

Part C – Decision Under Appeal

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the “Ministry”) decision dated June 13, 2023 (the “Reconsideration”), denying persons with disabilities (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)

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

Part E – Summary of Facts

The hearing took place in person on August 1, 2023. The Appellant was supported by his Advocates who provided an additional five-page document at the hearing. The document was emailed to the Ministry representative. In response to questions from the Panel Chair, the Ministry confirmed they did not need an adjournment to review the new document.

Evidence Before the Ministry at Reconsideration:

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

- January 25, 2023 Medical and Assessor Reports completed by the Appellant's Doctor;
- January 25, 2023 Medical Summary completed by the Appellant's Doctor;
- January 11, 2023 Appellant's Self Report completed by the Appellant's Advocate;
- October 6, 2020 Chronic Disease Management report completed by the Appellant's Specialist
- September 11, 2020 Hospital Discharge Summary completed by the Appellant's Doctor;
- April 26, 2017 Surgical Consult report completed by the Appellant's Specialist; and
- Undated, unsigned letter of support from the Appellant's Advocate, accompanied by signed consents dated March 14, 2023

Medical Report:

The Doctor stated that the Appellant has been their patient from October 2020, and they have seen the Appellant between two and ten times in the past twelve months.

Diagnosis:

The Doctor states diagnoses of paralysis/cerebral vascular accident (CVA)—right hand weakness and aphasia (onset August 2020); and Peripheral Vascular Disease (PVD)(onset August 2020).

Health History:

The Doctor lists a number of medications that the Appellant requires to support his health. The doctor states the Appellant does not require any prostheses or aids for his impairment.

Functional Skills:

The Doctor indicates that the Appellant can

- Walk unaided 1 to 2 blocks on a flat surface- due to PVD

- Climb 5+ steps
- No limitations with lifting but cannot carry things due to PVD
- No limitation to remaining seated

The Doctor indicates that the Appellant has mild cognitive delay in communicating and has significant deficits with cognitive and emotional function in the areas of executive, memory, emotional disturbance, motivation, and attention or sustained concentration.

Assessor Report:

Mental or Physical Impairment:

Asked to provide a brief summary of the Appellant's mental or physical impairments that impact his ability to manage daily living activities, the Doctor states: "*Mild cognitive delay, as per admission 2020 post CVA Claudication prevents walking distances.*"

Ability to Communicate:

The Appellant is noted to have good levels of ability with speaking and hearing, satisfactory writing ability, and poor reading ability where the doctor states "due to inattention, needs to reread".

Mobility and Physical Ability:

The Doctor indicates that the Appellant takes significantly longer than typical for all but two listed areas of mobility and physical ability:

- Walking indoors
- Walking outdoors—uses bike
- Climbing stairs
- Carrying and holding—due to pain in legs.

The Appellant is noted to be independent in standing and lifting abilities.

Cognitive and Emotional Functioning:

The Doctor indicates that the Appellant's mental impairment has a major impact on memory, motor activity, and other neuropsychological problems ("learning disabilities" is circled). They indicate moderate impact on attention/concentration and executive functions, and minimal impact in emotion, insight and judgement, and motivation.

Daily Living Activities:

The Doctor indicates that the Appellant is independent in all but one aspect of daily living activities listed on the form, which include:

- Personal care

- Basic housekeeping
- Shopping
- Meals
- Pay rent and bills
- Medications
- Transportation

The only area the Appellant is not independent is in the Medications daily living activities section; the Appellant is not independent in taking medications as directed—he takes significantly longer than typical. The Doctor makes additional notations in that “Carrying purchases home” requires the bike and that “due to CVA, learning new activities is difficult”; and budgeting is noted as independent “within reason”. Further, the Doctor states that the “(Appellant) has difficulty doing things like going to physicians’ appointments (and) needed++ help with social work to fill in his part of this form”.

