

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 April 28, 2022, 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* for designation as a person with disabilities (PWD). The ministry found that the appellant met the age and duration requirements, but was not satisfied that:

- the appellant has a severe physical and/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.

In addition, the ministry found that it had not been demonstrated that the appellant is one of the prescribed classes of persons who may be eligible for PWD designation on alternative grounds, which includes: a person who is enrolled in palliative care; a person who has at any time been determined eligible for At Home Program payments through the Ministry of Children and Family Development; a person who has at any time been determined eligible by Community Living BC for community living support; and a person who is considered disabled under section 42(2) of the *Canadian Pension Plan Act*.

Part D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Act (EAPWDA), section 2

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

Part E – Summary of Facts**Evidence at the time of Reconsideration**

1. The appellant's PWD application comprised of:
 - A Medical Report (MR) [dated December 19, 2021] completed by the appellant's Nurse Practitioner (the NP), who had known the appellant for 5 years and had seen the appellant 2-10 times in the past 12 months of the PWD application.
 - An Assessor Report (AR) [dated December 9, 2021], which was completed by the NR. The approaches and sources used to conduct the AR were an office interview with the appellant, file/chart information
 - The PWD application also included the appellant's Self-Report (SR) dated November 2, 2021.
2. 2-page Consultation Report (pain management) conducted over the phone dated April 6, 2020. In part, it stated the following:
 - The appellant reported that when he turns his head to one side or the other, he will experience sharp pains with stabbing sensation and gets frequent headaches.
 - He described some numbness in his hands, particular in the fifth finger on both hands. The pain down his arms is not as bothersome as the pain in his neck.
 - His sleep is basically nonexistent as the pain generally keeps him up at night.
 - He is not able to do a lot of daily activities or chores that would normally be within his limits.
 - He is frustrated and has periods of irritability.
 - Previous treatments provided limited help and he is not taking any pain medications on a regular basis.
 - He also stated that some central low back pain that radiates towards his hips. Occasionally it will go down the legs but not regularly. The low back pain is bothersome to him but not as much as the neck.
 - He has multilevel significant facet osteoarthritis.
 - The treatment plan included injections and other treatments to manage the pain.
3. A letter from a neurosurgeon dated February 6, 2018. The letter in part stated that:
 - Due to previous spine compression the appellant had some ongoing sensory difficulties.
 - He has some osteophyte formation from degenerative change in the lower cervical spine.
 - The neurosurgeon stated that, in their opinion, the appellant will not benefit from further surgical interventions in the cervical spine and surgery is not indicated for the neck pain. [The panel notes that this report does not give an impression or finding regarding the severity of the appellant's impairment and how it may impact the appellant's functioning.]
4. A radiology result report (spine lumbar) dated December 2, 2021. The report, in part stated that:
 - The reason for the exam was intermittent weakness and numbness down legs.
 - Vertebrae alignment is anatomic and disc spacing is maintained.

