

Part C – Decision Under Appeal

The decision under appeal is the reconsideration decision (the “Reconsideration Decision”) of the Ministry of Social Development and Poverty Reduction’s (the “Ministry”), dated January 11, 2023, in which the Ministry found the appellant was not eligible for designation as a Person with Disabilities (“PWD”) under section 2 of the *Employment and Assistance for Persons with Disabilities Act* (“EAPWDA”).

The Ministry found that the Appellant met the age but did not meet the following criteria:

- that the Appellant has an impairment that, in the opinion of a prescribed professional, is likely to continue for at least 2 years;
- that the Appellant has a severe mental or physical impairment;
- that the Appellant’s impairment, in the opinion of a prescribed professional, directly and significantly restricts the ability to perform daily living activities (“DLAs”) either continuously or periodically for extended periods; and
- that, 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 DLAs.

The Ministry found the Appellant was not one of the prescribed classes of persons eligible for PWD on alternative grounds. As there was no information or argument on this point, the Panel considers it not to be an issue in this appeal.

Part D – Relevant Legislation

EAPWDA - section 2

Employment and Assistance for Persons with Disabilities Regulation (“EAPWDR”) – sections, 2(1), 2.1

A full text of the above-described legislation appears at the end of Part F of this decision.

Part E – Summary of Facts

The information before the Ministry at the time of the Reconsideration Decision included the following:

- the Appellant’s Application for the PWD designation, which included:
 - the Appellant’s Applicant Information (the “Self Report”), dated October 2, 2022;
 - the Medical Report (“MR”), completed by the Appellant’s doctor, dated October 5, 2022; and
 - the Assessor Report (“AR”), completed by a physiotherapist, dated October 28, 2022;
 - the Ministry’s letter to the Appellant, dated December 7, 2022, denying the Appellant the PWD designation;
 - the Ministry’s PWD Designation Decision Summary, dated December 7, 2022;
 - the Appellant’s Request for Reconsideration, dated December 24, 2022 (“RFR”), in which the Appellant wrote that:
 - since his car accident (the “MVA”), he has not been able to function;
 - his injuries have prevented him from having a stable income;
 - his sciatica prevents him from sleeping, getting up from a resting position, and bending;
 - he is precluded from jobs that require twisting of the back, carrying heavy loads, or driving;
 - he has moderate acromioclavicular joint arthrosis;
 - his hip labral tear causes pain in the hip and groin; and
 - he has suffered a concussion which effects mood, memory, sleep, and causes anxiety and depression.

Appellant’s Self Report

The Appellant described being disabled from a car accident. The injuries described were:

- protruding discs in the spine,
- torn glute muscles; and
- damage to the labrum

The Appellant described having difficulty sleeping, walking, bending and staying motivated, with some decrease in cognitive functioning which affects his mood, sleep, memory, and speech.

The Appellant described the pain in the back and legs as preventing him from sleeping and getting up, which leads to depression and staying in bed until the pain subsides, which takes hours.

The Appellant described pain in the right shoulder as limiting both extension and range of motion.

The Appellant described recovering from a concussion as affecting his sleep, mood, and motivation.

The Appellant also stated that he has anxiety and depression daily making life a struggle most days. He described having an inability to stay on task, memory difficulties, disabilities with movement and standing, and decreased social relationships.

The Appellant states that his disability affects his life and prevents him from having the quality of life he is used to.

The Appellant also described having some difficulties with caring for himself, including requiring help to get up off the toilet, getting out of bed, and walking his dogs.

The Appellant states that standing and sitting constantly aggravates his injuries and pain.

The Appellant described impacts to the following:

- meal preparation (the Appellant's pain affects his motivation and appetite);
- managing finances (the Appellant has lost income);
- shopping (the help of friends was required);
- housework (bending and cleaning is a struggle); and
- moving (walking dogs is a struggle and some days requires the help of friends).