With regard to Social Functioning, the Doctor notes the following about the Appellant:

- He is independent in his ability to secure assistance from others;
- He requires continuous support/supervision to develop and maintain relationships;
- He requires continuous support/supervision to deal appropriately with unexpected demands; and
- He requires periodic support/supervision with appropriate social decisions and interacting appropriately with others.

The Doctor states the Appellant has marginal functioning with his immediate and extended social networks and describes the support/supervision required as “needs social workers to help with appointments”.

Assistance Provided for Applicant:

The Doctor indicates that the Appellant has no assistive devices and doesn’t have an assistance animal. However, the Doctor indicates that help required for daily living activities is provided by Community Service Agencies and further comments “Especially for filling out this form recently”.

Self Report:

The Appellant states that he suffers from a physical disability, depression and anxiety, train of thought, memory problems, (and) focusing on a task and completing it is difficult. In describing how his disability affects his life and ability to take care of himself, the Appellant lists:

- Difficulty in making and keeping medical appointments
- Forgetful on taking medication at times

- Cannot remember items for shopping, and using a recipe
- Physical limitations can slow me down on housekeeping tasks
- Some days no energy, for using transportation, walking or errands

Letter from the Advocate:

In support of the Appellant, the Advocate states:

- The Appellant requires PWD to survive financially;
- The Appellant's PWD application does not accurately reflect the severity of his disability or limitations;
- The Appellant felt embarrassed about his physical and cognitive capacity and presented as more capable and competent than he is;
- The Appellant's Doctor did not observe the severity of his limitations; he did not conduct a physical exam of the Appellant and only had phone conversations with him;
- The Appellant's interactions with the Doctor were brief and primarily about his medications;
- The Appellant's "memory is shot" and he is unable to maintain a linear thought process—he is unable to read a book or follow instructions or recipes; memory lapses are severely affecting his ability to follow a schedule or routine which endangers him physically as he forgets to shoulder check when on his bike; Due to 100% blockage in his femoral artery and osteoarthritis: movement is incredibly exhausting; he cannot walk to his destination after taking public transit; after walking he cannot feel his legs; he must take breaks every few minutes; grocery shopping is extremely tiring and painful; climbing stairs is very difficult and painful;
- The Appellant's fine motor skills and hand-eye coordination are severely compromised—he must close his eyes and concentrate until his fingers register the message to let go of an object;
- The Appellant cannot hold his arms up due to weakness; and
- The Appellant's conditions are only getting worse and not improving.

Additional Evidence:

At the hearing, the Appellant and his Advocates stated:

- The Doctor that filled out the Medical and Assessor Reports is not a family doctor and does not know him; the appointments were just over the phone and were mostly about prescription renewals
- The Appellant has no local family supports and relies on community services for assistance with basic things such as checking food expiry dates and discarding expired food so he does not eat the spoiled food

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

- The impairment in his memory affects his functioning such that “out of sight is out of mind”. He has great difficulty remembering to take his pills and has gotten confused about the number of pills he needs because he didn’t seem them; he recently contacted his doctor urgently to get more pills only to discover he didn’t need them after all.
- Simple activities like meals are a struggle for him. For example, the Appellant may go grocery shopping and either forget to make a grocery list or if he makes the list, he forgets to bring it; this means that things like meal planning and preparation take much longer for him to do.
- When he had his stroke, he was advised that most improvement occurred within the first two years; he’s had steady improvements in mental function (ie. he couldn’t count out dollars but is now able to) and although he has had physical improvements, he has “no strength” in his right hand and his weakened right-hand grip remains unchanged
- Physical mobility and ambulation is “so limiting”; he can’t carry weight and requires frequent breaks to walk as few as ten steps—he pushes himself and then he would “just have to collapse”; and using his bike allows him to travel longer distances but he still needs breaks

At the hearing, the Appellant’s Advocates confirmed that they are not prescribed professionals and also provided a five page document—six pages total, of which two pages were duplicates of items already in evidence at Appeal (Section C and Section D, 1-6 of the Medical Report; page 2/3 of Hospital Discharge Summary). While not all details of the additional evidence are repeated here, the Panel has reviewed the documents and provides a summary of the three new pages of evidence:

- One-page list with bullets and dated 2023-08-01
The list provides itemized descriptions of the Appellant’s situation, abilities, limitations and/or restrictions.