- Mild endplate osteophyte formation is seen at L4 and L5 and not other degenerative changes noted. [The panel notes that this report does not give an impression regarding the severity of the appellant's impairment and how it may impact the appellant's functioning.]
5. An MRI (cervical spine) dated August 18, 2021. In part this report indicated that
- There is multilevel degenerative disc disease and facet joint arthropathy with various degrees of associated spinal canal and neural foraminal narrowing.
 - There is no significant associated cord compression. [The panel notes that this report does not give an impression regarding the severity of the appellant's impairment and how it may impact the appellant's functioning.]
6. Request for Reconsideration (RFR) dated April 20, 2022. The appellant stated, in part, the following:
- He did not adequately explain or provided details to the NP's questions.
 - He can walk 4 blocks, but it takes 30 minutes, which includes many stops to rest his legs. He avoids walking because his legs give out and he falls.
 - In the mornings, his legs are not reliable, so he hesitates to go down the stairs.
 - When climbing stairs, he must pause and rest frequently and it can take 15 minutes to climb the staircase.
 - He can only sit for short periods before his arms become numb and painful. He will need to get up and move around for a bit.
 - Simple movements of the neck can frequently cause migraines which incapacitate him for most of the day and leave him depleted of energy.
 - He frequently wakes up in the night due to his pain and cannot sleep in the day too.
 - He isolates from the family. Constant activity and noise triggers him and he has little patience due to his pain.
 - He suffers from depression which mainly stems from the inability to help around the house. He is unable to manage day to day life. His biggest depressor is the inability to play with his children.
 - He is unable to shop for groceries, vacuum, sweep, do laundry, or cook.
7. Letter from the appellant's spouse dated April 2, 2022. The appellant's spouse, in part, stated the following:
- The family was once an active family and can no longer participate as a family in those same activities (such as camping, walking, fishing, bike riding and sledding).
 - She must constantly adjust and rearrange her schedule depending on how the appellant feels that day.
 - Outings are short because he gets tired and must rest.
 - She will take his meals to him upstairs to the bedroom out of a fear of him falling down the stairs.
 - The appellant has a history of falling and many times she has had to help him up.
 - She does all the shopping, cooking, housekeeping, yard work, walking and being active with their children.
 - The children accommodate the appellant as well and often remain quiet at home when the appellant has been up all night due to pain.

Diagnoses

In the MR, the NP diagnosed the appellant with C3-C4 replacement/laminectomy (onset: not specified), C4-C5 disc bulge with mild-moderate spinal canal narrowing, hypertrophied facet joints (onset: not specified) and intermittent neuropathy/weakness down both legs since c-spine laminectomy (onset: unspecified).

Health History

In the first MR, the NP stated the following about the appellant:

- Since his laminectomy surgery he has intermittent numbness and weakness in his hands, arms and right shoulder. When this occurs, he drops things.
- His neck pain, numbness and weakness are activity dependent and if he avoids these activities, he does not have these symptoms.
- He is not a surgical candidate.
- His legs give out for no reason, and he can fall.
- He cannot walk long distances or carry groceries.
- He is not pursuing treatment through the pain clinic but rather avoiding the activities that cause the pain.

Physical Impairment

In the MR, the NP indicated the following about the appellant:

- He can walk 4+ blocks and climb 5+ steps unaided, lift under 5 lbs and can sit without limitation.

In the AR, the NP indicated the following about the appellant:

- Both hands have neuropathy.
- Can only walk 4 blocks.
- Can shop only 15 minutes or legs will give out and he falls.
- Weakness and numbness intermittent in arms.
- Walking indoor/outdoor requires periodic assistance, (the family supports and assists to get in/out of bed if his legs give out).
- Climbing stairs and standing is performed independently.
- Lifting and carrying/holding require periodic assistance (limited to 5lbs, legs give out if lifts more).

In the SR, the appellant stated the following about his condition:

- Chronic pain and building disc syndrome.
- Constant neck pain in different weather patterns.
- Legs give out for no reason especially if he lifts.
- Movements can cause extreme headaches.
- Cannot sit or stand for long periods.

Mental Impairment

In the MR, the NP indicated the following about the appellant:

- There are no difficulties with communication.
- There are no significant deficits with cognitive and emotional functioning.

In the AR, the NP indicated the following about the appellant:

- Speaking, reading, writing and hearing are good.
- In terms of cognitive and emotional functioning the section was crossed off with the comment “n/a”.
- The appellant independently performs all DLA under ‘pay rent/bills, medications, and personal care’
- Under social function, he performs all tasks independently and has good functioning with immediate social networks and marginal functioning with extended social networks.

In the SR, the appellant did not make any comments regarding a mental impairment.

Daily Living Activities

In the MR, the NP indicated the following about the appellant:

- No medications that interfere with the ability to perform DLA have been prescribed.

