

### **Part C – Decision Under Appeal**

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the Ministry) decision dated April 5, 2023, denying persons with disability (PWD) designation.

The Ministry found the Appellant met the age (over 18) and duration (likely to last more than two years) requirements. However, the Ministry found the Appellant did not meet the requirements for:

- severe mental or physical impairment
- significant restriction on the ability to perform daily living activities
- needing significant help to perform daily living activities.

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**

*Employment and Assistance for Persons with Disabilities Act (Act), s. 2*  
*Employment and Assistance for Persons with Disabilities Regulation (Regulation), s. 2*  
*Employment and Assistance Act (EAA), s. 22(4)*  
*Health Professions Act, Chiropractors Regulation, s. 1 definition of “chiropractic” and s.4*

Full text of the Legislation is in the Schedule of Legislation at the end of the Reasons.

**Part E – Summary of Facts**

The hearing was adjourned on April 26, 2023 at the Appellant's request, because his Doctor was not able to attend the hearing. The hearing was set for June 2, 2023, and was adjourned at the hearing when the Appellant was not able to attend due to a family medical emergency. The hearing took place on June 8, 2023, by videoconference. The Appellant joined the hearing by telephone due to technical difficulties. He told the Panel that neither his Doctor nor his Chiropractor was available as a witness that day, but the Appellant still wanted to go ahead with the hearing.

**Evidence Before the Ministry at Reconsideration:**

The information the Ministry had at the time of the decision included:

- Medical Report completed by a Doctor
- Assessor Report completed by a Chiropractor
- Appellant's Self Report
- Letter from Canada Revenue Agency dated March 17, 2023, confirming eligibility for the Disability Tax Credit for the 2009 to 2028 tax years

**Medical Report:**

The Doctor states that the Appellant has been their patient for ten years and they have seen the Appellant between two and ten times in the past twelve months.

**Diagnosis:**

The Doctor provides a diagnosis of Ankylosing Spondylitis, onset January 1991.

**Health History:**

The Doctor states that the Appellant has severe back pain that "impairs all aspect [sic] of [the Appellant's] life." They indicate that painkillers and Adalimumab injections interfere with the Appellant's ability to perform daily living activities. They state that the impairment is a lifelong, chronic condition.

**Functional Skills:**

The Doctor indicates that the Appellant can:

- Walk unaided on a flat surface for 4+ blocks
- Climb 5+ steps unaided
- Remain seated 1 to 2 hours.

They indicate no limitations in lifting.

The Doctor indicates no significant deficits in cognitive and emotional functioning.

**Daily Living Activities:**

The Doctor indicates continuous restrictions in all daily living activities listed on the form:

- Personal self care
- Meal preparation

- Management of medications
- Basic housework
- Daily shopping
- Mobility inside the home
- Mobility outside the home
- Use of transportation
- Management of finances.

They indicate both no restriction and periodic restriction in social functioning. The Doctor does not provide any further explanation, although in the space for “additional comments regarding the degree of restriction” the Doctor states “following all advice.”

They state that the Appellant needs help from his spouse for daily living activities.

Assessor Report:

The Chiropractor states that they first saw the Appellant on December 19, 2020, and they have not seen the Appellant in the past twelve months.

*Mental or Physical Impairment:*

The Chiropractor states “Dyslexia and Ankylosing Spondylitis.” They indicate that the Appellant has poor ability to communicate with reading and writing due to dyslexia, and poor ability to hear because the Appellant is deaf in his right ear.

*Mobility and Physical Ability:*

The Chiropractor indicates that the Appellant needs periodic assistance from another person for climbing stairs, standing, lifting, carrying, and holding.

*Cognitive and Emotional Functioning:*

The Chiropractor indicates that the Appellant’s mental impairment has a major impact on:

- Bodily functions
- Emotion
- Executive function
- Other neuropsychological problems, with the comment “Dyslexia”.

They indicate that the impairment has a moderate impact on:

- Consciousness
- Impulse control
- Attention/Concentration
- Memory
- Motor activity.

