

### **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 December 14, 2021, 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 was satisfied that the appellant met the age and duration requirements but was not satisfied that:

- the evidence establishes 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, the appellant requires an assistive device, the significant help or supervision of another person or the services of an assistance animal to perform DLA.

### **Part D – Relevant Legislation**

EAPWDA, section 2

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

**Part E – Summary of Facts**

On September 23, 2021, the ministry received the appellant's PWD application comprised of a Medical Report (MR) and an Assessor Report (AR) completed by the appellant's general practitioner (the "Physician") on August 31, 2021, and the appellant's self-report (SR) dated August 31, 2021.

The appellant's request for PWD designation was denied on November 8, 2021.

The appellant submitted a request for reconsideration form dated December 1, 2021, with handwritten letter dated November 27, 2021 (RFR) indicating that the appellant has a severe physical impairment, difficulty breathing, inability to walk, severe COPD requiring an oxygen machine, limited showering, double vision after a recent cerebrovascular accident (CVA), need for medication, walker and crutches.

On December 14, 2021, the ministry completed its review.

**Summary of relevant evidence****Diagnoses**

In the MR, the Physician indicates that the appellant has been diagnosed with polyarthritis, cerebrovascular event, and chronic obstructive pulmonary disease (COPD), dates of onset June 2021, May 2021, and 2012 respectively. The Physician indicates that the appellant has been a patient for 14 years and has been seen 2-10 times in the past 12 months.

**Physical Impairment**

In the MR for Functional Skills, the Physician indicates that the appellant can walk 1 to 2 blocks unaided, can climb 2 to 5 steps unaided, is limited to lifting 5 to 15 pounds, and can remain seated 1 to 2 hours. In the Health History portion of the MR, the Physician indicates that the appellant has become progressively unwell and frail over the past 1-2 years. The Physician indicates that the appellant was able to continue working with increasing difficulty until May/June 2021 but has been disabled with generalized pain since then with pain in all joints as well as weakness and fatigue. The Physician also indicates that the appellant suffered a cerebrovascular accident (CVA) which has affected the appellant's balance and caused a visual problem (diplopia). The Physician also indicates that the appellant is prone to respiratory infections due to COPD.

In the AR, the Physician indicates that the appellant is independent with walking indoors (takes significantly longer than typical) and standing, requires periodic assistance from another person with walking outdoors and climbing stairs (has to stop and rest after walking 1 block), and requires continuous assistance with lifting and carrying and holding.

In the SR, the appellant indicates the pain in the appellant's joints and muscles: elbows, wrists, knees, ankles, back of neck, lower back, and hips, varying from 4 out of 10 to 9 out of 10 and at

times 10 out of 10. The appellant reports that walking one block requires resting two to three times. The appellant also reports severe headaches day and night resulting in no more than three to four hours sleep. The appellant reports that bending over hurts, and an inability to pick up items more than 20 pounds. The appellant states that sitting down too long is hard to do, then the appellant lies down and that starts to hurt. The appellant reports constant fatigue and little energy. The appellant reports avoiding stairs as the appellant starts to get shaky after more than 5 to 6 stairs.

In the RFR the appellant reports that the appellant's right lung is stapled to the appellant's ribs and the COPD is severe with fluid in lungs constantly making breathing very difficult. The appellant reports having to stop many times a day to catch a breath. The appellant reports a recent CVA resulting in double vision and requirement of a walker and crutches. The appellant reports inability to do stairs and is out of breath in the morning from walking to the bathroom. The appellant reports being on an oxygen machine day and night now just to breathe better.

### Mental Impairment

In the MR, the Physician indicates that the appellant has significant deficits with memory and attention or sustained concentration. The Physician indicates that the appellant does not have difficulties with communication.

In the AR, the Physician indicates that the appellant's ability to communicate with speaking and hearing are good and reading and writing are satisfactory.

For Section B, question 4 Cognitive and Emotional Functioning, the Physician indicates that the appellant has moderate impact to attention/concentration, minimal impact to executive and memory, and no impact to bodily functions, consciousness, emotion, impulse control, insight and judgment, motivation, motor activity, language, psychotic symptoms, other neuropsychological problems, or other emotional or mental problems.

In the RFR, the appellant reports previously enjoying building and demolition and problem solving but now cannot work which is very depressing.

### DLA

In the MR, the Physician indicates that the appellant has not been prescribed any medications and/or treatments that interfere with the appellant's ability to perform DLA.

