

Part C – Decision Under Appeal

The decision under appeal is the reconsideration decision of the Ministry of Social Development and Poverty Reduction (“ministry”) dated November 24, 2022, in which the ministry denied the appellant designation as a person with disabilities (“PWD”) under the Employment and Assistance for Persons with Disabilities Act (“EAPWDA”). The ministry found that the appellant met the requirements for age (over 18) and duration (impairment to continue for at least 2 years) but was not satisfied that:

1. the appellant had a severe mental or physical impairment;
2. the appellant’s impairment significantly restricted her ability to perform daily living activities; and
3. the appellant required significant help or supervision of another person to perform daily living activities restricted by her impairment.

The ministry also found that the appellant is not in one of the prescribed classes of people who may be eligible for PWD designation on the alternative grounds set out in section 2.1 of the Employment and Assistance for Persons with Disabilities Regulation (“EAPWDR”). As there was no information or argument provided for PWD designation on alternative grounds, the panel considers that matter not to be at issue in this appeal.

Part D – Relevant Legislation

EAPWDA, section 2
EAPWDR, section 2

Full text of the legislation is provided in the Schedule of Legislation after the reasons.

Part E – Summary of Facts

The hearing took place by videoconference. The hearing began on December 28, 2022 and was adjourned because the ministry did not have a complete Appeal Record including additional evidence provided by the appellant for the appeal. The hearing was re-scheduled for January 6, 2023. The appellant had not requested an adjournment but had told the Tribunal less than 24 hours before the hearing that she had forgotten about the hearing date because of illness and a death in the family. The appellant did not attend the hearing on January 6, and the panel adjourned the hearing. The hearing was re-scheduled for January 23, 2023, and the hearing proceeded with the appellant and the ministry representative in attendance.

Evidence Before the Ministry at Reconsideration:

The appellant is over 18 years of age. In support of her application, she submitted a medical report and an assessor report completed by her doctor and her self-report. For the reconsideration, she also provided two brief doctor's notes and a three page written submission.

Medical Report:

The doctor does not indicate how long the appellant has been their patient but says they have seen the appellant 11 or more times in the past 12 months.

Diagnoses:

The doctor lists diagnoses of anxiety and depression, onset 2005.

Health History:

The doctor states that the appellant: "has a lot of anxiety, depression, generalized anxiety disorder, has a lot of panic attacks, vaso-vagal attacks, nightmares, anxious all the time. Unable to work under stress, unable to focus, chest pain, chest tightens with any stressful situation, has social phobia."

Functional Skills:

The doctor indicates that the appellant can walk 2 to 4 blocks, climb 5+ stairs unaided, lift 2 to 7 kg., and has no limitation in remaining seated. They indicate no difficulties with communication, but significant deficits with cognitive and emotional functioning,

specifically, in the areas of executive (planning, organizing, sequencing, calculations, judgement), emotional disturbance (e.g. depression, anxiety), motivation (loss of initiative or interest), impulse control, motor activity (goal oriented activity, agitation, repetitive behavior) and attention or sustained concentration.

Daily Living Activities:

The doctor indicates that the appellant's impairment directly restricts her ability to perform the following daily living activities listed on the medical report form:

- daily shopping
- mobility outside the house
- use of transportation
- social functioning (daily decision making; interacting, relating and communicating with others).

With respect to social functioning, the doctor explains that the appellant "has agoraphobia, social phobia, depressed, anxious dealing with people."

Additional Comments:

The doctor repeats the diagnoses of anxiety, depression, generalized anxiety disorder and "vasovagal attacks with any stress."

Assessor Report:

The doctor notes that all aspects of the appellant's ability to communicate are good, and that she is independent in all aspects of mobility and physical ability. The doctor indicates that the appellant's mental impairment has moderate impact in the following areas of cognitive and emotional functioning:

- Emotion (e.g. excessive or inappropriate anxiety; depression, etc.)
- Impulse control (e.g. inability to stop doing something or failing to resist doing something)
- Insight and judgement (e.g. poor awareness of self and health condition(s); grandiosity; unsafe behavior)
- Attention/concentration (e.g. distractible; unable to maintain concentration; poor short term memory)
- Executive (e.g. planning; organizing; sequencing; abstract thinking; problem-solving; calculations)
- Motivation (e.g. lack of initiative; loss of interest)

- Executive (e.g. planning; organizing; sequencing; abstract thinking; problem-solving; calculations).