They indicate minimal impact on:

- Insight and judgement
- Motivation.

***Daily Living Activities:***

The Chiropractor indicates that the Appellant needs continuous assistance for transfers in and out of bed and on and off a chair.

They indicate that the Appellant needs periodic assistance from another person for the following daily living activities:

- Dressing: the Appellant's wife helps him put on socks, shoes, and pants
- Basic housekeeping
- Shopping: going to and from stores, making appropriate choices, paying for purchases, carrying purchases home
  - Appellant takes significantly longer than typical for reading prices and labels
- Pay rent and bills: Appellant is assisted by bank manager, accountant, and spouse
- Medications: filling/refilling prescriptions, taking as directed, safe handling and storage, Appellant is assisted by his spouse
- Transportation: using public transit, transit schedules and arranging transportation, although the Chiropractor notes that the Appellant does not take transit often.
  - Appellant takes significantly longer than typical to get in and out of a vehicle, due to leg numbness.

The Chiropractor indicates that the Appellant is independent in social functioning, except that he does not like asking for help. They also indicate that the Appellant has only marginal functioning with his immediate and extended social networks.

***Assistance Provided for Applicant:***

The Chiropractor indicates that family and friends provide the help required for daily living activities. They state that the Appellant uses a heat pad, and for equipment "required but not currently being used", they state "possible walker to get out of bed."

***Additional Information:***

The Chiropractor states that the Appellant has longstanding Ankylosing Spondylitis and severe chronic pain. They note that "moderate osteoarthritis complicates symptoms."

**Self Report:**

The Appellant describes his disability as Ankylosing Spondylitis and chronic back pain causing numbness in his legs. He says that he cannot sleep because of the pain, and it affects every part of his life. He says he "can't stay in some positions for length of time [sic]" and he has chronic fatigue due to lack of sleep. He states:

- He is always in pain
- His girlfriend puts on his sock and pants for him and ties his shoes
- It is hard to move around, and he moves very slowly
- He cannot earn a living because he cannot stay seated for long
- His "wife needs to clean me as I'm [too] stiff."

Additional Evidence:Appellant:

At the hearing, the Appellant said:

- A ministry worker told him that his application for PWD designation had been approved and then disapproved the next day, and the worker had never seen anything like that happen before.
- He has had arthritis in his back since his mid-20's, and it affects everything he does.
- He takes eight Tylenol 3's a day for pain.
- He also takes testosterone replacement therapy and blood pressure medication.
- He cannot lie down because of back pain, which makes it hard to sleep for more than an hour at a time, even though he takes medication for sleep.
- He has a friend who also has Ankylosing Spondylitis, the friend has been receiving disability assistance for twenty years, and the Appellant's condition is worse than his friend's.
- He was a personal trainer, but he cannot do personal training anymore.
- He cannot do any more than walk, and he could be using a cane, but he doesn't.
- He has to go to hospital for injections when he has a bad flare up of back pain.

In answer to questions from the Ministry, the Appellant stated:

- He agrees with the Doctor's assessment that he can walk 4+ blocks unaided, but says it is painful.
- He can climb 5+ steps, but not in the morning.
- When he sits, his legs become numb. He cannot sit for two hours without getting up and stretching, or his legs go numb and his back is in pain.
- He can lift "light things, not weights."

In answer to questions from the Panel, the Appellant stated:

- He had a roommate, not a spouse or girlfriend, who helped him, but he lives alone now.
- Dyslexia was not diagnosed when he was young, and he was "mercifully passed" through school because he was a good athlete.
- When he was at school, he "couldn't understand how people could understand things", and it was not until he was an adult that he was diagnosed with severe dyslexia.
- His dyslexia is so severe that, when he applied to be a firefighter, he only got 5% on the exam.
- He goes to the gym to stretch out every day and tries to be as active as possible.
- He does not use a bed, he just sits on the couch, takes four sleeping pills, sleeps for one hour and then is awake with pain.
- When he had a roommate, they would help him get off the couch when his legs went numb; now that he lives alone, he "muscles up" using side counters or furniture.
- He does not have help with housekeeping now. He does dishes once or twice a week, slowly. He can sweep.
- He also has an "arthritis doctor".
- He has been rushed to hospital because he has an enlarged heart.

