

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 July 7, 2022, which held that the appellant did not meet 4 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 requirement, but was not satisfied that:

- the appellant has a severe physical and/or mental impairment that is likely to last 2 years or more from the date of the PWD application;
- 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 November 16, 2021] completed by the appellant's Nurse Practitioner (the NP), who had known the appellant for 3 years and had seen the appellant 2-10 times in the past 12 months of the PWD application.
 - An Assessor Report (AR) [dated September 22, 2021], which was also completed by the appellant's NP. The approaches and sources used to complete the AR were an office interview with the appellant, file/chart information (neuropsychological report and the appellant's counsellor).
 - The PWD application also included the appellant's Self-Report (SR) dated December 1, 2021.
2. A letter from the NP dated November 11, 2021 addressed to Service Canada CPP Disability Benefits. In part, the letter indicated the following about the appellant:
 - Suffers from depression, anxiety and chronic pain.
 - Ability to concentrate, focus and retain information to be retrained for alternative work is not possible at this time.
 - The inability to train for alternative work is expected to persist for years.
3. Request for Reconsideration (RFR) dated June 21, 2022. Information provided by the appellant included:
 - The NP confirms duration of her impairments in the November 11, 2021 letter and that all of the impairments will be long lasting.
 - She is diagnosed with fibromyalgia (on a waitlist for an official diagnosis), depression, anxiety, Seasonal Affective Disorder (SAD), and Attention Deficit/Hyperactivity Disorder (ADHA).
 - All of these diagnoses together make DLA extremely difficult to manage.
 - She develops heightened nerve and muscular pain if she stands too long, sits too long, is unable to reposition the body, is unable to take frequent breaks, carries heavy things or light things for prolonged time and repetitive actions.
 - The disabilities significantly affect her ability to do housework that is more strenuous on the body, shopping and carrying groceries, and transportation (due to the anxiety created by being in 5 car accidents).
 - She has made adjustments such as walking short distances, taking the bus, and using an electric bike. These options are restricted by snow.
 - SAD is severe in the fall, winter and spring and significantly restricts her ability to complete her DLA, such as self-care, meals, remembering medications, getting in/out of bed, and dealing with bills.
 - She often has to ask for help from her husband, parents, and sister.

Diagnoses

In the MR, the NP diagnosed the appellant with depression and anxiety (onset: unknown) and chronic pain syndrome (onset: July 2017).

Health History

In the MR, the NP left the health history section blank except answering no to the question “does the applicant require any prostheses or aids for his/her impairment?”

Physical Impairment

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

- She can walk 4+ blocks and climb 5+ steps unaided, lift 5-15 lbs and remain seated 1-2 hours.

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

- Can independently walk indoor/outdoor, climb stairs and stand.
- Periodic assistance is required for lifting and carrying/holding with the comment “if weight over 15lbs”.

In the SR, the appellant stated, in part, the following:

- Her disabilities include fibromyalgia full body pain especially in the spine and right arm, spine injury, fully body tension/tightness, SAD (aka severe depression), Attention Deficit Disorder (ADD), depression and anxiety.
- Her physical disabilities are prolonged and lifelong without any cure.
- If she stands or sits too long her body aches and her lower back feels like burning.
- Repetitive movements cause tendonitis.
- She has full body muscle pain, muscle tension, muscle tightness, which pulls on her spine if it gets too tight and creates chronic pain.
- She has no energy in fall, winter and spring. In the summer her neck, full arm to the fingers nerve pain and swelling gets to a point that she cannot hold a toothbrush.
- Without stretching throughout the day, her body starts to tighten, she has tension, loses range of motion, and has headaches.

Mental Impairment

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

- There are no difficulties with communication.
- There are significant deficits with cognitive and emotional functioning in the areas of executive, memory, emotional disturbance, motivation, attention and sustained concentration.
- The daily living activity of social functioning is restricted continuously with the comments: “has trouble sometimes understanding what others are saying, needs a lot of clarification, difficulties recalling things, [increased] social anxiety” and “spends $\frac{3}{4}$ of her time avoiding social interactions”.
- The DLA of personal self-care, meal preparation, management of medications, and management of finances are not restricted either continuously or periodically for extended periods.