They indicate minimal impact for other emotional or mental problems, with the explanation that the appellant “has anxiety with communication with people, social phobia and panic attacks.”

Daily Living Activities:

The doctor indicates that the appellant is independent in personal care, basic housekeeping, shopping, meals, pay rent and bills, medications, and transportation, but comments “still suffering communication with people.” Under “Social Functioning” the doctor indicates that the appellant needs periodic support or supervision to make appropriate social decisions, develop and maintain relationships and deal appropriately with unexpected demands. They indicate marginal functioning with the appellant’s immediate social network and very disrupted functioning with the appellant’s extended social networks.

The doctor indicates that the appellant’s family, friends and health authority professionals provide help required for daily living activities.

Doctor’s note dated October 4, 2022:

The doctor repeats the appellant’s diagnoses and adds “unable to communicate with people.”

Self-Report:

The appellant lists her disabilities as anxiety, depression, panic attacks, PTSD, “vaso vagal”, migraines, “TMJ”, arthritis in the left ankle and back, restless legs, chronic pain, fatigue, “OCD”, binge eating, nausea, blood pressure issues, balance issues and plantar fasciitis.

She adds comments about daily living activities:

- Personal self care: “it is hard to engage”
- Meal preparation: she has no appetite most of the time, usually eats something she can grab quickly, and she does not eat enough
- Medication: is left out for her every day and she is reminded to take it
- Basic housework: “I have a hard time as I am always in pain, can’t walk or nervous [sic] because I will do it wrong or get hurt”
- Daily shopping: done by friends or parents
- Mobility in the home: sometimes uses crutches “as the pain is too much”

- Mobility outside: “crutches help, but pain and my mind take over and I usually cancel”
- Transportation: gets rides from others, drives a car sometimes but gets anxiety driving
- Managing finances: a parent “helps with financing and my money”
- “Decision making is difficult as I don’t have strength or feel weak at times when I do. I am not social and have a hard time communicating as I can’t relate to others.”

In answer to the question of how her disability affects her life and her ability to take care of herself, the appellant states:

- She wakes in pain or gets “zero sleep from pain or not being able to shut my brain off”
- She becomes irritable which makes it hard to deal with “life’s ups and downs”
- She lives in a constant state of worry “of everything, past, present and future” which makes it “hard to do much of anything”
- She has issues focusing, and her thoughts cause her to have panic attacks when she loses all self-control
- She has PTSD from childhood trauma and family circumstances
- She has panic attacks about blood pressure issues
- She has nausea that has not been treated successfully
- She forgets things easily, has memory loss from trauma and feels “easily triggered under all my stress”
- She says that, when she is overstressed, “I feel vaso vagal and will faint”

Appellant’s Written Submission at Reconsideration:

With her Request for Reconsideration, the appellant provided a three page typed submission, in which she repeats some of the information in her self-report and the medical and assessor reports, and adds:

- Constant worry and fear keep her in panic mode which makes her blood pressure fluctuate, causing “symptoms of Vaso Vagal and...panic attacks. This continuously happens to me throughout the day and it is very scary.”
- She needs help getting in and out of the shower because she is afraid of slipping because of her previously broken ankle, which still causes her pain.
- If she sits in the bath she needs help to stand up.
- She struggles to find the motivation to do basic hygiene and has to be reminded to shower.
- She has suffered from anxiety and panic attacks since childhood.

- She has anxiety about a sibling's situation and a parent's health issues, and also has custody of a sibling's child.
- She cannot hold a job, although she would like to be employed.
- She has "so many bad days, more than good days. My bad days can lead into bad weeks and months." Sometimes she does not change out of pyjamas for days.
- She needs continuous help with daily living activities and gives up on tasks very easily.
- A friend helps with finances, because the appellant does not have much money and has a hard time keeping track of her funds and paying bills on time.
- She takes "a lot longer to do things on [her] own" and is "constantly asking for help" although she also refuses help because she has poor social functioning and does not want to bother people.
- On a good day, she can shower in 10 minutes, on a bad day it takes 25 minutes.
- She says that completing the paperwork for the reconsideration "has taken me so long to complete as I shut down, restart, shut down and restart. It is very difficult."
- Limitations on lifting, walking and climbing add to her anxiety:
 - Her foot is constantly in pain and swollen because she has " a bad right ankle [sic]."
 - She is limited in walking because of the pain and also her anxiety about possibly re-injuring her ankle when walking.
 - She always holds onto someone when walking up stairs.
 - The only "climbing" she does, is in and out of the shower, with constant support because she fears falling.