In the AR, the SW indicated the following about the appellant:

- All tasks under ‘personal care’ are performed independently except ‘transfer in/out bed’, which requires periodic assistance “falls out of bed occasionally if legs completely numb in morning and uses bed to get up or family assistance sometimes”.
- Under ‘basic housekeeping’, laundry is performed independently, and basic housekeeping requires continuous assistance “Can’t do this. His wife does all housekeeping”.
- Under ‘shopping’ all tasks are performed independently except ‘carrying purchases home’ which requires continuous assistance “needs assistance with purchases unless less than 5 lbs or develops numbness/weakness in upper extremities”.
- All tasks under ‘meals, pay rent/bills, medications, transportation and social functioning’ are performed independently.
- “Gets numbness/weakness in upper extremities when trying to do basic housework. Able to do laundry if does small amount lifting at once. Can’t lift more than 5 lbs/repetitive lifting or develops numbness/weakness in upper extremities. Leg numbness/weakness occurs intermittently causing falls. Gets assistance from his wife intermittently as needed. Tries to avoid any position that might cause this.”

Help

In the MR, the NP indicated the following about the appellant:

- Requires no prostheses or aids for her impairment.

In the AR, the NP indicated the following about the appellant:

- He lives with his wife and children.
- Assistance with transfers in/out bed, basic housekeeping, and carrying purchases home comes from his family.
- Under ‘assistance provided through the use of Assistive Devices’ the NR commented “n/a”.

In the SR, the appellant indicated that he must rely on his spouse for assistance.

Evidence prior to the Appeal

Prior to the hearing the appellant submitted a 3-page MRI dated May 21, 2022. This MRI was of the spine/lumbar and it was conducted because bilateral legs give out, falling, weakness and sometimes numbness in both legs intermittently. The goal was to rule out foraminal narrowing. The impressions included:

- Bilateral L5 pars defects with minimal anterolisthesis of L5 on S1.
- There is multilevel facet joint arthropathy noted most pronounced at right L4-L5 facet joint.
- Mild degenerative disc disease at L4-L5 and L5-S1 levels without significant associated spinal canal stenosis. There are mild to moderate degrees of associated foraminal narrowing as described.

Evidence on Appeal

Notice of Appeal (NOA), signed and dated May 17, 2022, the appellant stated, "dissatisfied with the decision".

The panel found that the information in the NOA consists of the appellant's argument and does not require an admissibility determination.

Evidence at the Hearing

At the hearing, the appellant's wife reiterated the information she provided in the letter dated April 29, 2022, and added, in part, the following:

- After the appellant's fall in 2011, they were given a choice of surgery or paralysis.
- He falls frequently and the family is in fear that he will fall.
- She experiences a toll as his caretaker. Both she and her eldest child feel stress and wear and tear due to the assistance they provide.
- He struggles to get out of bed 4-5 days per week.
- He will take 30-60 minutes to get ready in the morning.
- He feels depressed but does not take medications because they make him ill.

At the hearing, the appellant reiterated the information found in the SR, RFR and NOA, provided a brief work history and stated, in part, the following:

- In the last 3 years his physical condition has gotten worse, and he cannot do the things he could previously.
- On good days he can do small amounts.
- He struggles to get out of bed. He will need assistance from his family.
- Sitting causes numbness and he must get up and move around. He cannot sit for very long.
- He has done tests and is waiting for an appointment with a nerve specialist.
- He uses a shopping cart to support him when shopping.
- Due to a past history of addiction, he does not use pain medication. He worries about overdosing due to his depression.
- When completing the PWD application he gave brief and to the point answers to the NR. He did not provide explanation or details about his limitations.
- He has not been offered assistive devices.

- The MRI was included in the submissions to provide more context to his current condition. It confirms building disc syndrome and compression in his neck will need time to heal.
- He can walk 4 blocks, but it takes 3 times longer, he can climb 5 steps but does so gingerly, he can lift under 5lbs, but it is recommended that he does not lift at all and if he sits too long, he will get a burning sensation and numbness.
- He is past depression because his life looks very different from before.
- He feels defeated, depressed, stressed, frustrated and angry.

