionally, the GP reported that there are no significant deficits with cognitive or emotional function or difficulties with communications except for some hearing impairment. No impacts on daily cognitive and emotional functioning were identified and the appellant is assessed as independently managing all listed aspects of social functioning and as having good functioning with immediate and extended social networks.

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 appellant's position, as expressed by her son, is that she requires oxygen supplementation for any walking, struggles every day and except for being able to manage personal care and make simple meals, is dependent on family members, and is unable to do things on her own due to the pandemic.

The ministry's position

The ministry acknowledges that as a result of her medical condition the appellant requires some assistance with house chores, carrying purchases home, food preparation, cooking and safe storage of food which are identified by the GP as being performed by other family members. However, the ministry finds that the GP's comments do not specify that the appellant requires assistance in these areas as a direct result of impairment and not as a result of someone else routinely managing these aspects of daily living as part of household responsibilities. Therefore, the degree to which the appellant is restricted in managing these activities of daily living remains unclear. Further, the GP assesses the appellant as independently able to manage all other activities including all personal care, laundry, most areas of shopping, meal planning, all aspects of paying rent and bills, all activities of medications, and getting in and out of a vehicle. Regarding social functioning, the ministry notes that the GP assesses the appellant as independently managing all aspects of social functioning and having good functioning with immediate and extended social networks. Noting that it relies on the medical opinion and expertise from prescribed professionals, in this case the GP, to determine restrictions on DLA, the ministry concludes that the GP's assessments do not establish that impairment significantly restricts DLA either continuously or periodically for extended periods.

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 and the specialist. 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, 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.

While both the GP and the specialist who wrote the Report are prescribed professionals, the panel finds, for the same reasons the panel found that physical functional abilities could not be determined, that the Report does not describe the appellant's ability to manage DLA. Accordingly, the panel's analysis will focus on the information respecting DLA provided by the GP in the PWD application.

Respecting the DLA move about indoors and outdoors, the GP assessed the appellant as independently managing walking indoors (no identified limit), walking outdoors (limited to 1 to 2 blocks) and climbing 2-5 steps (takes significantly longer). The appellant is also assessed as independently managing all listed tasks of personal care, which the appellant's son confirms, and all listed tasks respecting paying rent/bills and medications. Laundry, going to and from stores and getting in and out of a vehicle (ability to manage public transit is not applicable, as the appellant drives) were also assessed as being managed independently. Except for safe storage of food, all listed tasks that involve cognitive function, such as making appropriate shopping choices and meal planning, and all aspects of social functioning are managed independently. For those DLA tasks that are not identified as being managed independently, basic housekeeping, carrying purchases home, food preparation, and cooking, the GP writes that the appellant's spouse or other family members do these activities. As the ministry notes, there is no further explanation from the GP confirming that this assistance is provided because the appellant is not capable of managing these activities. Additionally, the son's evidence is that the appellant is capable of managing simple meal preparation.

The panel acknowledges that the appellant experiences limitations in the ability to manage her DLA and understands the risk that the current pandemic poses to the appellant's health. However, given the degree to which the appellant is reported to independently manage DLA, and in the absence of information from the GP directly relating the assistance provided by family to a need arising from the appellant's impairment, the panel finds the ministry reasonable in concluding that direct and significant restrictions, either continuous or periodic for extended periods, have not been established.

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.

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

Conclusion

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

The panel is sympathetic to the appellant's circumstances and the challenges communication and access to professionals can create, especially in a pandemic. The panel echoes the ministry's suggestion of assistance from an advocate to obtain information from the required professionals to demonstrate the appellant's eligibility for PWD designation.

APPENDIX

The relevant legislation is from the EAPWDR

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).

APPEAL NUMBER
2020-00270

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)

2021/02/10

PRINT NAME

Michael Skinner

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2021/02/10

PRINT NAME

Linda Pierre

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2021/02/10