

Part C – Decision Under Appeal

The decision under appeal is the reconsideration decision of the Ministry of Social Development and Poverty Reduction (the ministry) dated August 18, 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, but was not satisfied that:

- the appellant has a severe impairment that will likely continue for 2 or more years from the date of the PWD application;
- the appellant has a severe mental and/or physical 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 these restrictions, the appellant requires the significant help or supervision of another person, the use of an assistive device, 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 Reconsideration

1. The appellant's PWD application comprised of a Medical Report (MR) dated April 4, 2022, which was completed by the appellant's General Practitioner (the GP), who had known the appellant for 21 years and seen her 11 or more times in the past 12 months. The PWD application included the appellant's Self-Report (SR) dated Mar 30, 2022 but was left blank.
2. The PWD application also included an Assessor's Report (AR) dated April 5, 2022, which was completed by the appellant's GP. In completing the AR, the GP relied on an office interview with the appellant and file/chart information.
3. Request for Reconsideration (RFR) dated July 26, 2022 in which the appellant, in part, stated the following:
 - The PWD application did not accurately portray her situation due to a lack of communication with the doctor.
 - Her disability has severely impacted her mental and physical health.
 - She was diagnosed with colon cancer in March 2021 and subsequently had surgery to remove her colon and was given an ileostomy.
 - She regularly has abdominal pain which causes her to vomit profusely for hours making her unable to walk, talk coherently, breathe or perform basic regular necessary life actions.
 - She has been hospitalized a few times for this pain.
 - Due to a lack of control over her digestive system she lives in a constant state of anxiety or mild to full on panics attacks.
 - She cannot eat many foods. As a result, she lacks nutrients and cannot afford supplements.
 - The ileostomy has impacted every aspect of her life and has had a detrimental impact on her physical and mental health.
 - She was diagnosed with depression, general anxiety, social anxiety, separation anxiety, obsessive compulsive disorder, post traumatic stress disorder and borderline personality disorder (BPD).
 - Due to these mental health issues, she cannot interact or communicate with others and social interactions can cause panic attacks. The panic attacks often coincide with complications from her ileostomy.
 - She is unable to cope with change especially last-minute changes with plans.
 - She has a strong dependency on her roommate and is unable to socialize without her.
 - The combination of her mental health illnesses have impacted her ability to perform her DLA.
 - She is restricted in the areas of personal care, leaving the home ,and sitting up or getting out of bed. Leaving her room can cause panic attacks, emotional exhaustion and emotional dysregulation.
 - Physically, she needs a walker to travel longer distances and is completely dependent on her roommate for grocery shopping (as she cannot leave the house without her) and carrying groceries home.

Diagnoses

In the MR, the GP diagnosed the appellant with colon cancer due to familial polyposis (onset 2020), unspecified mood disorder (onset 2017) and supraventricular tachycardia – post surgery (onset June 2021).

Health History

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

- The appellant “was diagnosed with colon [cancer] in March 2021 after repeated presentation to the ER with abdominal pain and vomiting. She had a laparoscopic total abdominal colectomy with an end ileostomy on 18 March 2022”.
- “She is scheduled to have a laparoscopic prostatectomy and ileo - 9 – pouch - anal anastomosis on May 16 May 2022. This will require a diverting loop ileostomy which will be taken down in a staged procedure later once she has healed.”
- “During the times of her surgery she will not be able to work. I suspect this period to be 1 year long.”
- The appellant “suffers from a mood disorder with symptoms of depression and anxiety. She has severe suicidal attempts in 2017”.
- “Her mood is currently fairly stable but has the potential to worsen during stress related to surgery”.
- Height and weight is not relevant.
- She has not been prescribed any medication or treatments that interfere with her ability to perform her DLA. Approximately 1 year recovery of all surgeries.
- The appellant does not require any prosthesis or aids for her impairment.
- The appellant “needs financial help in the next year while she has several surgeries in the year related to colon cancer”.
- “Financial support will decrease stress and help her emotional state stable”.

Degree and Course of Impairment

In the MR, the GP indicated that the appellant’s impairment will likely not continue for 2 years or more and stated, “approximately 1 year from May 2022”.

Physical Impairment

In the MR, the GP left the functional skills section blank.

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

- “Her disability is temporary and related to successive surgeries and recovery”.
- Walking indoor/outdoor, climbing stairs, standing, lifting and carrying/holding are indicated to be performed independently and commented “temporary disability related to surgery”.

Mental Impairment

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

- Difficulties with communication – left blank.
- Significant deficits in cognitive and emotional function in the area of emotional disturbance with the comment: “stable currently”.
- Restrictions to DLA – no restriction to social function.