At the hearing, the ministry relied on its reconsideration decision.

Admissibility of Additional Information

The ministry did not object to the admission of the information submitted prior to the hearing.

A panel may consider evidence that is not part of the record as the panel considers is reasonably required for a full and fair disclosure of all matters related to the decision under appeal.

In this case, the panel determined that the May 21, 2022 MRI is information that allows for a full and fair disclosure of all matters related to the decision under appeal. The panel notes that this report does not give an impression regarding the severity of the appellant's impairment and how it may impact the appellant's functioning. As a result, the panel places little weight on the May 21, 2022 MRI.

Part F – Reasons for Panel Decision

The issue on appeal is whether the ministry's reconsideration decision, which found that the appellant is not eligible for designation as a PWD, was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the circumstances of the appellant. The ministry found that the evidence does not establish that the appellant has a severe mental or physical impairment and nor establish that his DLA are, in the opinion of a prescribed professional, directly and significantly restricted either continuously or periodically for extended periods. Also, as a result of those restrictions, it could not be determined that the appellant requires the significant help or supervision of another person.

Panel Decision**Severe Impairment**

In the reconsideration decision, the ministry was not satisfied that the information provided establishes a severe physical or mental impairment. Determining a severe physical or mental impairment requires weighing the evidence provided against the nature of the impairment and its reported functional skill limitations. A diagnosis of a serious medical condition does not in itself determine PWD eligibility or establish a severe impairment. An "impairment" is a medical condition that results in restrictions to a person's ability to function independently or effectively. To assess the severity of an impairment, the ministry must consider the nature of the impairment and the extent of its impact on daily functioning.

The panel finds that employability is not a consideration for eligibility for PWD designation because employability is not a criterion in section 2(2) of the EAPWDA nor is it listed among the prescribed daily living activities in section 2 of the EAPWDR.

Physical Impairment

The appellant argued that due to his bulging disc he is limited in movements, he is in pain, his arms and legs go numb which cause him to experiences falls.

The ministry argued that based on the information provided in the PWD application, a severe impairment of the appellant's physical functioning has not been established.

In its reconsideration decision, the ministry noted that the NP's narrative and that the NP reported the appellant's symptoms are severe. The ministry noted that the NP indicated that the appellant can walk 4+ blocks and climb 5+ steps unaided and remains seated without limitations.

The ministry noted that in the AR, the NP indicated that periodic assistance is required with walking indoor/outdoor, and the appellant is assisted his family to get in/out of bed when his legs give out. The ministry noted that the NP did not indicate how often this occurs to determine whether this is a severe impairment. It is reported that the appellant does not use assistive devices. The ministry also noted the appellant's ability to walk, climb stairs and ability to sit as indicated in the SR.

The ministry concluded that the appellant is able to mobilize independently the majority of the time. Therefore, the ministry cannot confirm this results in a severe degree of impairment. The ministry also determined that the limitations to the appellant ability to lift, carry and hold items over 5lbs is a change in functioning but is not a severe degree of impairment as the appellant is able to manage the majority of this DLA independently including personal care, laundry and meals.

The panel's role is limited to determining whether the ministry's decision was reasonable. The panel finds that the ministry reasonably concluded that the NP does not provide information to show that the appellant has a severe physical impairment of his physical functioning. The panel notes the discrepancy between the appellant's experience of his physical condition and the NP's impressions of it. The PWD application was completed with the appellant and with a review file/chart information. The appellant indicated that he does not like talking about himself and did not provide explanation or detailed information regarding his condition. However, the appellant and his prescribed professional had the opportunity at reconsideration to satisfy this discrepancy, but the NP did not provide additional information. The May 21, 2022 MRI provided did not link the appellant's condition to his mobility and physical functioning. The legislative requirement is that the ministry must be satisfied of a severe impairment. It is reasonable that given the evidence from the NP, and the fact that it is not consistent with the information from the appellant, that the ministry is not satisfied with a finding of severe physical impairment.

