

Part C – Decision Under Appeal

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the ministry) Reconsideration Decision dated September 16, 2022 which found that the appellant did not meet all of the 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 and that he has an impairment that is likely to continue for at least two years. However, the ministry was not satisfied that the evidence established 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 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 the time of Reconsideration

The appellant's PWD application comprised of:

- A Medical Report (MR) [dated April 17, 2022] and an Assessor Report (AR) [dated June 16, 2022], completed by the appellant's physician (the GP), who had known the appellant for 6 months and had seen the appellant 2-10 times in the past 12 months of the PWD application. The MR and AR were completed by an office interview with the appellant, file/chart information and an interview with family (the appellant's mother).
- The PWD application also included the appellant's Self-Report (SR) dated June 24, 2022.

Request for Reconsideration (RFR) dated September 1, 2022. The RFR contained two parts; one from the appellant and one from his mother. In the RFR, the appellant, in part, stated the following:

- His mother leaves prepared food for him before leaving for work so he does not burn himself or break dishes.
- He forgets things and cannot pay attention.
- In school he needed additional time to complete his activities and had an assistant.
- When walking he must hold his mother's hand because its too dangerous to do so alone.
- He has difficulty writing and does so slowly.
- He sits to shower because if he stands, he may fall.

The second RFR from the appellant's mother, in part, stated the following about the appellant:

- His motor coordination is too slow for writing, typing and reading.
- He drops things such as plates and glasses and either breaks them upon the drop or when picking them up.
- He has a serious walking imbalance and its very dangerous for him to walk alone due to falls.
- He underwent 5 brain surgeries and his sequels became very serious. He could only walk with his hands on the wall or holding someone's hand and he could not sit on the couch or chair without an arm as he would fall over.
- He attended hippotherapy, physiotherapy, occupational therapy, speech therapy, swimming, Pilates etc. Due to the amount of time spent in therapy, emotionally he is at age 14-15 when chronologically he is older (an adult).
- At school he experienced social inclusion with the help of a person to carry-out his activities and assessments.
- He has a hard time remembering and retaining information.
- He tends to disassociate when spoken to and will return to the present time after a few seconds.
- She prepares his food before leaving for work but then videocalls him to guide him through the process of heating his food so he does not get hurt.
- Her hours have been cut at work and she supports her son completely. It will be good for his esteem and for her mental health if the appellant was financially independent.

Diagnoses

In the MR, the GP diagnosed the appellant with Benign neoplasm of the brain (onset: 2008).

Health History

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

- He was diagnosed with a benign brainstem tumor in 2008, now 5/p surgery and removal of the tumor with recurrent disability including physical and speech.
- Currently issues with balance, poor coordination.

- Height and weight were not indicated.
- He is not prescribed medication/treatment that interfere with the ability to perform DLA.
- He does not require any prostheses or aids for his impairment.

Degree and Course of Impairment

In the MR, the GP indicated that the appellant's impairment is likely to continue for two or more years from the date of the application, with the comment: "likely lifetime".

Physical Impairment

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

- He can walk 1-2 blocks and climb 5+ steps unaided, lift 5 to 15 lbs and remain seated without limitation.

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

- The appellant requires periodic assistance with walking indoors/outdoors, climbing stairs, standing, lifting and carrying/holding. No additional explanation or details were provided.

In the SR, the appellant indicated the following about his physical ability:

- He has a balance problem and a fine motor coordination problem.
- He cannot write and drops things.
- He has to eat carefully so he does not choke.
- He cannot walk in a straight line or carry heavy things.

Mental Impairment

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

- There is no diagnosis of a mental impairment.
- There are difficulties with communication in the area of motor activity.
- There are no significant deficits with cognitive and emotional function.
- There are no restrictions to management of finances or social function.
- It is unknown if there are restrictions to personal care and management of medication.
- There is a periodic restriction to daily shopping and transportation but no explanation or details were provided.

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

- Reading and hearing are good. Speaking and reading are poor.
- Under cognitive and emotional function, there is a major impact to the area motor activity.
- Under DLA, periodic assistance is required with all listed tasks of personal care, shopping, pay rent/bills, and medications.
- With Social functioning 'able to develop and maintain relationships' and 'able to deal appropriately with unexpected demands' require periodic assistance. All other listed tasks are performed independently. No information was provided to explain the periodic assistance required.
- There is good functioning with immediate and extended social networks.