Cognitive

- Significant concentration, memory, and judgement deficits (ie. forgets to turn off stove; was hit by a car and the person convinced him to take \$120 instead of reporting to ICBC)
- Inability to understand and comprehend non-verbal cues
- Unable to organize, multi-task, follow instructions, or make decisions

Physical

- Mobility and balance concern's and feels unsafe (ie. fear of falling, difficulty bathing)
- Right hand functionality is very poor

Emotional/Mental

- Anxiety prevents socialization—completely isolated
- Unable to adapt to change
- Feels he can't stop smoking as he has nothing else to look forward to

➤ *Specialist Letter dated June 26, 2023*

Provides an assessment and recommendation for surgical treatment and contains yellow highlighted text indicating “and is severely disabled”.

➤ *Health Authority Referral Form dated February 12, 2022*

The referral form was completed by a Case Coordinator and notes:

Known stress factors/signs of decompensation: Some depression/anxiety reported

Physical concerns: Right hand weakness, Client states he gets tired quick

Goals of treatment: Medication reminders, Support client with: ongoing appointments, getting vision and hearing checked, Stress management strategies

Admissibility of Additional Evidence:

The Ministry did not object to the admissibility of the Appellant’s additional evidence. With respect to the additional evidence the Appellant and his Advocates provided at the hearing, the Ministry said the new information added necessary clarification of inconsistencies contained in the Reports compared with the actual experiences of the Appellant. The Ministry indicated they thought the information provided by the Appellant now better explains the tick boxes from the Reports, highlights the Appellant’s restrictions and vulnerabilities, and illustrates the link between the impacts described by the Appellant with his diagnoses. The Ministry says that it gives weight to the Self Report, that the additional information provided at hearing would have been of assistance if it had been received at initial PWD application and may have resulted in a different decision.

The documents provide further clarification about the Appellant's experiences and capabilities, and the additional supportive measures he requires. 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 and his Advocates say that his quality of life has been drastically affected by his physical and mental impairments and that he requires PWD to survive financially. The Appellant "cannot continue to move forward without the support and security of being on PWD. His conditions are only getting worse and are not improving...He really needs help as he will not be able to return to work". The Advocates say that given that the Appellant is unable to work, the PWD designation and accompanying financial assistance are vital for him.

The Appellant and his Advocates also argued that the Appellant fell through the cracks—he was never seen in person by the Doctor and the information in the Doctor's Medical and Assessor Reports do not accurately convey the Appellant's limited function. In addition, given the significant safety concerns presented by the Appellant; the restrictions and limitations to his daily living activities; the fact that the Appellant is eligible for Health Authority services; and that the Doctor's Medical Report does identify a permanent disability; the Advocates argue that eligibility for PWD designation has been sufficiently shown.

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

The Ministry says that, based on the information in the Medical and Assessor Reports, the Appellant's physical impairment is not severe. They acknowledge the Appellant's limitations in mobility and physical ability due to his CVA and claudication but find they do not confirm a severe physical impairment. The Ministry finds there is no severe physical impairment because the Appellant walks one to two blocks without assistance, climbs five+ stairs without assistance, and has no limitations in lifting. Although the Appellant may take longer with activities and is unable to carry things, the Ministry concludes that

the Appellant's independence with daily living activities has not been severely impacted. Finally, the Ministry notes that from the Appellant's report he may have underestimated his physical functioning to his Doctor but because there were no additional assessments included, the Ministry must consider the Doctor's assessment that was provided.