Given the overall assessments of the appellant's functional ability, and mobility and physical ability in the PWD application and the lack of any additional information provided at appeal from a prescribed professional, the panel finds that the ministry was reasonable in its determination that the evidence does not support a finding that the appellant suffers from a severe physical impairment and that the legislative criteria outlined in Section 2(2) of the EAPWDA have not been met.

Mental Impairment

The appellant argued that he suffers from depression because of his pain and inability to partake in activities with his family.

The ministry's position is that based on the assessments provided in the PWD application, a severe impairment of mental functioning has not been established.

In its reconsideration decision, the ministry noted that the NP did not provide a diagnosis of a mental condition that would result in a mental impairment. The NP indicated that there are not significant deficits to the appellant's cognitive and emotional functioning. The ministry noted that in the AR, the NP indicated 'n/a' to the section related to cognitive and emotional functioning and that the appellant independently performs all activities related to making decisions regarding personal activities, care and finances and as well as social functioning.

The ministry noted that in the SR, the appellant indicated that he frequently experiences migraines triggered by simple movements of the neck. The ministry noted that the NP did not provide a diagnosis related to the migraines or explain how they contribute to an impairment. It also noted that it is not clear how often functioning is limited due to the migraines. The ministry

noted that the appellant stated that he cannot participate in activities around the house or with the family which contributes to his depression. The ministry concluded that since a mental impairment has not been identified by the NP, the ministry is unable to assess for a mental impairment.

The panel finds that the ministry analysis of the evidence was reasonable, and it reasonably concluded that the information provided by the prescribed professional regarding the appellant's mental, cognitive and emotional functioning does not support a finding of a severe mental impairment. In addition to the analysis provided by the ministry, the panel notes that the NP's narrative speaks specifically about the appellant's ability to function physical and ability to work but does not make mention of depression or a mental impairment.

The panel also considered the appellant's SR, RFR and testimony at the hearing. Though the panel empathizes with the appellant, the MR and the AR do not reflect his position. The appellant indicated that the MR and AR did not clearly indicate the appellant's actual experience as he did not provide explanation or details. The legislative requirement is that the ministry must be satisfied of a severe impairment. It is reasonable that the ministry is not satisfied that the appellant has a severe mental impairment given the evidence from the NP, and the fact that it is not consistent with the information from the appellant.

Given the overall assessments of the appellant's mental, cognitive and emotional ability and functioning in the PWD application and the lack of any additional information provided at appeal from a prescribed professional, the panel finds that the ministry was reasonable in its determination that the evidence does not support a finding that the appellant suffers from a severe mental impairment and that the legislative criteria outlined in Section 2(2) of the EAPWDA have not been met.

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 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. 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 appellant argued that due to pain and frequent falls he cannot restricted in his DLA.

The ministry argued that it is not satisfied that the information provided establishes that the impairment directly and significantly restrict DLA continuously or periodically for extended periods.

The ministry noted that in the MR, the NP made reference to restrictions to DLA but crossed out that section. Therefore, the ministry placed more weight on the AR. The ministry noted that in the AR, the NP indicated that the appellant is unable to complete basic housekeeping, needs continuous assistance with carrying purchases home as he is limited to 5 pounds. The ministry concluded that a limitation in one aspect of shopping does not confirm an overall restriction in this activity and the MR noted that the appellant is able to complete light shopping. The ministry noted that very little information was provided regarding how often numbness occurs to establish if this results in a significant restriction in transferring in/out of bed.