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

- Speaking, reading, writing, and hearing – good with the comment “n/a”.
- Cognitive and emotional function – no impacts.
- 2 of 5 tasks related to the DLA of social functioning require periodic assistance. ‘Appropriate social decisions’ and ‘able to develop and maintain relationships’ with the comment: [the appellant] “is not getting along with her family and has broken off all contact. She is living with a friend in [another city] with minimal other supports. She has contacted [a community mental health agency] and requested counselling (12 free sessions)”. No information was provided regarding the type, duration and frequency of the restrictions.
- She has marginal functioning with immediate and extended social networks.

Daily Living Activities

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

- No medications that interfere with the ability to perform DLA have been prescribed.
- There are periodic restrictions with 'meal preparation', 'basic housework', 'daily shopping', 'mobility outside the home', and 'use transportation', with the comments: "her disability is surgery related", and "she will need help from her family while recovering". No information was provided regarding the type, duration and frequency of the restrictions.

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

- All listed tasks of all listed areas of DLA are performed independently except social functioning.
- "Temporary disability related to surgery and recovery".

Help

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

- Requires no prostheses or aids for her impairment.

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

- Friends provide help with DLA.
- Assistance provided through the use of Assistive Devices – "none".
- Assistance provided by Assistance Animals – "none".

Evidence on Appeal

Notice of Appeal (NOA), signed and dated August 30, 2022 and stated "The doctor wrote down answers on the form that were not the answers [the appellant] had given. The doctor's answers didn't reflect [the appellant's] situation at all and were very misleading".

Evidence at the Hearing

At the hearing, the appellant reiterated the information in the RFR and listed all of the DLA she cannot perform. She also, in part, stated the following:

- She was originally misdiagnosed with Bi-polar disorder but then diagnosed with Borderline Personality Disorder (BPD). However, the medications she was taking for the Bi-polar diagnosis was counterintuitive for the BPD. There are no treatments available for BPD.
- She was sectioned at around this time as well. [detained under the Mental Health Act of BC]
- Her cancer was misdiagnosed initially.
- Her mental health and physical health challenges make it difficult for her to form relationships.
- During surgery it was discovered that she has a heart defect.
- Her nutrients come via IV.
- She was high functioning until her early teen years.
- She is articulate but organizing thoughts is difficult.
- She has a deformed optic nerve which causes migraines and loss of vision.
- Her DLA are a struggle. She can only perform them if she has the motivation and physical ability.
- She has been denied counselling.
- The mental health issues predate the cancer.

When questioned, the appellant indicated the following:

- There is a major impact to executive functioning.
- She had her friend drive her home and complete the RFR.
- She was going to complete the SR with the GP but the GP took the package and completed on their own.

- No additional information from a prescribed professional was submitted with the RFR or NOA.
- She is not currently taking medications for depression or anxiety to help with the BPD.
- The GP would not refer her to counselling. The local youth clinic offered short-term counselling but it was not specific to BPD.
- A prescribed professional did a psychological assessment but the appellant was not a candidate to see a psychiatrist. The appellant wants to see a psychiatrist and did not return to the youth clinic for the short-term counselling.

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 provided at 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 reference to being sectioned, the diagnosis of BPD, the cancer being misdiagnosed, a heart defect, nutrition comes from IV, having a deformed optic nerve and migraines with vision loss, and being denied counselling services 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 information has not been confirmed by a prescribed professional. As a result, the panel places less weight on the information provided at the hearing.

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 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 argued that due to her mental impairment and colon cancer she is unable to 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 she has been suffering from mental illness (borderline personality disorder) since her early teens and will continue to as she does not have access to treatment.

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 doctor indicated that the appellant's impairment is not likely to continue for two years or more and wrote: "[Approximately] 1 year from May 2022." The ministry noted that at reconsideration the appellant did not provide additional information from a medical practitioner or nurse practitioner. For these reasons it is difficult to establish that, in the opinion of a medical practitioner or nurse practitioner, the impairment is likely to continue for 2 years or more.

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 2 years or more.

The panel notes that in the section in the PWD application regarding duration, the GP specifically indicated that the appellant's impairment will not last 2 or more years and commented that it is expected to last approximately 1 year.

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 her cancer and cancer surgeries she experiences severe abdominal pain that cause profuse vomiting, and inability walk or breath.

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

In its reconsideration decision, the ministry noted that in the MR, the GP did not complete the section regarding physical functioning. In the AR, the GP indicated that the appellant was independent with walking indoors/outdoors, climbing stairs, standing, lifting and carrying/holding and indicated that the appellant is temporary and related to her cancer surgeries. The ministry noted that the GP's narrative does not describe limitations to mobility or physical ability. The ministry noted that, in the RFR, the appellant indicated she difficulty breathing, limitations to walking and she uses a walker. The ministry noted that in the PWD application the GP indicated that she was independent with walking and does not require an assistive device. The GP also did not indicate any difficulties with breathing. The ministry noted that, in the AR, the GP indicated that the appellant is independent with all listed areas of daily living activities. For these reasons, it is difficult to establish a severe impairment of physical functioning.