In the AR, the Physician indicates that the appellant is independent with all aspects of DLA of personal care, meals, paying rent and bills, medications and transportation but indicates that the appellant takes significantly longer than typical with all personal care items, food preparation, cooking, getting in and out of a vehicle, and using public transit. For basic housekeeping the Physician did not indicate whether the appellant is independent or requires assistance but indicates that the appellant takes significantly longer than typical. For shopping, the Physician indicates that the appellant is independent with reading prices and labels, making appropriate choices and paying for purchases but takes significantly longer than typical with going to and from stores and carrying purchases home (uses a pushcart). Under additional comments, the

Physician indicates that the appellant can do most of DLA unaided, but the appellant's general level of functioning is low and slow.

The Physician indicates that the appellant is independent with all aspects of social functioning and has good functioning with immediate and extended social networks.

In the SR, the appellant reports that it is very hard to get on the appellant's knees to pick up something and use of a chair or counter is required. The appellant cannot use ladders anymore or step stools.

In the RFR, the appellant states being a healthy hard worker all the appellant's life but now can't do basic things like make a meal. The appellant reports that showering is now limited to once a week or using a stool, it's hard to slide in a dining chair and inability to walk to the stores because of little breath or pain in leg joints. The appellant reports inability to pick up anything heavy like the paper recycle bin and need for medication, using PMS-Hydromorphone to help.

### Need for Help

In the MR, the Physician indicates that the appellant does not require prosthesis or aids for the appellant's impairment.

In the AR, the Physician indicates that the appellant's friend drives the appellant to appointments and shopping. The Physician indicates that the appellant uses a pushcart to carry things. The appellant does not have an Assistance Animal.

Under additional information, the Physician indicates that the appellant can manage DLA's, but this takes all of the appellant's time and energy. The Physician indicates that the appellant is no longer able to participate in employment.

### **Additional information provided**

On December 24, 2021, the Tribunal received the appellant's Notice of Appeal (NOA).

Prior to the hearing the appellant provided a letter from the Physician dated February 16, 2022 (the "Letter") indicating that the Physician had received a post-it note from the appellant with a message apparently from the Tribunal requesting an assessment of health. The Physician notes that this is not an appropriate method to request medical information about a patient. The Physician indicates that the PWD application was completed on August 31, 2021, and that since that time the appellant's condition has worsened. The Physician indicates that the appellant is "certainly disabled and unable to contemplate employment of any sort".

At the hearing, the appellant's advocate reported that it appears that the Physician did not realize the extent of the appellant's disability when completing the MR and the AR and that the information is incorrect or inaccurate. The advocate states that after a further assessment the Physician understands that the appellant is disabled, as indicated in the Letter.

At the hearing the appellant reported further limitations with walking due to very poor breathing requiring an oxygen machine. The appellant is using a walker and crutches, has bad cramps in hands, feet and joints with swelling particularly to the right leg. The appellant reports inability to mow the lawn or work and is depressed due to limitations and inability to earn income and pay bills. The appellant reports that friends buy groceries or take the appellant shopping and help with cleaning too. The appellant reports that in addition to requiring Hydromorphone for pain, the appellant has also had flare-ups of inflammation requiring Prednisone. The appellant continues to see the Physician once a month.

### **Admissibility of New Information**

The ministry representative did not object to the admissibility of the new information.

The panel has admitted the oral testimony of the appellant and the appellant's advocate as well as the Letter as it is reasonably required for a full and fair disclosure of all matters related to the decision under appeal, in accordance with section 22(4) of the *Employment and Assistance Act*. Although the Letter simply stated that "he is certainly disabled and unable to contemplate employment of any sort" and appears to focus on employment rather than the PWD criteria, the Physician does speak to disability, so the panel has admitted the Letter.

**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. In particular, was the ministry reasonable when concluding it was not satisfied that

- a severe physical or mental impairment was established;
- the appellant's DLA are, in the opinion of a prescribed professional, directly and significantly restricted either continuously or periodically for extended periods; and
- as a result of those restrictions, in the opinion of a prescribed professional, the appellant requires help, as it is defined in the legislation, to perform DLA?

The relevant legislation is reproduced after the decision.