The panel finds the ministry's analysis of the evidence and its conclusion to be reasonable based upon the evidence before it. The panel finds that being independent with the majority of the listed tasks related to each daily living activity, and the lack information regarding type, frequency and duration of the assistance that is required for specific tasks does not satisfy the legislative requirements. For example, the legislation lists 'shop for personal needs' as a daily living activity. The PWD application lists 5 tasks related to 'shopping'. In the case of the appellant, the NP has indicated that the appellant is continuously restricted with only one task of shopping which is carrying purchases home. The panel finds that the ministry was reasonable to conclude that there is not a direct and significant restriction to the overall daily living activity of 'shopping' because the appellant can independently manage the majority of the tasks related to shopping. Similarly, the NP indicated that the appellant requires periodic assistance with transfer in/out of bed. However, every other task related to the daily living activity of 'personal care' is performed independently and no information was provided on the frequency and duration of the assistance required. Therefore, the panel finds that the ministry was reasonable in its finding. With the daily living activity of 'basic housekeeping', the NP indicated that the appellant is continuously restricted with the task housekeeping and independently performs the task of laundry. The NP did not explain how the appellant's restriction to housekeeping is directly linked to the appellant's physical or mental impairment. Therefore, the ministry reasonable concluded that without such information it cannot determine that a physical or mental impairment directly and significantly restricts the ability to independent complete the daily living activity of 'basic housekeeping'. The panel notes that the NP indicated that medications/treatments do not interfere with the ability to perform DLA.

Though the appellant provided further details about the restrictions to his DLA in the RFR and at the hearing, the legislation requires that a prescribed professional confirm that a severe impairment significantly and directly restricts the ability to perform DLA. The appellant evidence is not supported or confirmed by his prescribed professional as required.

The panel considered the assessment by the prescribed professional in the PWD application, the lack of information regarding the causal link between a physical or mental impairment and a restriction to perform some DLA either continuously or periodically for extended periods, and that insufficient additional or supporting information was provided from a prescribed professional at appeal to support the appellant's position. As such, the panel finds that the evidence provided by the prescribed professional did not describe or indicate that a severe impairment restricts the appellant's ability to perform his DLA either continuously or periodically for extended periods. Given the evidence as a whole, the panel finds that the ministry reasonably concluded that the evidence does not establish that an impairment significantly restricts DLA continuously or periodically for extended periods, pursuant to Section 2(2)(b)(i) of the EAPWDA.

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 appellant indicated that his wife and children help him with mobility and to complete his DLA.

The ministry noted that the NP indicated that the appellant receives help from his family. The ministry concluded that since it has not been established that DLA are significantly restricted, it cannot be determined that significant help is required from other persons or a device.

Given that confirmation of direct and significant restrictions with DLA is a precondition of the need for help criterion and because 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 is a reasonable application of the applicable enactment, and therefore confirms the decision. The appellant is not successful on appeal.

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

Persons with disabilities

2 (1) In this section:

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

"daily living activity" has the prescribed meaning;

"prescribed professional" has the prescribed meaning.

(2) The minister may designate a person who has reached 18 years of age as a person with disabilities for the

purposes of this Act if the minister is satisfied that the person is in a prescribed class of persons or that the person

has a severe mental or physical impairment that

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

(b) in the opinion of a prescribed professional

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

(A) continuously, or

(B) periodically for extended periods, and

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

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

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

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

(i) an assistive device,

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

(iii) the services of an assistance animal.

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

The EAPWDR provides as follows:

Definitions for Act

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

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

activities:

(i) prepare own meals;

(ii) manage personal finances;

(iii) shop for personal needs;

(iv) use public or personal transportation facilities;

(v) perform housework to maintain the person's place of residence in acceptable sanitary condition;

(vi) move about indoors and outdoors;

(vii) perform personal hygiene and self care;

(viii) manage personal medication, and

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

(i) make decisions about personal activities, care or finances;

(ii) relate to, communicate or interact with others effectively.

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

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

(i) medical practitioner,

(ii) registered psychologist,

(iii) registered nurse or registered psychiatric nurse,

(iv) occupational therapist,

(v) physical therapist,

(vi) social worker,

(vii) chiropractor, or

(viii) nurse practitioner, 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*

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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
Neena Keram

Signature of Chair

Date: 2022/06/13

Print Name
Jennifer Armstrong

Signature of Member

Date: 2022/06/13

Print Name
Kent Ashby

Signature of Member

Date: 2022/06/13