Additional Evidence:

Psychologist's Report, dated September 15, 2015

On appeal, the appellant provided 24 pages of a medical-legal report from a registered psychologist, including appendices from 2 other psychologists and a Beck Depression Inventory questionnaire completed by the appellant, dated August 10, 2015. The report was prepared for litigation related to injuries the appellant sustained in motor vehicle accidents in 2011 and 2013.

With respect to disabilities and impairments that relate to the appellant's application for PWD designation, the psychologist states:

- The Beck Depression Inventory indicated a level of depressive symptoms in the Severe range

- The appellant met the criteria for Major Depressive Disorder, Generalized Anxiety Disorder and Specific Phobia (Situational Type/Traffic and Driving)
- The prognosis for recovery was guarded, and if her physical problems did not resolve, her psychological problems would likely be prone to relapse.

In an appendix to the report, dated August 10, 2015, a second psychologist states:

- The appellant sustained Major Depressive Disorder, severe, with anxious distress, Post Traumatic Stress Disorder (chronic) and Specific Phobia (situational type, traffic and driving) as a result of the 2011 motor vehicle accident
- Chronic pain, insomnia, depression and anxiety are interrelated
- Symptoms of depression and anxiety were in the severe range “with ongoing severe and extreme impairments in vocational, social, and domestic/recreational domains.”

Another appendix to the report, from a third psychologist, that appears to be the 4th and final page of another report, repeats the same psychological diagnoses as the other two reports, and states that the appellant:

- “feels sad and down every day”
- “lacks motivation and interest in her typical activities every day”
- is “weepy throughout the day and cries heavily at night”
- “has withdrawn from people”
- lacks energy and feels fatigued
- has difficulty with memory, concentration, and decision-making
- feels irritable, anxious, restless and on edge constantly
- experiences sleep disturbances
- experiences anxiety in the car.

Appellant's Evidence at the Hearing

The appellant was tearful at the first adjournment, and throughout the hearing when it resumed. In answer to questions from the panel, the appellant stated:

- She has difficulty communicating because she gets emotional and starts to cry, for reasons she does not understand; she shuts down or breaks down and is “constantly emotional.”
- She will not go to the store alone, even though it is only two blocks away, and she could not carry heavy items back from the store. Either someone picks her up and takes her to the store, or they bring her shopping to her.
- She has crutches and a walker “in case anything happens”, which makes her feel more secure, because of her ankle injury

- She is on a wait list for mental health treatment and has seen counsellors “off and on” since 2015
- She disagrees with the doctor’s assessment of her functioning as “independent” in physical activities, and says that, when she asked the doctor, they said they did not know why they wrote that.

Admissibility of Additional Evidence:

The ministry did not object to admission of the additional written evidence, or the additional information provided by the appellant in her oral evidence at the hearing.

The panel finds the additional evidence to be admissible under section 22(4) of the Employment and Assistance Act. The evidence provides additional information about the appellant’s medical condition and the extent of impairment, and therefore is reasonably necessary for the full and fair disclosure of all matters relating to the decision under appeal.

Part F – Reasons for Panel Decision

The issue on appeal is whether the ministry's reconsideration decision, in which the ministry found the appellant to be ineligible for PWD designation under the EAPWDA, was reasonably supported by the evidence or was a reasonable application of the legislation in the appellant's circumstances. The ministry found that the appellant met the requirements for age (over 18) and duration (impairment to continue at least 2 years) but was not satisfied that:

- the appellant has a severe mental or physical impairment;
- the appellant's impairment, in the opinion of a prescribed professional, directly and significantly restricts her ability to perform daily living activities either continuously or periodically for extended periods; and
- as a result of restrictions caused by the impairment, the appellant requires an assistive device, the significant help or supervision of another person, or the services of an assistance animal to perform daily living activities.

Appellant's Position:

While the appellant says she understands why the ministry refused PWD designation the first time, she maintains that the additional evidence clearly shows that she meets the criteria.

Severe Mental or Physical Impairments:

The appellant says that she has both severe mental and physical impairments.