In the SR, the appellant did not provide information regarding a mental impairment.

Daily Living Activities

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

- There are periodic restrictions with basic housework, daily shopping, mobility outside the home and use of transportation.

- It is unknown whether there are restrictions with personal self-care and meal preparation.
- There are no restrictions with management of medications, mobility inside the home, management of finances and social functioning.
- No comments were provided to explain or give details of the periodic restrictions the appellant faces.

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

- All listed tasks under each listed category of DLA require periodic assistance except social functioning (described previously in this document). No comments were provided to explain or give details of the periodic assistance that is required by the appellant.

In the SR, the appellant stated the following about DLA:

- He has to eat carefully so he will not choke.

Help

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

- He lives with family, friends or caregivers.
- Assistance is provided by his family.
- Assistance is not provided through assistive devices or assistance animals.

In the SR, the appellant did not provide information regarding the help he requires or who provides it.

Evidence on Appeal

Notice of Appeal (NOA), signed and dated August 26, 2022. The NOA was left blank.

Evidence Prior to the Hearing

Prior to the hearing the appellant submitted the following information. However, this information was originally submitted with the RFR.

- October 11, 2022 letter from the GP who completed the PWD application. In this letter the GP stated that the appellant has significant neurological deficits from his brain tumor, he is unable to work and the GP attests that the appellant should be considered for disability.
- July 12, 2019 neurologist report. Only one page was submitted. The report spoke of the appellant's ability to perform certain movements, write and speak. The report made suggestion on adaptations that will help the appellant in school.
- May 12, 2001 note from the appellant's previous physician written in another language.
- January 28, 2014 note from the appellant's previous physician written in another language.
- October 15, 2019 letter from the appellant's high school learning support teacher (LST), which states that the appellant was identified by the school district as a student with Chronic Health Designation. The LST was responsible for creating and implementing the appellant's Individual Education Plan (IEP) which outlines the appellant's strengths, weaknesses and the necessary adaptations for his educational success.
- December 3, 2019 IEP (4-pages). The appellant's strengths were identified as social, sense of humour, and quick to grasp ideas and concepts. The needs were identified as having a scribe and a reader when possible. The appellant displays symptoms of cerebellar dysfunction, dysmetria in the extremities (lack of coordination, undershooting/overshooting when judging distances) and central Axia with gait and tandem (may affect coordination, gait, speech, and eye movement). The appellant learns best with adjusted pace, adapted assignments, clear/specific instructions and extra time. It outlines the goals and goal planning.
- December 3, 2019 letter from the LST requesting input from the appellant's parents for his IEP.
- A duplicate copy of the IEP goals.

- September 30, 2019 letter from the child development centre indicating that the LST's request for occupational therapy for the appellant has been accepted.
- June 20, 2018 school therapy referral form requesting occupational therapy and physiotherapy.

Evidence at the Hearing

At the hearing, the appellant submitted the following information which originally is in another language but was translated by the translator who was present at the hearing.

- December 21, 2008 hospital admission document which indicates the appellant's presenting issues at the time such as slurred speech and difficulty with mobility. He experienced seizures due to a tumor behind the eye.
- November 23, 2008 requisition for exam (MRI).
- December 22, 2008 requisition for assessment for plastic surgery.
- December 22, 2008 clinical assessment with multiple entries that were largely illegible. The clinical assessment indicated that the appellant had a tumor, listed the prescribed medications, and that the appellant was active-reactive-and stable at the time of admission. It gave the surgery preparation and process. The appellant was admitted for 18 days due to seizures. An infection in the scar tissue from previous surgery was found.
- November 29, 2008 discharge report which indicated the appellant's diagnosis, outlined surgical outcomes, procedure of the surgery, pre-surgery exams, physical exam that was completed at discharge, listed prescribed medication and that the appellant is to follow-up with the neurosurgeon.
- December 29, 2008 discharge summary and clinical summary.
- December 21, 2008 report outlining presenting issues at admission to hospital and the need for the removal of a mass.
- December 22, 2008 the nurse's report of the care provided to the appellant while in ICU.

The translator also translated the two notes that were submitted with the RFR:

- May 12, 2016 note stated, in part, that the appellant underwent surgery in December 2008 after which he became 'cross-eyed'. There is no restriction to perform corrective surgery.
- January 28, 2014 note stated, in part, that the appellant is in need of special care, and attention and he experiences motor deficit from neurosurgery.