**Panel Decision**

The legislation provides that the determination of severity of an impairment is at the discretion of the minister, taking into account all of the evidence including that of the appellant. However, the legislation is also clear that the fundamental basis for the analysis is the evidence from a prescribed professional respecting the nature of the impairment and its impact on daily functioning. While the legislation does not define "impairment", the MR and AR define "impairment" as a "loss or abnormality of psychological, anatomical or physiological structure or functioning causing a restriction in the ability to function independently, effectively, appropriately or for a reasonable duration." While this is not a legislative definition, and is therefore not binding on the panel, in the panel's opinion, it reflects the legislative intent and provides an appropriate analytical framework for assessing the degree of impairment resulting from a medical condition.

When considering the evidence provided respecting the severity of impairment, the ministry must exercise its decision-making discretion reasonably by weighing and assessing all the relevant evidence.

**Severe Physical Impairment**

The ministry's position is that the functional skills reported by the Physician in the MR and the assessment of mobility and physical ability in the AR, or the additional information provided by the Physician, are not indicative of a severe physical impairment. The ministry states that although the appellant indicates the need and use of a walker, crutches, oxygen machine and Hydromorphone, the Physician has not confirmed the medical need for these items. The ministry notes that the Physician indicated that the appellant has not been prescribed

medications that interfere with ability to perform DLA and that the appellant does not require any prostheses or aids for the appellant's impairment, so a severe degree of impairment cannot be established on these grounds.

The ministry also notes that while the Physician indicates periodic assistance is required with walking outdoors and climbing stairs, the nature, frequency and duration of the assistance required is not reported, making it difficult to establish the degree of the appellant's mobility impairment. The ministry notes that while the Physician indicates that the appellant takes significantly longer due to a need to stop and rest after each block of walking, the amount of time required to rest is not reported so the ministry is unable to confirm that the rest time supports a severe physical impairment.

The ministry also states that as the appellant remains independent in almost all areas of DLA and as it is not clear how much additional time is required to complete DLA, the ministry is unable to establish the severity of the appellant's impairment.

The appellant's position is that the polyarthritis, CVA, and COPD with pain and limitations establish a severe physical impairment. In particular the appellant reports severe pain, inability to walk very far without breaks, inability to climb stairs, inability to mow the lawn or work and need for help with getting to appointments, shopping, and cleaning.

The panel finds that the ministry reasonably determined that the information provided does not establish a severe physical impairment. The panel notes that the appellant's evidence certainly indicates a more significant level of impairment than the MR and the AR, but the Physician has not confirmed that the appellant requires the use of an oxygen machine, walker, crutches and medications. Although the Physician provided the Letter, in which the Physician indicates that the appellant's condition has worsened since the MR and AR were completed, that the appellant is "certainly disabled" and is unable to work, the Physician has not provided any further information describing how the appellant's condition has worsened and how that changes the Physician's assessments in the MR and the AR. For example, while the appellant reports need for medications, oxygen tank, crutches, and a walker, the Physician does not provide any information regarding these items in the Letter. While the appellant indicates further limitations with ability to walk, personal care such as showering, increased needs for cooking and cleaning, the Physician has not provided any additional information in the Letter that would assist in determining the severity of the appellant's physical impairment.

While the advocate indicates that the Physician's assessments do not adequately reflect the appellant's impairment, and while the ministry makes its determination based on all the information, the primary source of information comes from the Physician. While the Letter indicates that the post-it note request for assessment of health is not the way to request medical information about a patient, the panel notes that the Tribunal would not have made the request for an assessment of health from the Physician. The panel notes that it is up to the appellant to obtain and provide all information that the appellant requires to confirm the appellant's condition and support the appellant's position. The Tribunal does not make requests for information from the appellant's Physician.

While the Letter confirms that the appellant's condition has worsened, the panel finds that the lack of information and inconsistencies between the appellant's information and the Physician's information, result in a finding that the ministry reasonably determined that the information is not sufficient to establish a severe physical impairment.

While the appellant and the Physician report that the appellant is not able to work, employability is not a criterion for PWD designation.

### Severe Mental Impairment

The ministry's position is that although the Physician indicates significant deficits to cognitive and emotional function in the areas of memory and attention/sustained concentration, in the AR, the Physician reports that the appellant has no major impacts to daily cognitive and emotional functioning, with one moderate impact noted regarding attention/concentration.

The ministry's position is that when considering the deficits and moderate impact to daily functioning in conjunction with DLA, a severe degree of mental impairment is not established. In particular, the ministry notes that the appellant is reported to be independent in all areas related to making decisions regarding personal activities, care, finances, and social functioning.