Mental Impairment:

The Ministry maintains that the Appellant has no impact or minimal impact in the majority of daily cognitive and emotional functioning areas. The Ministry acknowledges that due to his stroke, the Appellant experiences limitations to his cognitive and emotional function but says it does not severely impair his mental function. The Doctor reports significant deficits in executive, memory, emotional disturbance, motivation, and attention/sustained concentration. Similarly, the Appellant experiences major impacts in memory, motor activity, learning disabilities, and moderate impacts in attention/concentration and executive functioning. However, the Ministry notes that the Appellant is independent in almost all activities related to severe impairment. The Ministry says that although the Appellant may have under-reported to their Doctor, without further assessments that accurately reflect his capacity or impairment, it must rely on the information provided in the Reports.

Daily Living Activities:

The Ministry acknowledges that the Appellant has significant restrictions in his social functioning continuously or periodically for extended periods of time. However, the Ministry says the legislative criteria have not been met because all other daily living activities are not significantly restricted. Therefore, there is not enough evidence to confirm that, in the opinion of a prescribed professional, the Appellant's impairment directly and significantly restricts his ability to perform his daily living activities continuously or periodically for extended periods of time.

Help with Daily Living Activities:

The Ministry recognizes that the Appellant relies on a bike for assistance outside the home but emphasizes that a bike is not considered an assistive device per the legislation. The Ministry says that, as it has not been established that daily living activities are significantly restricted, it cannot determine that the Appellant needs significant help with those 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—the daily living activities. An applicant's inability to work and financial need are not among the daily living activities referenced in either the Regulation or the Medical Report and Assessor Report and are only relevant to the extent that they have an impact on an applicant's ability to carry out the listed daily living 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.

The requirements for PWD designation include having an opinion from a prescribed professional outlined in the Medical and/or Assessor Report. 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:

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

While the Appellant clearly suffers physical affects as a result of his stroke and claudication, the Medical and Assessor Reports do not confirm a *severe* physical impairment. The Reports state the Appellant walks one to two blocks without assistance, climbs five+ stairs unassisted, and has no limitations in lifting. Although the Appellant is noted to take significantly longer time with Mobility and Physical Ability activities including walking indoors and outdoors, climbing stairs, and carrying and holding, the Doctor provides limited clarification other than “uses bike” and “due to pain in legs”. While the lack of clarity may have been the result of the Doctor having been unfamiliar with the Appellant and being less than descriptive in completing the Reports, the Ministry is nevertheless required to assess and rely on the evidence that it has before it. Further, the Appellant himself stated that despite his physical limitations, he does manage physical activities but with frequent breaks being required.

2. Mental Impairment:

The Medical and Assessor Reports completed by the Doctor identify significant deficits in executive, memory, emotional disturbance, motivation, and attention/sustained concentration. Similarly, according to the Doctor, the Appellant experiences major impacts on daily functioning in memory, motor activity, learning disabilities, and moderate impacts in attention/concentration and executive functioning. This was echoed by the Appellant and his Advocates who stated that due to his mental impairment he is not managing his basic self care activities such as bathing, maintaining a clean appearance, meal planning and insuring food is safe and not expired before eating it, and keeping a clean, uncluttered, and safe home. The Appellant says that due to his mental health he often forgets to turn off appliances and taps, forgets to take out the garbage, and is unable to organize or declutter his home because he finds multitasking too overwhelming.

The Appellant’s Advocates also highlight the limitations in the Appellant’s social function and interactions. They describe the vulnerabilities experienced by the Appellant due to his mental impairment. For example, the Appellant was hit by a car and rather than report it to ICBC or seek medical attention, the person convinced him to take \$120. The Appellant is unable to behave appropriately in all situations, is unable to understand and comprehend nonverbal cues in interactions, and as a result, is completely isolated other than Advocate support.

Considering the whole of the evidence in the Medical Report, the Assessor Report, and the Appellant’s evidence in the Self Report and at the hearing of the appeal, the Panel finds that the Ministry was unreasonable to decide that the Appellant did not have a severe mental impairment.