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, there are major impacts to emotion, attention/concentration, executive, memory, motivation, and motor activity. All other listed areas of cognitive and emotional functioning were indicated as no or minimal

impact.

- The appellant independently performs all DLA under ‘pay rent/bills, medications, and personal care’
- Under shopping the tasks of ‘making appropriate decision’ and ‘paying for purchases’ are performed independently.
- Under meals, ‘meal planning’ is indicated as taking significantly longer to complete with the comment “difficult to make decisions, eats, already made, simple meals, pre-cooked, frozen”.
- Under social function, she performs all tasks independently and has marginal functioning with immediate social networks and marginal functioning with extended social networks.

In the SR, the appellant, in part, indicated the following:

- Her mental disabilities are prolonged, lifelong and without a cure.
- SAD is severe depression and leaves her with no energy in the fall, winter, and spring.
- With chronic pain comes fatigue, stress, depression, difficulty with memory, difficulty with learning, a hard time managing mood, panic attacks and unable to focus.

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.
- There are continuous restrictions to use of transportation and social functioning.
- There are periodic restrictions to basic housekeeping and daily shopping, with the comment “can do some light housework, but anything strenuous, such as longer vacuuming, lifting heavier things, scrubbing things she needs help with”.
- All other listed areas of DLA were left blank.

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

- All tasks under ‘personal care’, ‘paying rent/bills’, ‘medications’, ‘transportation’ and ‘social functioning’ are performed independently.
- Under basic housekeeping, laundry (with the comment “if larger heavier load”) and basic housekeeping (with the comment “if more strenuous”) require periodic assistance.
- Under shopping, 4 of 5 tasks are performed independently except ‘carrying purchases home’ which requires periodic assistance (with the comment “if more than 15lbs”).
- Under meals, the task of ‘safe storage of food’ is performed independently, the task of meal planning takes significantly longer, and there is no check mark next to ‘food preparation’ and ‘cooking’.

In her SR, the appellant stated, in part, the following about her DLA:

- She is unable to take care of herself or the household and requires a lot of help.

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:

- She lives with family.

- Family and friends provide assistance with DLA.
- The section 'assistance provided through the use of assistive devices' was left blank.
- Assistance provided by assistance animals was indicated as 'no'.

In the SR, the appellant, in part, stated that assistance is required with grocery shopping, meal preparations, cleaning, remembering things, help getting to and from appointments.

Additional Information

The NP indicated "patient has tried to keep a job but due to needing frequent time off, patient has not been able to keep long term employment."

Evidence prior to the Appeal

Prior to the hearing the appellant submitted an 8-page submission dated August 1, 2022, which reiterated the information submitted in the SR and RFR including her inability to participate in gainfully employment. She also added, in part, the following:

- She has gone through blood work, MRI, x-rays, chiropractor, psychotherapist, kinesiologist, massage therapy, but these did not help.
- A description of fibromyalgia, her symptoms, and her experiences of pain management from the pain clinic.
- Described the link between fibromyalgia, SAD and ADHA with depression.
- She has problems getting in/out of bed.
- A list of types of chronic pain (arthritis or joint pain, back and neck pain, headaches (including migraines), lasting pain in scar tissue, and muscle pain all over.
- Described the link between fibromyalgia and chronic pain.
- She experiences panic attacks that cause stress, headaches and blurred vision.
- She is not socializing and avoiding people for most of the year due to anxiety.
- Difficulty with feeding self and taking care of her hygiene.
- Unable to do housework due to daily pain. She needs frequent breaks and is limited on what she can do daily.
- She is not able to make rational decisions.
- She does not have a diagnosis of fibromyalgia, but the pain clinic verified fibromyalgia and that she is on the right treatment for her pain.

Evidence on Appeal

Notice of Appeal (NOA), signed and dated July 18, 2022, the appellant stated, "I disagree with the decision because I have many disabilities that affect my daily living activities especially the ability to make a living".