The ministry notes that in the MR, the Physician indicates that the appellant does not have difficulties with communication, with good or satisfactory abilities in all areas of communication, so the ministry cannot confirm a severe degree of impairment regarding the appellant's ability to communicate.

The ministry's position is that while the appellant's life has been impacted as a result of multiple medical conditions, there is insufficient evidence to establish a severe impairment in the appellant's mental functioning.

The appellant's position is that the impact of the multiple medical conditions affects the appellant's mental functioning and causes decreased mood and low motivation. The appellant reports feeling frustrated and depressed due to limited functioning and inability to work.

The panel finds that the ministry reasonably determined that the information provided does not demonstrate a severe mental impairment as required by section 2(2) of the EAPWDA.

While the Physician indicates in the MR that the appellant has significant deficits with cognitive and emotional function in the areas of memory and attention/sustained concentration the Physician does not provide any diagnosis of a mental impairment in the MR or the AR.

In the AR, the Physician does not indicate any major impacts to any areas of cognitive and emotional functioning; and attention/concentration is indicated to have moderate impact. There is minimal impact to only two areas being executive and memory, and all other areas are indicated to have no impact. As the Physician indicates that there are no difficulties with communication and all DLA of social functioning are independent, the panel finds that the ministry reasonably determined that the evidence did not establish a severe mental impairment.



While the appellant reports a requirement for Hydromorphone, the Physician did not confirm the medication requirement. While the advocate stated that the Physician did not fully understand the appellant's disability at the time the PWD application was completed, the Letter provided before the hearing does not include any further information regarding the appellant's need for medication or any information regarding the appellant's mental impairment. While the Physician indicates that the appellant's condition has worsened there is no further description or explanation as to whether any cognitive or emotional impairments have worsened or if so, the degree to which they have worsened.

Based on the available evidence, the panel finds that the ministry reasonably determined that the information provided does not establish that the appellant has a severe mental impairment.

#### Restrictions in the ability to perform DLA

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

DLA are defined in section 2(1) of the EAPWDR and are listed in both the MR and the AR sections of the PWD application with the opportunity for the prescribed professional to check marked boxes and provide additional narrative. DLA, as defined in the legislation, do not include the ability to work.

The reconsideration decision indicates that the ministry relies on the medical opinion and expertise from the Physician to determine whether the impairment directly and significantly restricts the appellant's ability to perform DLA. The ministry's position is that the information provided is not sufficient to confirm that the appellant has a severe impairment that significantly restricts ability to perform DLA continuously or periodically for extended periods, so the legislative criteria has not been met.

The ministry's position is that in the AR, the Physician reports that the appellant is independent in almost all DLA. The Physician indicates that additional time is required with many areas, including personal care, laundry, basic housekeeping, going to and from stores, carrying purchases home, food preparation, cooking, getting in/out of vehicle and using public transit, but the Physician does not indicate the amount of additional time required. The ministry notes that

the Physician reports that the appellant is able to do most DLA's unaided, but the general level of functioning is low and slow, but there is no further information to indicate the additional time required for DLA. The ministry's position is while the appellant requires rides from friends to shops and appointments, this does not confirm an overall significant restriction in these activities. In addition, the ministry states that while the Physician notes that the appellant uses a pushcart, the use of pushcart does not confirm a significant restriction.

The ministry also states that the Physician indicates that the appellant is independent in all areas of social functioning and does not indicate any support/supervision is required to be maintained in the community. The ministry is not satisfied that the appellant has a severe impairment that in the opinion of a prescribed professional, directly and significantly restricts the appellant's ability to perform the DLA set out in the legislation.

The appellant's position is that the information provided establishes that a severe physical and/or mental impairment directly and significantly restricts the appellant's DLA continuously or periodically for extended periods. The appellant's position is that chronic joint pain, severe COPD, and recent CVA make it difficult to walk, sit or stand for long periods, make bending, lifting and carrying difficult and cause sleep difficulties. The appellant relies on friends and neighbours for assistance with getting to appointments and shopping, and the appellant is unable to work.

The panel finds that the ministry reasonably determined that the information provided does not indicate that the appellant's impairment significantly restricts ability to perform DLA continuously or periodically for extended periods.