Finally, the Appellant states that he is in pain most days and that the pain affects him in every way, including mentally, physical, emotionally, and financially.

Information in the MR

Diagnoses and Health History

The doctor diagnosed the Appellant as having a concussion and neck, right shoulder, and low back strain. The doctor described the Appellant's injuries as having a "significant impact" on his DLAs and on his cognitive abilities, sleep, and mood. The doctor noted that the Appellant's inability to sleep resulted in poor functioning the following day. The Appellant was also described as having difficulty with cognition due to the concussion and decreased range of motion in the low back and right shoulder, making it difficult to perform tasks around the house. The doctor indicated that the Appellant did not require any prostheses or aids.

The MR also made references to medications previously prescribed for the Appellant but which were no longer being taken due to the Appellant's poor tolerance.

Degree and Course of Impairment

The doctor did not specify whether the Appellant's impairment was likely to continue for two years or more from the date of the MR and stated that he was unable to determine the anticipated duration at the present time.

Functional Skills

With respect to physical functioning, the doctor noted the following in the MR:

- the Appellant could walk 4+ block unaided on a flat surface;
- the Appellant could climb 5+ stairs unaided;
- the Appellant was restricted to lifting between 7 and 16 kg; and
- the Appellant could remain seated for 1 to 2 hours.

The doctor also noted in this section of the MR that the Appellant was unable to walk more than 15 minutes without pain and needs the support of a railing when using stairs.

With respect to cognitive functioning, the doctor described the Appellant as having difficulty with communication due to cognitive issues and noted the following significant cognitive and emotional deficits:

- executive functioning;
- language;
- memory,
- emotional disturbance;
- motivation; and
- motor activity.

The doctor added that he had concerns about the Appellant's cognitive and emotional function as a result of post-concussion syndrome.

DLAs

The doctor described the Appellant as continuously restricted with respect to the following DLAs:

- basic housework;
- daily shopping;
- mobility inside the home; and
- mobility outside the home.

The doctor added that the Appellant was limited in performing housework, had difficulty carrying groceries and pain with transferring in his home and with prolonged walking and standing.

Information in the AR

Mental or Physical Impairment

The Appellant was described in the AR as suffering from concussion and neck, shoulder, low back, and hip pain.

The physiotherapist described the Appellant's ability to communicate in all areas (speaking, reading, writing, and hearing) as good. The Appellant was also described as independent in all areas of mobility and physical ability, except for lifting and carrying and holding, where his ability to lift, bend, and carry was described as being limited by low back pain.

The following areas of the Appellant's cognitive and emotional function were described as being moderately impacted by the Appellant's impairment:

- consciousness;
- executive functioning;
- motivation; and
- motor activity.

The Appellant's impairment was described in the AR as having a major impact on:

- bodily functions (in particular, sleep);
- emotion;
- attention and concentration; and
- memory.

The physiotherapist noted that the Appellant suffers from poor sleep which affects his mood, overall health, and function.

DLAs

In the AR, the Appellant was described as requiring periodic assistance from another person for the following DLAs:

- transfers in and out of bed;
- transfers on and off chairs;
- basic housekeeping;
- carrying purchase home from shopping;
- cooking; and
- getting in and out of vehicles.

Although the Appellant was described as independent with respect to toileting, it was noted that the Appellant did have difficulty getting on and off a toilet seat.

The physiotherapist also noted that the Appellant:

- has periodic difficulties feeding his dogs, picking up after his dogs, and carrying out tasks involving bending and lifting;
- required assistance with cooking when in pain and was unable to stand for prolonged periods or lift heavy kitchen items; and
- experiences pain in the low back and hip when getting in and out of cars.

The Appellant was described as being independent in respect of all areas of social functioning but had marginal functioning within both his immediate and extended social networks. The physiotherapist noted that the Appellant's anxiety and depression caused isolation and that the Appellant often avoided contact and leaving home. The physiotherapist noted that the Appellant required counseling.