Physical Impairment: The appellant says that she has constant migraines, chronic pain, pain and swelling in her right foot, and pain in her left ankle. Although the doctor indicated that she is independent in mobility and physical ability, the appellant says that information is not correct, and the doctor told her that he "doesn't know why he wrote that." The appellant says that she cannot get in and out of the shower or tub by herself, and she always holds onto someone when she goes up and down stairs.

Mental Impairment: The appellant relies on the report of the psychologist and the medical and assessor reports completed by her doctor. She says that the reports show clearly that she has Generalized Anxiety Disorder, severe depression, social phobia and panic attacks. She says that, as a result, she has memory issues, is irritable with others, has trouble focusing and loses self-control. When she is stressed, she says she also has vasovagal spells and faints. Therefore, she maintains that her mental impairment is severe.

Restrictions on Daily Living Activities

The appellant says that, as a result of the physical and mental impairments she is restricted in her daily living activities. She says that:

- she cannot get in and out of the shower or tub by herself
- she cannot remember to take her medication without reminders
- she sometimes needs a friend or family member to remind her to pay bills, or do online banking for her
- she has little energy or motivation to do housework, perform basic hygiene or prepare meals for herself
- she cannot shop by herself.

She relies on the evidence of her doctor, who says that the appellant's daily living activities are restricted by agoraphobia, social phobia, anxiety dealing with people and vasovagal attacks when stressed. The doctor identifies restrictions on daily shopping, mobility outside the house, use of transportation and social functioning.

Help with Daily Living Activities

The appellant maintains that she needs help from family and friends to perform daily living activities, including shopping and prompts for personal hygiene and medication.

Ministry's Position:

Severe Mental or Physical Impairment

Physical Impairment: The ministry argues that, while the appellant describes pain resulting from injuries suffered in motor vehicle accidents in 2011 and 2013, the doctor does not provide a diagnosis of a physical impairment in the medical or assessor reports. The doctor does not indicate significant restrictions in the appellants ability to walk, climb stairs, lift or remain seated. Further, the doctor indicates that the appellant is independent and functioning without restrictions in all aspects of mobility and physical ability. Therefore, the ministry maintains that the appellant does not have a severe physical impairment.

Mental Impairment: The ministry acknowledges that the doctor has diagnosed anxiety and depression. While the doctor says that appellant cannot work, the ministry says that employability is not one of the criteria for PWD designation.

At reconsideration, the doctor indicated that the appellant cannot communicate with others but did not indicate the frequency or duration of that impairment. At the same time, the doctor stated that the appellant had no difficulties with communication, including cognitive difficulties, and that her ability to communicate was good. While the doctor indicated that the appellant had significant deficits in cognitive and emotion function, they noted the impact to be either minimal or moderate. Therefore, the ministry determined that the assessments provided by the appellant's doctor did not establish a severe mental impairment.

At the hearing, the ministry stated that, after reviewing the additional evidence of the psychologists, the ministry is satisfied that the appellant has a severe mental impairment. They note that the psychologists state that the appellant lacks motivation, suffers from sleep disturbances and has difficulty concentrating. They describe anxiety, social withdrawal, rapid mood change, and emotional withdrawal. In the opinion of the psychologist, the appellant's prognosis is guarded. Therefore, the ministry says that the medical evidence confirms a severe mental impairment.

Restrictions on Daily Living Activities

At reconsideration, the ministry argued that, while the doctor indicated continuous restrictions in daily shopping, mobility outside the home and use of transportation, they did not provide any information about how the appellant's mental impairment restricted those activities. At the same time, in the Daily Living Activities section of the assessor report, the doctor indicates that the appellant is independent in those same activities, except for going to and from stores. The ministry acknowledged that, in her self-report, the appellant describes greater limitations, but notes that, other than that one aspect of shopping, the doctor has not confirmed that the appellant required help or was unable to manage those aspects of her daily living activities.

For social functioning, the doctor indicated that the appellant needed periodic support or supervision for making appropriate social decisions, developing, and maintaining relationships and dealing appropriately with unexpected demands, but did not provide any information about the degree and duration of support needed. Therefore, the ministry maintained that it was not established that a severe impairment directly and significantly restricted the appellant's daily living activities continuously or periodically for extended periods.