- He does not know why his Doctor did not mention dyslexia in the Medical Report, but the Appellant thought the PWD application was just for physical disabilities.
- He cannot pay his bills; he is always late with payments, and he is \$70,000 in debt.
- His Doctor did not complete the Assessor Report because the Doctor told him that the Ministry's doctor would fill out that section. His Doctor's office is in another city, about 4 hours away. When the Ministry told him that the Assessor Report had to be completed, they also told him that he could have his Chiropractor in his community fill out that part of the application.
  - The Chiropractor is also a General Practitioner.

Ministry:

In answer to a question from the Appellant, asking why the Ministry approved his application and then reversed the decision, the Ministry reviewed the notes in the Appellant's file. The Ministry stated that they work with comments from a template. The adjudicator in the original decision had put the wrong comment in the decision and then corrected it. The Ministry had not approved the PWD application and then reversed the decision, it was just a mistake that was corrected.

In answer to a question from the Appellant about why the Ministry did not phone his Doctor for clarification or further information, the Ministry stated that it does not have the staff resources to follow up with medical practitioners directly, given the number of PWD applications it receives.

Admissibility of Additional Evidence:

Neither the Appellant nor the Ministry objected to the additional oral evidence of the other party at the hearing.

The Panel finds that the additional evidence is reasonably required for the full and fair disclosure of all matters in the appeal. Therefore, the Panel finds that the additional evidence is admissible under EAA s. 22(4).

**Part F – Reasons for Panel Decision**

The issue on appeal is whether the Ministry's decision denying the Appellant PWD designation is reasonably supported by the evidence or is a reasonable application of the legislation. The Ministry found the Appellant met the age (over 18) and duration (likely to last more than two years) requirements. However, the Ministry found the Appellant did not meet the requirements for:

- severe mental or physical impairment
- significant restriction on the ability to perform daily living activities
- needing significant help to perform daily living activities.

**Appellant's Position:**

The Appellant says that he should qualify for PWD designation because Ankylosing Spondylitis is disabling, affecting every part of his life. He has constant back pain, and if he sits too long his legs go numb. He also has severe dyslexia, although he did not know that the PWD application could include dyslexia. He has a friend who also has Ankylosing Spondylitis and is designated as PWD, so the Appellant also should qualify for PWD designation, especially because the Appellant's condition is worse than his friend's. He cannot do more than walk, very slowly, and he cannot sleep, due to back pain.

**Ministry Position:*****Severe Physical Impairment:***

The Ministry maintains that the Appellant's physical impairment is moderate, rather than severe. They argue that the Doctor does not identify significant deficits in the Appellant's functional skills, as they state that the Appellant can walk 4+ blocks and climb 5+ steps, unaided, and has no limitations in lifting. They acknowledge that the Appellant is limited in his ability to sit for extended periods but say that the Ministry does not view the inability to remain seated as a severe impairment.

The Ministry argues that the Doctor's indication that the Appellant has continuous restrictions in all daily living activities except social functioning is not consistent with the Doctor's assessment of the Appellant's functional skills.

The Ministry adds that the Act does not equate eligibility for the Disability Tax Credit, with eligibility for PWD designation, although they are aware that the requirements may be similar. The certificate of eligibility for the tax credit does not establish that the Appellant is also eligible for PWD designation, although the application for the tax credit, completed by the Doctor, might have had information relevant to the PWD application.