Need for Assistance

In the AR, the physiotherapist noted that the appellant required help from friends to carry out household chores, including cleaning, walking his dogs, washing the dogs, and grocery shopping.

The physiotherapist, like the doctor, noted that the Appellant did not use or require any specific equipment or devices.

Documents Submitted After the Reconsideration Decision

The Appellant filed his Notice of Appeal on January 18, 2023. The Notice of Appeal included the following documentation:

- left hip MRI report, dated October 6, 2023 (the "Hip MRI Report"); and
- right shoulder MRI report, dated October 6, 2023 (the "1st Shoulder MRI Report").

Both the Appellant and the Ministry provided written submissions prior to the hearing of the appeal.

Appellant's Submission

The Appellant's Submission contained the following:

- a letter from a physiotherapist, dated January 30, 2023 confirming that the Appellant had been attending sessions since the MVA on March 2, 2020 and was still receiving treatment;
- an undated letter from a massage therapist, which set out that:
 - the Appellant had been receiving treatment since November 2020;
 - the focus of the treatment was on improving range of motion; and
 - the Appellant works part-time jobs but can not work full-time;
- a letter, dated February 15, 2023 from a sports medicine specialist which describes the Appellant's injuries and symptoms and noted that the Appellant had already undergone considerable conservative treatment but that next steps would be dependent on the receipt of information about a previous injection the Appellant had been given;
- right shoulder MRI report, dated December 14, 2023 (the "2nd Shoulder MRI Report");
- the Left Hip MRI Report;
- three letters, dated January 5, 2023, May 14, 2021, and October 26, 2021, from a medical clinic to the Appellant's doctor, which discussed the Appellant's pain and various pain management options; and

- a thorough written argument in which the Appellant argued that:
 - it has been three years since the Appellant was injured in the MVA and the Ministry ignored the fact that the Appellant's impairment had already lasted for two years;
 - the AR and MR, along with the Self Report, support a finding of severe physical and mental impairment;
 - that the Appellant's ability to perform the DLAs, specifically described in the EAPWDR was significant, in the opinion of the Appellant's doctor; and
 - there was significant evidence that the Appellant required help from friends to carry out many DLAs.

Ministry's Submission

The Ministry confirmed in its submission that it was relying on the Reconsideration Decision.

The panel admits the information contained in the Notice of Appeal, the Appellant's Submission and the Ministry's Submission as evidence that is not part of the record but which the panel considers is reasonably required for a full and fair disclosure of all matters related to the appeal, pursuant to section 22(4) of the *Employment and Assistance Act*.

Part F – Reasons for Panel Decision

The issue in this appeal Ministry was reasonable in its determination that the appellant was not eligible for a PWD designation because, while the Appellant met the criteria of being 18 years of age or older, the Appellant did not meet the following criteria:

- the Appellant’s impairment is not, in the opinion of a prescribe professional, likely to continue for at least 2 years;
- the Appellant does not have a severe mental or physical impairment;
- the Appellant’s impairment, in the opinion of a prescribed professional, does not directly and significantly restrict the ability of the Appellant to perform daily living activities (“DLA”) either continuously or periodically for extended periods; and
- as a result of restrictions caused by the Appellant’s impairment, the Appellant requires an assistive device, the significant help or supervision of another person, or the services of an assistance animal to perform DLA.

Panel Decision

The EAPWDA gives the Ministry the discretion to designate someone as a PWD if the statutory requirements are met. In the Panel’s view, the PWD designation is intended for persons who have significant difficulty in performing regular self-care activities.

Some requirements must have an opinion from a professional, so it is reasonable to place significant weight on these opinions. The application form includes a Self Report. It is appropriate to place significant weight on the Self Report and evidence from the appellant unless there is a legitimate reason not to do so. The Panel will review the reasonableness of the Minister’s determinations and exercise of discretion.

Severity of Impairment

Section 2(2) of the EAPWDA requires an applicant to satisfy the Ministry that they have a severe mental or physical impairment.