After considering the evidence as noted above, the panel finds that the ministry reasonably concluded that information the GP provided did not demonstrate that the appellant has a severe impairment of her physical functioning. Though the panel empathizes with the appellant, the MR and the AR do not reflect her position. Specifically, the appellant indicated that she has a heart defect and deformed optic nerve that causes migraines and vision loss. However, none of these conditions were diagnosed by the GP or other medical practitioner. The panel notes that the appellant had the opportunity to provide additional information to confirm her position with her RFR or NOA . The panel finds that the appellant's overall physical functioning and mobility as described by the GP is good and any restrictions the appellant described have not been confirmed by a medical practitioner or nurse practitioner. 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 GP.

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 mental health issues, including BPD, 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 the GP's narrative and that in the MR, the GP did not indicate whether there are difficulties with communication. The GP noted that the appellant has significant deficits to cognitive and emotional functioning in the area of emotional disturbance. The

ministry noted that in the AR, the GP indicated no impact to all listed areas of cognitive and emotional functioning which includes emotional disturbance. The ministry noted that in the AR the GP indicated that periodic support/supervision with making appropriate social decisions and being able to develop / maintain relationships. However, in the MR the GP indicated no restriction with social functioning. The ministry also noted the frequency, duration, and nature of periodic support / supervision required is not described. It is further noted that the GP does not describe safety issues with regards to social functioning.

The ministry considered the RFR, in which the appellant describes panic attacks and the medical conditions of Obsessive-Compulsive Disorder, Post Traumatic Stress Disorder, and Borderline Personality Disorder. However, the GP does not provide a diagnosis of these medical conditions in the PWD application. The ministry also noted although the appellant described impacts to communication, social functioning, and focus, in the PWD application the GP indicated that the appellant has good ability with all listed areas of communication and require periodic support / supervision with only two of five listed areas of social functioning, and no impacts to consciousness and attention / concentration. The ministry concluded a severe impairment of the appellant's mental functioning has not been established.

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 GP indicates that the appellant has good communication abilities and independently manages all listed decision-making DLA. In the AR, the GP indicated that social functioning is periodically restricted but, in the MR, it was indicated that social functioning has no restrictions. The panel also notes that the GP did not provide any explanation regarding the two different opinions regarding emotional disturbance and social functioning.

The panel also considered the appellant's RFR and testimony at the hearing. Though the panel empathizes with the appellant, the MR and the AR do not reflect her position. Specifically, the appellant indicated that she has multiple mental health issues and was sectioned. However, none of this was confirmed by the GP, who had access to file/chart information, or another medical practitioner. 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 GP.

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 mental and physical health prevent her from functioning on a daily basis or complete 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 GP indicated that the appellant not prescribed medications or treatment that interfere with the ability to perform DLA and that she is periodically restricted with 'meal preparation', 'basic housework', 'daily shopping', 'mobility outside the home', and 'use transportation'. The GP indicated that there are no restrictions to 'personal self-care', 'management of medications', 'mobility inside the home', and 'management of finances'. The ministry noted that the GP does not describe the frequency, duration, or degree of periodic restrictions to the abovementioned areas of DLA. The GP indicated that the appellant's "disability is surgery related." As previously noted, the GP stated "[approximately] 1 year for recovery of all surgeries." The ministry also noted although in the MR the GP indicated periodic restrictions to meal preparation, basic housework, daily shopping, mobility outside the home, and use of transportation, in the AR indicated that these DLA are performed independently.

The ministry noted that in the AR, the GP indicated periodic support / supervision is required with making appropriate social decisions and being able to develop / maintain relationships. However, in the MR, the GP indicated that social functioning is not restricted. The ministry also noted that in the AR, the frequency, duration, and nature of periodic support / supervision required is not described.

The ministry considered the RFR, in which the appellant described restrictions with dressing, showering, personal hygiene, leaving home, getting out of bed, grocery shopping, and lifting. However, in the AR, the GP indicated that these DLA are performed independently. In the AR, the GP indicated no impacts to all listed areas of cognitive and emotional functioning. It is also noted that the GP did not describe an inability to leave home due to impacts of mental functioning.

The ministry concluded that there is not enough evidence to confirm that the appellant has a severe impairment that significantly restricts the ability to perform her DLA continuously or periodically for extended periods. Therefore, the legislative criteria have not been met.

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 of social functioning does not satisfy the legislative requirements.

Though the appellant provided further details about the restrictions to her 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'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 roommate.

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 GP indicated that the appellant does not require any prosthesis or aids for her impairment and that her friends 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 (Year/Month/Day)
2022/09/28

Print Name
Robert Kelly

Signature of Member

Date (Year/Month/Day)
2022/09/28

Print Name
Effie Simpson

Signature of Member

Date (Year/Month/Day)
2022/09/28