At the hearing, the appellant and his advocate reiterated the information submitted with the RFR and, in part, stated the following:

- He is forgetful and does not always clean up after himself.
- He does not walk straight as his left leg curves and does not land straight.
- Reading and writing is slower than average.
- Attention/concentration are difficult.
- He needs help outdoors on non-flat surfaces as there is the danger of tripping. He needs a cane or scooter to be mobile.
- He needs to repeat things to learn and remember them.
- He has a balance issue therefore walking is dangerous. He appears impaired when walking and cannot walk straight.
- He sometimes falls in the washroom and hits his back on the corner of the counter.
- He does not have dexterity in his hands as fine and gross motor skills are compromised.
- Eating is problematic as there is a choking hazard. He does facial exercises, and will for life, to maintain his muscles so he can eat.
- It is difficult to even find volunteer work for the appellant. WorkSafe BC will be doing an assessment to determine which work is best suited for him.

When questioned the appellant stated the following:

- He does not need extra time to walk or complete chores but it is dangerous because he can lose balance.
- He lives with his parents and is usually accompanied by others when indoors/outdoors.
- His mom has taught him how to complete DLA with adaptations but completes some things for him such as preparing meals.
- The help he needs with DLA is largely due to memory issues.

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

When questioned, the ministry stated the following:

- If frequency, type and duration of the periodic assistance the appellant requires was clearly described by the GP there may have been a different decision at reconsideration.
- The appellant's opinion about restrictions to DLA is important but the legislation requires that all restrictions be confirmed by the medical practitioner.
- The diagnostic code of 225.0 is a medical code and not listed on the PWD application.

Admissibility of Additional Information

The ministry did not object to the admission of any information presented prior to or 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.

The panel found that the documents submitted prior to the hearing and at the hearing provided additional detail or disclosed information that was in support of the information addressed in the reconsideration. Accordingly, the panel has admitted this new information as being in support of information and records that were before the ministry at the time of reconsideration, in accordance with s. 22(4) of the *Employment and Assistance Act*. However, the panel finds that all of the documentation submitted prior to the hearing and at the hearing is primarily medical history, related to diagnosis and treatment, is not current, and does not speak to the severity of the appellant's physical or mental impairment, the ability to perform DLA independently or whether assistance is required to perform DLA. Therefore, the panel places little weight on the information submitted prior to the hearing and 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 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.

The relevant legislation can be found in Appendix A.

Panel Decision

The appellant argued that due to his impairment he is unable to volunteer or 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.

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 multiple surgeries, infection and a tumor, he has compromised fine and gross motor skills. He has trouble with balance and walking which make mobility and physical functioning difficult.

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 the reconsideration decision, the ministry noted the appellant's physical functioning as indicated by the GP in the MR and the mobility and physical ability as indicated by the GP in the AR. The ministry noted that it was indicated in the AR that periodic assistance was required; however, no information is provided by the GP to explain the type, the frequency or the degree of the assistance required. As such, the ministry was unable to determine that the appellant requires a significant degree of assistance to help manage. The ministry also noted that the GP indicated that the appellant does not require the use of any prostheses or aids and does not report the appellant takes longer to manage physical functioning. The ministry concluded that the functional skill limitations described by the GP does not support a severe degree of physical impairment.

After considering the evidence as noted above, the panel finds that the ministry reasonably concluded that information provided did not demonstrate that the appellant has a severe physical impairment of his physical functioning. The panel notes that the PWD application was completed, in part, by an interview with the appellant and his mother. Therefore, the appellant had an opportunity to provide a full and

detailed picture of his physical condition. The panel finds that the appellant's overall physical functioning and mobility as described by the GP in the MR is good. The panel noted that the GP did not explain why in the MR the appellant is able to climb 5+ steps unaided but in the AR climbing stairs requires periodic assistance. The same is true for mobility inside the home. The panel finds that it is reasonable to have this information resolved in order to make a sound determination.

The legislation requires that the ministry be satisfied that the person applying for PWD designation has a severe physical or mental impairment. The ministry has argued that where it is indicated that periodic assistance is required with mobility and physical ability, the GP did not provide information about the type, duration and frequency of the assistance required or any other details. The panel finds that in determining whether an impairment is severe, it is reasonable for the ministry to ask for such information. Without such information, making a determination would be difficult.