The terms “severe” and “impairment” are not defined in the EAPWDA. The Ministry considers the extent of any impact on daily functioning as shown by limitations with or restrictions on physical abilities and/or mental functions. The Panel finds that an assessment of severity based on physical and mental functioning including any restrictions is a reasonable interpretation of the legislation.

A medical practitioner’s description of a condition as “severe” is not determinative. It is instead the Ministry that must make this determination considering the relevant evidence and legal principles. The panel finds that the Ministry’s interpretation of what constitutes a severe impairment is a reasonable one, having regard to the wording of section 2(2) of the EAPWDA. The MR form asks a practitioner for information on the functional skills and abilities of an applicant and the Ministry indicates that it also takes into account the information reported by the Appellant when making a determination on severity. The panel finds that the ministry’s

assessment of severity based on a fulsome review of daily function is a reasonable interpretation of the legislation.

In the Appellant's Submission, the Appellant argued that the Reconsideration Decision failed to consider that both the MR and the AR reported the Appellant as suffering from a severe impairment in DLAs, noting that sleeping, transferring in and out of bed, lifting, bending, carrying, and holding were affected. The Appellant noted that the doctor had used the term "significant" to describe the Appellant's impairment. The Appellant argued that the Ministry's focus on metrics such as the Appellant's ability to climb 5+ flights of stairs neglected to consider the true impact of the Appellant's actual functioning. Likewise, with respect to mental impairment, the Appellant's position is that the Ministry failed to adequately assess the impact of the Appellant's mental impairment on his daily functioning.

The Ministry position is that there are inconsistencies in the information contained in the MR and AR. The Ministry notes that both the MR and AR indicate a relatively high level of basic functioning, as the Appellant was described as being able to walk 4+ block unaided, climb 5+ steps, lift 15 to 35 pounds, and remain seated for 1 to 2 hours. The Ministry also noted that the physiotherapist described the Appellant as independent in walking indoors and outdoors, climbing stairs and standing. The Ministry noted that there are inconsistencies between the AR and MR with respect to mental and cognitive function, with the MR report describing significant impacts and the AR describing the Appellant as independent in all areas of communication. The Ministry also noted that the AR described the Appellant as independent with all areas of social function.

With respect to physical impairment, the panel finds that the Ministry was not reasonable in its determination that the Appellant did not have a severe physical impairment.

The doctor describes the Appellant as suffering from interrupted sleep and poor functioning. While the doctor described the Appellant as being at the higher end of the function with respect to walking, lifting, and using stairs, all of these were qualified by notes setting out significant restrictions. For example, the doctor noted that the Appellant cannot walk for more than 15 minutes, requires the support of rails to use stairs, has a decreased ability to perform housework, carry groceries, and a low tolerance for sitting and standing for prolonged periods.

While the AR noted that the Appellant was independent in walking indoors and outdoors, climbing stairs, and standing, the physiotherapist's notes also noted restrictions in respect of prolonged standing, walking, lifting, moving and carrying objects, all of which are consistent with the doctor's report of poor physical function.

The Appellant's Self Report paints a similar picture of poor overall functioning and the panel finds that the Ministry was not reasonable in its determination that the Appellant did not have a severe physical impairment.

With respect to mental impairment, the panel finds that there is inconsistency in the information set out in the AR and the MR that is harder to reconcile. While the doctor does describe significant cognitive and emotional deficits in a number of areas, the AR describes the Appellant as independent in all areas of social functioning with no comments indicating any limitations in

these areas. The AR also describes the Appellant as having good communication skills and being fully independent in the DLAs related to cognitive function (paying rent and bills, meal planning and handling medications), despite also describing the Appellant as being marginally functioning in his immediate and extended social networks.