***Severe Mental Impairment:***

The Ministry says that the Doctor did not provide a diagnosis of dyslexia, so even though the Chiropractor lists dyslexia as an impairment, the Ministry cannot confirm that diagnosis. The Ministry also notes that the information provided by the Chiropractor and the Doctor is not consistent, as the Chiropractor indicates that the Appellant has poor communication abilities, but the Doctor says the Appellant has no difficulties with communication. The Chiropractor says

that the Appellant's cognitive and emotional functioning is impaired, while the Doctor says that he has no cognitive or emotional deficits.

The Ministry also notes that, while the Appellant says the Chiropractor is also a General Practitioner, they have completed the Assessor Report as a Chiropractor and have not stated any qualifications as a Medical Doctor. They maintain that a Chiropractor is not qualified to diagnose dyslexia. Therefore, the Ministry says that it cannot confirm that the Appellant has a severe mental impairment.

*Daily Living Activities:*

The Ministry also says that the information provided does not indicate direct and significant restrictions in daily living activities. The Ministry says that the Doctor's assessment of functional skills is not consistent with the Chiropractor's statement that the Appellant needs continuous assistance for transfers in and out of bed and chairs. Further, the Ministry says that the Chiropractor does not indicate the amount of assistance that the Appellant needs for daily living activities, and therefore the Ministry cannot confirm that the Appellant needs significant help for an extended period of time.

*Help with Daily Living Activities:*

The Ministry says that, as it cannot confirm that the Appellant has significant restrictions in the ability to perform daily living activities, it also cannot determine that the Appellant needs significant help with restricted activities.

Panel Decision:

*PWD Designation – Generally*

The legislation provides the Ministry with the discretion to designate someone as a PWD if the requirements are met. In the Panel's view, PWD designation is for persons who have significant difficulty in performing regular self-care activities. If the inability to work is the major reason for applying for PWD designation, the Panel encourages the applicant to speak to the Ministry about other potential programs such as Persons with Persistent Multiple Barriers to Employment (PPMB) or explore federal government programs such as Canada Pension Plan disability benefits.

Some requirements for PWD designation must have an opinion from a professional, and it is reasonable to place significant weight on these opinions. The application form includes a Self Report. It is also 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.



### *Severe Mental or Physical Impairment*

“Severe” and “impairment” are not defined in the legislation. 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 application of the legislation.

A medical practitioner’s description of a condition as “severe” is not determinative. The Minister must make this determination considering the relevant evidence and legal principles.

#### *1. Physical Impairment:*

The Doctor provides the diagnosis of Ankylosing Spondylitis, a chronic condition that causes severe back pain that, they state, impairs all aspects of the Appellant’s life. At the same time, the Doctor indicates, in the Functional Skills section of the Medical Report, that the Appellant is only limited in the length of time he can remain seated. The Ministry relies on this information to question the Doctor’s statements that the Appellant is continuously restricted in all physical aspects of daily living activities. The Doctor did not provide any further information that might clarify any apparent discrepancy in the assessment of physical functioning.

In the Assessor Report, the Chiropractor addresses physical impairment due to Ankylosing Spondylitis, indicating that the Appellant needs periodic assistance from another person to climb stairs, stand, carry, and hold items. The Chiropractor does not provide any explanation of the Appellant’s limitations or the assistance needed. They also indicate that the Appellant is independent walking indoors and outdoors, and they do not indicate that the Appellant takes significantly longer than typical. The Ministry also noted the discrepancy between the physical restrictions indicated in the Assessor Report, and the functional skills identified by the Doctor in the Medical Report.

At the hearing, the Appellant tended to focus on his diagnosis and treatment as the basis for his application. As explained above, eligibility for PWD designation is based on functional ability and restrictions.

When asked about the Doctor’s assessment of his functional skills, the Appellant said that he agreed with the statements about his ability to walk and climb stairs. However, the Panel also noted that the Appellant wants to present himself as a strong person, referring to his background as a professional athlete and personal trainer, and stating that he goes to the gym five days a week and tries to be as active as possible. As a result, it was the Panel’s impression that he may be minimizing his impairments when he talks to the medical professionals, as the Appellant also said to the Panel that he cannot climb 5 steps in the morning, he walks very slowly, and he can lift only light things.