At the hearing, the ministry representative stated that, after reviewing the additional evidence, they were satisfied that the appellant's daily living activities were directly and

significantly restricted for extended periods. The psychologist states that the appellant's memory is poor, and she loses her train of thought. She is not organized, stays in bed all day, 2 or 3 times a week, she has lost interest in people and activities. The ministry noted that the psychologist writes that the appellant's "lingering psychological and physical symptoms continued to have significant impacts on her social, recreational and daily living functioning."

Help with Daily Living Activities

At reconsideration, the ministry decided that, as it had not been established that daily living activities were significantly restricted either continuously or at all, the ministry could not determine that significant help was required from other people.

At the hearing, the ministry representative maintained that, as the doctor had identified daily living activities that the ministry was satisfied were directly and significantly restricted, it was reasonable to believe that significant help was required. Therefore, the ministry was satisfied that the appellant met the criterion of requiring significant help with daily living activities.

Panel Decision:

To find a person eligible for PWD designation under the EAPWDA, the ministry must be satisfied that the appellant has met all the requirements in section 2. In this case, the ministry was not satisfied:

1. that the appellant had a severe mental or physical impairment;
2. that, in the opinion of a prescribed professional, the impairment directly and significantly restricted the appellant's ability to perform daily living activities;
3. as a result of those restrictions, the appellant requires help to perform those activities.

Severe Mental or Physical Impairment

Physical Impairment: In the medical and assessor reports, the appellant's doctor does not identify a diagnosis of a physical injury or impairment. In the medical report, the doctor indicates either no, or minimal, limitations in walking, climbing stairs, lifting and remaining seated. In the assessor report, they assess the appellant as independent in all aspects of mobility and physical ability listed. While the appellant provides a lengthy list of additional physical symptoms and conditions in her self-report and her submissions on reconsideration and appeal, those conditions are not confirmed by a doctor. Where they

appear in the additional report from the psychologist, again the source appears to be the appellant's statements. The psychologist expressly defers to medical specialists to comment on physical injuries and diagnoses. Therefore, the panel finds that the ministry was reasonable in determining that the appellant does not have a severe physical impairment.

Mental Impairment: The appellant's doctor has diagnosed generalized anxiety disorder and depression, resulting in panic attacks, social phobia, agoraphobia, vasovagal attacks, and nightmares. The doctor confirmed that the appellant has significant deficits in cognitive and emotional function, but in the medical and assessor reports provided little information beyond stating that they exist. While the doctor and the appellant maintain that she is unable to work, employability is not a consideration in determining eligibility for PWD designation.

However, the psychologist's lengthy and detailed report confirms the appellant's evidence that she is in a constant state of anxiety, she has difficulty concentrating, she has extreme social anxiety, such that she avoids contact with people and stays in bed all day, 2 or 3 days a week. The panel notes the psychologist's opinion that the appellant's prognosis was guarded at the date of the report. The appellant's evidence at reconsideration and on appeal confirms that her condition appears to be unchanged since then. Further, while the current treating doctor did not identify major impacts on cognitive and emotional functioning, they did indicate moderate impacts in 6 areas, which cumulatively reflect a more severe impact. The doctor also indicated very disrupted functioning with extended social networks. Therefore, the panel finds that, considering the additional evidence, the ministry's determination that the appellant does not have a severe mental impairment is not reasonable.

Daily Living Activities:

Under section 2(2)(b)(i) of the EAPWDR, if the ministry is satisfied that a person has a severe mental or physical impairment, the ministry must also be satisfied that, in the opinion of a prescribed professional, the appellant's ability to perform daily living activities is directly and significantly restricted by the severe impairment, either continuously or periodically for extended periods. Not all daily living activities must be directly and significantly restricted. However, in *Hudson v. British Columbia (Employment and Assistance Appeal Tribunal)*, 2009 BCSC 1461, the court stated that "there must be evidence from a prescribed professional indicating a direct and significant restriction on at least two daily living activities."

Under the EAPWDR section 2(1)(b), for a person who has a severe physical or mental impairment, “daily living activities” means:

- prepare own meals;
- manage personal finances;
- shop for personal needs;
- use public or personal transportation facilities;
- perform housework to maintain the persons place of residence inacceptable sanitary conditions; move about indoors and outdoors;
- perform personal hygiene and self-care;
- manage personal medication.

For a person with a severe mental impairment, the definition of “daily living activities” includes:

- make decisions about personal activities, care or finances; and
- relate to, communicate or interact with others effectively.