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

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 August 1, 2022 submission is information that allows for a full and fair disclosure of all matters related to the decision under appeal and has admitted this information as evidence in accordance with s. 22(4) of the *Employment and Assistance Act*. The panel notes that this submission discusses diagnoses and conditions that have not been confirmed by a prescribed professional. As a result, the panel places little weight on the August 1, 2022 submission.

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 that will last 2 years or more and does not establish that her 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.

The relevant legislation can be found in Appendix A.

Panel Decision

The appellant and her NP have repeatedly argued that due to the appellant's disabilities she is unable to work or find alternative work. 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.

Duration

The appellant argued that the NP has confirmed duration of her impairments in the November 11, 2021 letter which stated that the appellant's inability to train for alternative work is expected to persist for years.

The ministry argued that the duration has not been confirmed by a medical practitioner or nurse practitioner as required by the legislation.

In the reconsideration decision the ministry noted that the NP did not complete the duration section in the PWD application. It also noted that the November 11, 2021 letter speaks specifically to the appellant's ability to work.

Section 2(2)(a) of the EAPWD Act indicates that the ministry relies on the opinion of a medical or nurse practitioner to confirm that an impairment is likely to continue for at least two years.

The panel notes that the section in the PWD application regarding duration has been left blank by the NP. The panel also notes that the November 11, 2021 letter is specifically addressed to Service Canada CPP Disability Benefits. CPP disability eligibility takes into consideration the ability to work whereas the PWD designation does not. The NP's letter speaks specifically to the appellant's inability to work and addresses duration in terms of employment/retraining which, as noted above, is not a criteria for PWD designation. At the time of the hearing, no additional information was submitted to confirm duration.

As a result, the panel finds that the ministry was reasonable in its determination that a medical practitioner or nurse practitioner did not confirm that the appellant's impairment is likely to last 2 or more years as is required by Section 2(2)(a) of the EPWDA.

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.

Physical Impairment

The appellant argued that due to chronic pain (which includes muscle pain, muscle tension and tightness), combined with depression and anxiety, she is limited in her physical movements, ability stand, sit and walk.

The ministry argued that based on the information provided in the original PWD application and RFR the appellant does not meet the legislative requirements of severe physical impairment.

In its reconsideration decision, the ministry noted that the in the MR, the NP indicated that the appellant can walk 4+ blocks and climb 5+ steps unaided, lift up to 15lbs and remain seated for 1-2 hours. It also noted that the appellant does not require prosthetics or aids. The ministry noted that in the AR, the NP indicated that the appellant is independent with walking indoors/outdoors, climbing stairs, standing. Periodic assistance is required with lifting and carry/holding over 15lbs. The ministry concluded that requiring assistance with heavy lifting only does not confirm a severe physical impairment.

After considering the evidence as noted above, the panel finds that the ministry reasonably concluded that information the NP provided did not demonstrate that the appellant has a severe physical impairment of her physical functioning. The panel notes that the PWD application was completed with the appellant and with a review file/chart information. Therefore, the appellant had an opportunity to provide a full and detailed picture of her physical condition. The panel finds that the appellant’s overall physical functioning and mobility as described by the NP is good and the inability of lift or carry over 15lbs does not meet the legislative requirement of severe physical impairment.

Given the overall assessments of the appellant’s functional ability, 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 she has severe depression and anxiety which prevents her from functioning in her daily life.

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

In the reconsideration decision, the ministry noted that, in the MR and AR, the NP indicated that the appellant has significant deficits to specific areas of cognitive and emotional functioning. The ministry concluded that when considering these deficits and impacts in conjunction with that appellant's DLA, a severe degree of impairment is not established, as she is reported to be independent in almost all activities related to making decisions regarding personal activities (i.e. making appropriate choices while shopping, transportation), care (i.e. personal care, meal preparation, cooking, safe storage of food, medication management) finances (i.e. reading prices and labels, paying for purchases, paying rent and bills), as well as social functioning. The NP also reported that the appellant does not have difficulties with communication and was assessed to have good abilities in speaking, reading, writing, and hearing.