The Panel finds that, given the discrepancy between the Doctor’s and the Chiropractor’s assessment of functional ability and restrictions in daily living activities, and the absence of any details or explanation of the restrictions in both the Medical and the Assessor Reports, the Ministry was reasonable in determining that a severe physical impairment was not established.

## 2. *Mental Impairment:*

The Appellant says that he has dyslexia and describes significant effects from that condition. However, the Doctor does not provide that diagnosis in the Medical Report and indicates that the Appellant does not have any significant deficits with cognitive and emotional function. The Chiropractor states that the Appellant has dyslexia, notes difficulties with reading, and writing, and indicates major impacts in cognitive and emotional functioning as a result. However, the Panel notes the definition of “chiropractic” in section 1 of the Chiropractor Regulation, and the list of chiropractic activities in section 4, neither of which includes diagnoses or treatment of mental or cognitive impairments. The Panel finds that assessment of dyslexia and cognitive and emotional functioning are not within the Chiropractor’s area of expertise and therefore the Panel can place little weight on that evidence.

The Panel does not question that the Appellant has dyslexia. However, the Panel finds that, as the diagnosis has not been confirmed by the Doctor (who stated, on the contrary, that the Appellant does not have any significant deficits with cognitive and emotional functioning), the Ministry was reasonable in determining that the information provided did not confirm a severe mental impairment.

### *Restrictions to Daily Living Activities (Activities):*

A prescribed professional must provide an opinion that the applicant’s impairment restricts the ability to perform the daily living activities (“Activities”) listed in the legislation. The Activities that are considered are listed in the Regulation. Those Activities are:

- Prepare own meals
- Manage personal finances
- Shop for personal needs
- Use public or personal transportation facilities
- Perform housework to maintain the person’s place of residence in acceptable sanitary condition
- Move about indoors and outdoors
- Perform personal hygiene and self care
- Manage personal medication.

For a person who has a severe mental impairment, Activities also include:

- Make decisions about personal activities, care, or finances
- Relate to, communicate, or interact with others effectively.

At least two Activities must be restricted in a way that meets the requirements. Not all Activities, or even the majority, need to be restricted. The inability to work and financial need are not listed as Activities and are only relevant to the extent that they impact listed Activities.

The restrictions to Activities must be significant and caused by the impairment. This means that the restriction must be to a great extent and that not being able to do the Activities without a lot of help or support will have a large impact on the person’s life.

The restrictions also must be continuous or periodic. Continuous means the activity is generally restricted all the time. A periodic restriction must be for extended periods meaning frequent or for longer periods of time. For example, the activity is restricted most days of the week, or for the whole day on the days that the person cannot do the activity without help or support. To figure out if a periodic restriction is for extended periods, it is reasonable to look for information on the duration or frequency of the restriction.

The Medical Report and Assessor Report also have activities that are listed, and though they do not match the list in the Regulation exactly, they generally cover the same activities. The Medical Report and Assessor Report provide the professional with an opportunity to provide additional details on the applicant's restrictions.

The Doctor indicates that the Appellant has continuous restrictions in every Activity listed in the Medical Report, except Social functioning, where the Doctor indicates both no restriction and periodic restriction. They do not provide any explanation of the degree of restriction, or assistance needed, except to state, "needs help from his wife." The Appellant has stated that he does not have a wife.

The Ministry points out that the Doctor's statements about restrictions in Activities are not consistent with their assessment of the Appellant's ability to walk, stand and lift. Similarly, the Ministry notes that, while the Chiropractor states the Appellant needs periodic assistance with several Activities, they also state that the Appellant is independent in walking indoors and outdoors and lifting, which would appear to be inconsistent with the restrictions noted. The Panel also notes that the Appellant says he lives alone and is managing to dress himself, cook his own meals and do basic housekeeping (although perhaps not often enough).