The Appellant's Self Report describes anxiety and depression on a daily basis. The Appellant states that he is in pain most days and that this affects his life in every way, including mentally and emotionally. However, the Appellant provides little in the way of details about the mental and emotional impacts that he is experiencing. While the Appellant does reference finances, he reports that his income has declined but he does not note any difficulties with paying bills or making decisions about his finances.

In view of the above information, the panel finds that it was reasonable for the Ministry to determine that the Appellant does not have a severe mental impairment.

Duration

The legislation requires a medical or nurse practitioner to provide an opinion that the applicant's impairment is likely to continue for at least 2 years. In the result, the Appellant's Self Report and the AR, which was completed by a physiotherapist, are of limited evidentiary value for this requirement.

In the MR, the doctor is asked to check off "yes" or "no" to the question of whether an applicant's impairment is likely to continue for at least two years. In the case of the Appellant, the doctor checked neither box and added that it was not possible to determine at this time. The Appellant argued that the duration of the Appellant's impairment to date was not taken into account. However, the fact that the duration of the Appellant's impairment prior to the application exceeded two years is not the same as an opinion from a medical or nurse practitioner that a person's impairment is likely to continue for a further two years. The duration criteria is, as set out in the EAPWDA, forward looking. The question asked of the medical or nurse practitioner is whether an impairment is likely to continue for a further two years not how long a person's impairment has lasted. The PWD designation provides future benefits for persons who are likely to require assistance not compensation for persons who have suffered a past impairment.

Given the lack of an opinion from the Appellant's doctor as to the anticipated duration of the Appellant's impairment, the panel finds that the Ministry was reasonable in determining that the Appellant had not satisfied the duration requirement.

DLAs

Subsection 2(2)(b)(i) of the EAPWDA requires the ministry to be satisfied that, in the opinion of a prescribed professional, an applicant's severe impairment directly and significantly restricts the applicant's ability to perform DLAs either continuously or periodically for extended periods. This means that restrictions to DLA must be confirmed by the appellant's doctor or one of the practitioners referenced in the legislation such as a psychologist or psychiatric nurse.

The prescribed professional's opinion must confirm that an applicant's impairment restricts the ability to perform DLAs. In the BC Supreme Court decision *Hudson v. Employment and Assistance Appeal Tribunal*, 2009 B.C.S.C. 1461, the court held that there must be evidence from a prescribed professional indicating a direct and significant restriction on at least *two* DLAs and that not all DLA need to be affected by the severe impairment.

The restrictions to DLAs must be significant and caused by the impairment. This means that the DLAs in question must be greatly restricted and that the inability to perform the DLAs without a lot of help or support will have a large impact on the applicant's life.

The restrictions also must be continuous or periodic. Continuous means that a particular activity is generally restricted all the time. Periodic means that an activity is restricted for extended periods of time on a frequent basis. For example, an activity may be restricted most days of the week or, alternatively, for the entire day on those days when a person cannot carry out an activity without help or support. To determine whether a periodic restriction meets the threshold of being for extended periods, it is reasonable to look for information on the duration or frequency of the restriction.

The DLAs that are considered by the Ministry are specifically referenced in the EAPWDR. The MR and AR also reference specific DLAs and, while they do not match those listed in the EAPWDR precisely, they generally cover the same DLAs.. The MR and AR also provide the prescribed professionals who complete them with the opportunity to provide additional details on an applicant's restrictions. An inability to work and financial need are not listed as DLAs in any of the EAPWDR, the AR, or the MR.

In the case of the Appellant, the doctor noted that *four* DLAs were *continuously* restricted, These included basic housework, daily shopping, mobility inside the home, and mobility outside the home. All of these DLAs are specifically referenced in section 2(1)(a) of the EAPWDR. The doctor who completed the MR is a prescribed practitioner.