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. For example, in the AR, the NP indicates that the appellant has good communication abilities and independently manages almost all listed decision making activities and all areas of social functioning.

The panel also considered the appellant's SR, RFR and August 1, 2022 submission. Though the panel empathizes with the appellant, the MR and the AR do not reflect her position. Specifically, the appellant indicated that she has fibromyalgia, SAD and ADHD and has severe mental impacts as a result. However, none of these conditions were diagnosed by the NP. The legislative requirement is that the ministry must be satisfied of a severe impairment. As the evidence has been presented, it is reasonable that the ministry is not satisfied that the appellant has a severe mental impairment given the evidence from the NP.

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.

The appellant argued that her depression and anxiety prevent her from completing her DLA.

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

In its reconsideration decision, the ministry noted that in the MR, the NP indicated that the appellant is periodically restricted with basic housework and daily shopping. She is able to do lighter tasks, but anything strenuous (longer vacuuming, lifting heavier objects, scrubbing things) requires help. In the AR, the NP noted periodic assistance is required with basic housekeeping, laundry, and carrying purchases home for heavier loads, more strenuous tasks, and if more than 15 pounds, respectively. However, the need for assistance only with heavy, more strenuous tasks does not confirm an overall restriction in your ability to complete the daily living activities of housework or shopping.

The ministry also noted that the NP indicated that the appellant is continuously restricted with transportation, but provides no information related to this restriction. In the AR, the NP reports that the appellant does not require assistance with transportation, including the tasks of getting in/out of a vehicle, using public transit, or arranging transportation. Therefore, the ministry cannot confirm a significant restriction regarding transportation. Regarding social functioning, the NP indicated a continuous restriction in this area, and that the appellant spends $\frac{3}{4}$ of her time avoiding social interaction. She sometimes has trouble understanding what others are saying and needs a lot of clarification. There is difficulty recalling things and increased social anxiety. However, in the AR she is assessed to require no support/supervision in any area despite “struggles” and adaptive techniques such as “dissociating”. The appellant was noted as being independent in making appropriate social decisions, interacting appropriately with others, dealing with unexpected demands, and security assistance from others. She is also able to maintain marginal functioning with immediate and extended social networks. Therefore, while the appellant may struggle with social functioning, it does not appear from the evidence provided by the NP that she is significantly restricted in this area.

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, in the AR, the NP indicated that periodic assistance is required with all tasks related to basic housekeeping. However, the NP indicated that the restriction was limited to heavier tasks, longer vacuuming and scrubbing and it was not indicated how often assistance with these tasks is needed. Without information regarding

frequency, it would be difficult to determine if these tasks are restricted and need assistance periodically for extended periods as is required by the legislation.

With meals, the NP indicated that meal planning takes significantly longer with the comment “difficult to make decisions, eats ready made simple meals, pre-cooked, frozen”. However, in the categories immediately below meals, pay rent/bills and medications’, or under ‘shopping’ (making appropriate choices and paying for purchases), the NP did not indicate any problems with decision making and no information was provided by the NP to explain why decision making is difficult in one task but not another. With this lack of clarity, in addition to the analysis provided by the ministry above, it is reasonable to conclude that insufficient information has been provided to confirm that a severe impairment directly and significantly restricts DLA.

Though the appellant provided further details about the restrictions to her DLA in the RFR and the August 1, 2021 submission, the legislation requires that a prescribed professional confirm that a severe impairment significantly and directly restricts the ability to perform DLA. The appellant’s evidence is not supported or confirmed by her prescribed professional as required.

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 her 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 she requires help with DLA from her husband, parents, and sister.

The ministry argued that as it has not been established that daily living activities are significantly restricted (criterion 4), it cannot be determined that significant help is required from other persons or a device.

In the reconsideration decision, the ministry noted that the NP indicated that the appellant’s family provides help.

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.

Appendix A

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: 2022/08/19

Print Name
Sarah Bijl

Signature of Member

Date: 2022/08/19

Print Name
Rob McDowell

Signature of Member

Date: 2022/08/19