The Panel finds that the Ministry was reasonable in its determination that the inconsistencies in the information provided in the Medical and Assessor Reports, and the lack of explanation of the extent of the restrictions, did not confirm a direct and significant restriction in the Appellant's ability to perform Activities either continuously or periodically for extended periods.

*Help Required:*

A prescribed professional must provide an opinion that the person needs help to perform the restricted Activities. Help means using an assistive device, the significant help or supervision of another person, or using an assistance animal to perform the restricted Activities. An assistive device is something designed to let the person perform restricted Activities.

The Chiropractor said that the Appellant may need a walker to get out of bed. The Appellant says that he does not use a walker and is able to get up and down without one, although he uses counters and furniture for support. He says he could use a cane, but he does not. He lives alone and does not report receiving help from another person to perform Activities, although when he had a roommate, they helped him sometimes. The Appellant does not indicate that he needs significant help from another person to perform Activities.

In any event, as the Panel has found that the Ministry was reasonable in determining that the Appellant was not directly and significantly restricted in his ability to perform Activities, the Panel finds that the Ministry was also reasonable in determining that it could not find that the Appellant needs help to perform those Activities.

Additional Comments:

At the hearing, the Appellant questioned why the Ministry did not contact his Doctor or his Chiropractor to clarify any information that the Ministry found to be inconsistent or not explained adequately. The Panel notes that, given its resources and the number of PWD applications it receives, the Ministry reasonably relies on applicants to provide the information it needs to determine eligibility. The Panel recognizes that, if his dyslexia is severe, it may be difficult for the Appellant to determine if the information he is providing is complete or sufficient and would encourage him to consider finding an advocate to help with the application if he chooses to reapply.

Conclusion:

The Panel finds that the Ministry's decision to deny the Appellant PWD designation was reasonably supported by the evidence. The Panel confirms the reconsideration decision. The Appellant is not 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.

### Employment and Assistance Act

s. 22 (4) 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.

### Health Professions Act Chiropractors Regulation

#### Definitions

s. 1 In this regulation:

"chiropractic" means the health profession in which a person provides, for the purposes of promotion, maintenance and restoration of health, the services of

(a) assessment of the spine or other joints of the body and the associated tissue, and the nervous system,

(b) treatment of nervous system, muscular and skeletal diseases, disorders and conditions through manipulation or adjustment of the spine or other joints of the body by hand or by using devices directly related to the manipulation or adjustment, and

(c) advice and counseling on matters related to the condition of the spine or other joints of the body and the associated tissue, the nervous system and the overall health of the individual;

**Restricted activities**

s. 4 (1) A registrant in the course of practising chiropractic may do any of the following:

(a) make a diagnosis identifying, as the cause of signs or symptoms of an individual, a disease, disorder or condition of the spine or other joints of the body and the associated tissue, and the nervous system;

(b) move a joint of the spine beyond the limits the body can voluntarily achieve but within the anatomical range of motion using a high velocity, low amplitude thrust;

(c) put an instrument, a device or a finger into the external ear canal for the purpose of assessing the ear and auditory systems;

(d) put a finger beyond the anal verge for the purpose of manipulating the coccyx;

(e) apply X-rays for diagnostic or imaging purposes, excluding X-rays for the purpose of computerized axial tomography;

(f) issue an instruction or authorization for another person to apply, to a named individual,

(i) electromagnetism for the purpose of magnetic resonance imaging, or

(ii) X-rays for diagnostic or imaging purposes, including X-rays for the purpose of computerized axial tomography.

(2) Only a registrant may provide a service of chiropractic as set out in this regulation if, on the day before this section comes into force, the provision of the same service by anyone other than a person authorized under the [Chiropractors Act](#) was prohibited.



APPEAL NUMBER 2023-0100

**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)

2023/06/12

Print Name

Wesley Nelson

Signature of Member

Date (Year/Month/Day)

2023/06/12

Print Name

Kenneth Smith

Signature of Member

Date (Year/Month/Day)

2023/06/12