In the AR, the physiotherapist found that the Appellant was independent in walking indoors and outdoors, climbing stairs, and standing. However, the AR also noted that the Appellant took significantly longer than typical for both lifting and carrying and holding. These restrictions are consistent with the findings of the doctor in the MR who noted some restriction in the Appellant's ability to lift and in notes, described the difficulties that the Appellant had with carrying groceries. The physiotherapist also made notes in the AR that the Appellant had difficulties with getting in and out of cars, being unable to lift heavy items in the kitchen. As using public or personal transportation, preparing ones own meals are both specifically referenced DLAs under the legislation, the physiotherapist did note significant restrictions in at least two of the Appellant's DLAs, even if the doctor appears to have noted significant restrictions in more than two DLAs which are not precisely the same ones.

In view of the legislative definition of DLAs in section 2(1) of the EAPWDR and the extent to which the DLAs need to be restricted, as set out in *Hudson*, the panel finds that the Ministry was not reasonable in its determination that the Appellant's DLAs were not significantly restricted on a continuous basis or a periodic basis for extended periods due to the Appellant's impairment.

Help with DLAs

The EAPWDA requires that, in the opinion of a prescribed professional, a person requires help to perform DLAs because of direct and significant restrictions.

Section 2(3) of the EAPWDA defines what “help” means in the legislation. In short, a person is considered to need help if he or she needs any of the following:

- an assistive device;
- the *significant* (emphasis added) help or supervision of another person, or
- the services of an assistance animal.

An “assistive device” is defined as a device designed to help a person perform a DLA that, because of a severe impairment, a person is not able to perform.”

In the MR, the doctor did not describe the Appellant as having any need for prostheses or other aids. The doctor did set out that the Appellant required the support of a railing when using stairs but a railing is, as noted in the Reconsideration Decision, not among the categories of items that constitutes “help” in the legislation. The MR does make note of the fact that the Appellant had difficulty with certain DLAs, such as grocery shopping but there is no indication that the Appellant requires help to carry out those DLAs from the doctor. As such, there is no confirmation from the doctor that the Appellant requires help, as the term help is described in the EAPWDA.

In the AR, the physiotherapist, who is also a prescribed professional, did make reference to the Appellant needing help with certain DLAs, such as grocery shopping and other household chores, stating “client requires assistance with house chores, such as cleaning, walking dogs, maintaining grocery shopping.” However, the physiotherapist does not address the issue of how much help the Appellant requires to carry out these DLAs.

The Appellant’s self report sets out that he gets help with shopping “most times” from friends but this is not evidence from a prescribed professional. The Appellant also describes getting help from friends when it comes to walking his dogs and states that he needs help getting off the toilet and out of bed. He does not say how frequently that help is required, however, and neither does the physiotherapist.

In view of the above evidence about the help that the Appellant requires to carry out DLAs, from both the Appellant himself and from the physiotherapist, the panel finds that the Ministry was reasonable in its determination that it has not been confirmed that the Appellant required the significant help or supervision of another person in order to carry out DLAs.

Conclusion

While the panel finds that the Ministry was not reasonable in its determination that:

- the Appellant's physical impairment was not severe; and
- the Appellant's physical impairment did not directly restrict his DLAs on a continuous basis or a periodic basis for extended periods

the panel nevertheless finds that the Reconsideration Decision was otherwise a reasonable application of the legislation in the Appellant's circumstances.

In particular, the panel finds that the Ministry was reasonable in determining that it had not been confirmed, in the opinion of a medical or nurse practitioner, that the appellant's impairment was likely to continue for at least two years.

The Appellant is not successful in this appeal.

Relevant Legislation***Employment and Assistance for Persons with Disabilities Act*****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).

Employment and Assistance for persons with Disabilities Regulation**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.

(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.

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* (Canada).

[en. B.C. Reg. 165/2016, Sch.]

2023-0016

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

Adam Shee

Signature of Chair

Date (Year/Month/Day)

2023/March/15

Print Name

Daniel Chow

Signature of Member

Date (Year/Month/Day)

2023/March/15

Print Name

Peter Mennie

Signature of Member

Date (Year/Month/Day)

2023/March/15