At reconsideration, the ministry found that the assessments by the doctor indicated a moderate, rather than a severe, level of restrictions in daily living activities. In the medical report the doctor indicated that the appellant’s impairment directly and continuously restricted her in daily shopping, mobility outside the home, use of transportation and social functioning, but did not provide any description or further information about those restrictions. While the appellant reported needing help with many daily living activities, in the assessor report the doctor only indicated that the appellant needed periodic assistance with daily shopping (going to and from stores) and some aspects of social functioning, where she needed periodic support to make appropriate social decisions, interact appropriately with others and deal appropriately with unexpected demands. The doctor did not provide any explanation or description of the degree and duration of support or supervision required.

However, in the additional report from the psychologist, they explain the impact of the appellant’s symptoms in more detail. They confirm that the appellant’s memory is very poor, causing her to miss appointments or forget where she is going. The appellant described forgetting to take medication unless someone puts it out for her and reminds her to take it. She may stay in bed for two or three days of the week, lacking motivation to perform personal hygiene or get dressed. She has difficulty making decisions. She struggles to communicate with others, due to anxiety and social phobia. The doctor confirmed that the appellant has very disrupted functioning with extended social networks. The panel also noted the appellant’s tearfulness throughout the hearing.

Considering all the evidence, the panel finds that the appellant is significantly restricted in making decisions about personal activities, care, or finances, and relating to, communicating, or interacting with others effectively, either continuously or periodically for extended periods, as a result of a severe mental impairment. Therefore, the panel finds that the ministry's conclusion at reconsideration that the appellant's mental impairment did not significantly affect her ability to perform daily living activities, is no longer reasonably supported by the evidence.

Help with Daily Living Activities

Under section 2(2) of the EAPWDA, confirmation of direct and significant restrictions to daily living activities is a precondition for the determination that, because of those restrictions, the person requires help to perform those activities. In its reconsideration decision, the ministry stated that, as it had not been established that the appellant's daily living activities were significantly restricted, it could not be determined that the appellant needed help to perform daily living activities.

The additional evidence shows that the appellant's daily living activities are significantly restricted by a severe mental impairment, and therefore the next question is whether, in the opinion of a prescribed professional, the appellant requires help to perform those activities as a result of the impairment.

The doctor indicates that the appellant receives help for daily living activities from family, friends, and health authority professionals. The appellant described the help she receives from family and friends, to deal with her extended social network (where the doctor has identified very disrupted functioning). For example, they will do her shopping for her, remind her to take medication and make sure bills are paid. Therefore, the panel finds that the appellant requires the significant help or support of another person to perform those daily living activities.

Conclusion:

The panel finds that, considering the additional evidence, the ministry's reconsideration decision is no longer reasonably supported by the evidence. The ministry has stated that the appellant meets all legislated criteria to be eligible for PWD designation, and the panel finds that the additional evidence, combined with the information before the ministry at the reconsideration, establishes that the appellant meets the criteria.

The panel rescinds the reconsideration decision. The appellant is successful in the appeal.

Schedule – Relevant Legislation

Employment and Assistance for Persons with Disabilities Act

Persons with disabilities

s. 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).

Employment and Assistance for Persons with Disabilities Regulation

Definitions for Act

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

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

(i) prepare own meals;

(ii) manage personal finances;

(iii) shop for personal needs;

(iv) use public or personal transportation facilities;

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

(vi) move about indoors and outdoors;

(vii) perform personal hygiene and self care;

(viii) manage personal medication, and

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

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

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

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

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

(i) medical practitioner,

ii) registered psychologist,

(iii) registered nurse or registered psychiatric nurse,

(iv) occupational therapist,

(v) physical therapist,

(vi) social worker,

(vii) chiropractor, or

(viii) nurse practitioner, or

(b) acting in the course of the person's employment as a school psychologist by

(i) an authority, as that term is defined in section 1 (1) of the *Independent School Act*, or

(ii) a board or a francophone education authority, as those terms are defined in section 1 (1) of the *School Act*,

if qualifications in psychology are a condition of such employment.

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

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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
Susan Ferguson

Signature of Chair

Date (Year/Month/Day)
2023/01/27

Print Name
Jane Nielsen

Signature of Member

Date (Year/Month/Day)
2023/01/27

Print Name
John Pickford

Signature of Member

Date (Year/Month/Day)
2023/01/29