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 support his position. The appellant repeatedly indicated that balance is the primary physical issue which causes limitations to DLA such as showering and with mobility such as walking. The appellant indicated that its too dangerous for him to walk or shower without assistance. However, the appellant does not use a cane or walker for stable mobility, and grab bars or bath chair in the shower for stability and this was confirmed by the GP. This raises questions about the severity of the physical impairment as described by the appellant. Therefore, the panel finds it is reasonable that the ministry was not satisfied that the appellant has a 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 he has difficulty learning new skills, remembering and with attention/concentration.

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, the GP did not provide a diagnosis of a mental impairment and indicated that the appellant does not have deficits to cognitive and emotional functioning. The ministry noted that in the AR, the GP indicated one major impact in the area of motor activity and minimal to no impact in all other areas of cognitive and emotional functioning. The GP indicated difficulties with communication in the area of motor activity and reports the ability to speak and write is poor and the ability to read and hear is good. The ministry concluded that the assessment by the GP does not demonstrate a severe degree of impairment to cognitive and emotional functioning.

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 MR, the neurologist did not diagnose the appellant with a mental impairment. The panel also notes that the GP did not explain why in the MR it was indicated that there are no significant deficits to cognitive and emotional function but in the AR, it was indicated that there is a major impact to motor activity. Similarly, in the MR, the GP indicated that social function was not restricted and in the AR the GP

indicated that 2 or 5 tasks of social functioning required periodic assistance. Moreover, the appellant did not argue that he suffers from a mental impairment that restricts his ability to function independently or effectively.

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 support his position. The appellant argued that he has learning disabilities, which includes requiring instructions repeatedly, difficulties with concentration and memory. The appellant stated that the main issue with restrictions DLA is related memory. However, the GP indicated no impacts or minimal impacts to executive function, memory and attention/concentration and the panel once again notes that the PWD application was complete by consultation with the appellant and his mother. The appellant's mother indicated that she has taught him how to complete most of his DLA but he needs help with some, like meal preparation. However, the required assistance with meal preparation is largely related to the inability to balance. The legislation requires that the ministry be satisfied that the applicant has a severe impairment. In this case, the panel finds that there is insufficient evidence to confirm a determination of a severe mental impairment. Therefore, it is reasonable that the ministry was not satisfied that the appellant has a severe mental impairment.

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 the inability to be fully mobile impacts his ability to complete his 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 is restricted in the ability to perform basic housework, daily shopping, mobility outside the home and use of transportation. However, no information is provided to explain the nature of the restriction, such as the frequency or the degree. The ministry concluded that it cannot determine that the appellant is significantly restricted in the ability to perform his DLA. The ministry noted that in the AR, the GP

indicated that the appellant requires periodic assistance from another person with all activities of daily living. However, no information was provided to describe the periodic nature of the assistance required to help manage, such as the type, the frequency or the degree of the assistance. Also, the GP did not identify that the use of an assistive device is required or that the appellant takes longer to manage DLA. Similarly, with social functioning, the GP did not provide information to explain the type or the degree of the assistance that is required to help manage these areas of social functioning. The ministry concluded that there is not enough evidence to confirm that a severe mental or physical impairment significantly restricts the ability to perform DLA continuously or periodically for extended periods.

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 the evidence does not provide enough information, such as type, degree and duration of the assistance required, to support a determination that DLA are restricted periodically for *extended periods* pursuant to the legislation. The panel also notes that in the MR the GP indicated that 'management of medications', 'social functioning' and 'management of finances' are not restricted. However, in the AR, the GP indicated that these DLA require periodic assistance but did not explain this discrepancy. Additionally, the panel notes that insufficient additional or supporting information was provided from a prescribed professional at appeal to support the appellant's position.

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's evidence is not supported or confirmed by his 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 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 he requires help with DLA from his family especially with showering and meal preparation.

The ministry argued that as it has not been established that daily living activities are significantly restricted (criterion 4), and 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'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*

Appeal Number 2022-0227

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: 2022/10/12
(Year/Month/Day)

Print Name
Robert Kelly

Signature of Member

Date: 2022/10/12
(Year/Month/Day)

Print Name
Linda Pierre

Signature of Member

Date: 2022/10/12
(Year/Month/Day)