In the AR, the Physician indicates that the appellant is independent with almost all aspects of DLA. While the Physician indicates that the appellant takes significantly longer than typical with personal care, basic housekeeping, going to and from stores, carrying purchases home, food preparation, cooking, getting in and out of a vehicle and using public transit, the Physician does not provide any information on how much longer than typical is required, making it very difficult for the ministry to determine that the additional time represents a significant restriction to DLA. In particular, the panel notes that in the AR there is a section for the Physician to explain/describe the type and amount of assistance required and the Physician has not included any additional information. Under additional information, the Physician indicates that the appellant is able to manage DLA's but this takes all of the appellant's time and energy and the appellant is no longer able to engage in employment, but the Physician does not provide any examples of how much longer than typical it takes to complete any of the DLA's.

While the Physician indicates that the appellant uses a pushcart to carry purchases home, the panel finds that the ministry reasonably determined that the use of a pushcart does not confirm a significant restriction. While the appellant reports use of Hydromorphone, crutches, walker, and an oxygen tank, the Physician does not confirm the use of these assistive devices and in the MR indicates that the appellant has not been prescribed any medication that interferes with DLA, so the information between the Physician and the appellant is not consistent.

The panel notes that in the AR, the Physician did not indicate whether the appellant is independent with laundry and basic housekeeping, noting that it takes the appellant significantly

longer than typical. In the additional information section, the Physician indicates that the appellant is able to do most DLA unaided but is slow. The Physician does not indicate that periodic or continuous assistance is required with any DLA and the Physician has not included any explanation of the additional time required to complete DLA.

At the hearing the appellant described increasing difficulty with walking, bending, lifting anything heavy, breathing, and cooking. The appellant also reported using a walker, crutches and an oxygen tank. While the Physician provided the Letter indicating that the appellant's condition has worsened, the Physician did not provide additional information regarding the prescription medication or use of assistive devices and the general information provided does not assist to determine the level of restriction or assistance required with DLA.

While the evidence confirms that the appellant takes longer than typical to perform DLA of personal care, basic housekeeping, going to and from stores, carrying purchases home, food preparation, cooking, getting in and out of a vehicle, and using public transit, the information provided does not establish how much longer than typical is needed, so the panel finds that the ministry reasonably determined that the legislative criteria was not met.

The panel finds that the ministry has reasonably determined that the information provided does not confirm that the appellant has a severe impairment that significantly restricts ability to perform DLA continuously or periodically for extended periods.

#### Help to perform DLA

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

The ministry's position is that although the Physician reports that the appellant receives assistance from friends to drive to appointments and to shop, because it has not been established that DLA are significantly restricted, it cannot be determined that help is required.

The appellant's position is that help is required with DLA because of a severe physical impairment with pain to joints, loss of function and limitations to DLA.

In the MR, the Physician indicates that the appellant does not require prosthesis or aids for the appellant's impairment.

In the AR, the Physician indicates that the help required for DLA is provided by friends who drive the appellant to appointments and to shops. The Physician indicates that the appellant uses a pushcart to carry things, but does not have other assistive devices, and does not have an assistance animal.

At the hearing, the appellant also described increasing need for assistance with DLA from friends and housework from the child of the people who live upstairs. While the Letter indicates that the appellant's condition has worsened, the Physician did not include any information about

a need for additional assistive devices such as a walker, crutches, or oxygen tank, so the information from the appellant and the Physician is inconsistent and the appellant's information is not confirmed by the Physician.

While the information provided indicates that the appellant receives periodic assistance from friends with driving to appointments and shops, confirmation of direct and significant restrictions with DLA is a precondition of the need for help criterion. 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 reasonable in determining that the appellant does not have a severe physical or mental impairment, and that the appellant's DLA are not directly and significantly restricted either continuously or periodically for extended periods in which case it cannot be determined that the appellant requires significant help with DLA.

As the reconsideration decision is reasonably supported by the evidence and is a reasonable application of the applicable legislation in this enactment, the panel therefore confirms the decision. The appellant is not 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.

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

### **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).

2021-0251

**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)

Section 24(2)(a)       or Section 24(2)(b)

**Part H – Signatures**

Print Name

Helene Walford

Signature of Chair

Date (Year/Month/Day)

2022/04/02

Print Name

Man Lin Chang

Signature of Member

Date (Year/Month/Day)

2022/04/02

Print Name

John Pickford

Signature of Member

Date (Year/Month/Day)

2022/04/05