Restrictions to Daily Living Activities:

A prescribed professional must provide an opinion that the applicant's impairment restricts the ability to perform the daily living activities listed in the legislation. The daily living activities that are considered are listed in the Regulation and include:

- 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, daily living activities also include:

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

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

The restrictions to daily living 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 activity 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 Assessor Report completed by the Appellant's Doctor indicates that the Appellant is independent with all identified daily living activities related to Personal Care, Basic Housekeeping, and Shopping. The Doctor provides one qualification with Shopping—Carrying Purchases Home and states "with the bike!". The only additional comment provided by the Doctor is "Due to CVA, learning new activities is difficult".

Although the Appellant and his Advocates described limitations in his daily living activities related to mental impairment, there is insufficient information from the prescribed professional to further clarify the degree, frequency, duration, of most of the limitations. The Appellant confirmed that overall, he is able to independently carry out the identified daily living activities despite some difficulties. For example, he is able to shop and prepare meals for himself but may take longer because he forgets to make a shopping list at all, or he makes the shopping list and forgets to bring it.

Of the two additional daily living activities specifically associated with a severe mental impairment, the Appellant described in more detail regarding "relating to, communicating or interacting with others effectively." The Appellant is unable to behave appropriately in all situations, is unable to understand and comprehend nonverbal cues in interactions, and as a result, is completely isolated other than Advocate support. The Assessor Report confirms "(Appellant) isolates himself", he requires continuous support/supervision to develop and maintain relationships, and that the Appellant has marginal functioning with regard to his relationships with his immediate and extended social networks due to his mental impairment. With this information, the Ministry determined that the Appellant is restricted in one daily living activity—social functioning.

Given the above, the Panel finds that the Ministry was reasonable in its determination that the Appellant is restricted in one daily living activity—social functioning. Similarly, the Panel also agrees that given only one daily living activity is restricted, the daily living activities requirement is not met. The Panel finds that the Ministry was reasonable in concluding that the Appellant has not demonstrated that, in the opinion of a prescribed professional, his mental impairment directly and significantly restricts his ability to perform daily living 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 daily living activities. Help means using an assistive device, the significant help or supervision of another person, or using an assistance animal to perform the

restricted activity. An assistive device is something designed to let the person perform restricted daily living activities.

In the case of the Appellant, there is no indication from the Doctor or the Appellant himself that he requires an assistive device or the services of an assistance animal. As such, the only legislatively referenced help that could be relevant in the Appellant's circumstances is significant help or supervision from another person.

The Medical Report makes no reference to the Appellant requiring the help of another person. The Appellant and his Advocates do indicate that the Appellant requires help performing daily living activities but did not sufficiently clarify what that help entailed or the frequency with which such help is required. In Part C of the Assessor Report, the Doctor noted that the Appellant was independent with daily living activities, while noting the frequency with which the Appellant was found to require support in the areas of social functioning where support is required was "periodic". However, in the space provided on the Assessor Report for comments on the degree and duration of support required, the Doctor instead simply confirms that the Appellant has difficulties and requires help rather than describing the degree and duration of the help required. Further explanation about the degree and duration from the Doctor could have assisted the Ministry in its determination of whether the Appellant met the legislative requirement of "significant help or supervision of another person."

The legislation says that a person must need help to do daily living activities *as a result of direct and significant restrictions in their ability to perform daily living activities*. So direct and significant daily living activities' restrictions must be the cause of the need for help.

As the Panel has found that the Ministry was reasonable in determining that direct and significant restrictions in the ability to perform two or more daily living activities had not been established, it follows that the Ministry was reasonable in determining that it was not established that the Appellant needed significant help to perform those daily living activities.

In view of the foregoing, the Panel finds that the Ministry was reasonable in its conclusion that the Appellant had not demonstrated that he required help, as contemplated by the Act, in carrying out daily living activities.

Conclusion:

Although the Panel finds that the Ministry was not reasonable to decide that the Appellant's mental impairment is not severe, the panel does find that, on the evidence before it, the Ministry was reasonable in its determination that:

- a prescribed professional has not provided an opinion that the Appellant's daily living activities are directly and significantly restricted continuously or periodically for extended periods of time; and
- as a result of restrictions to the Appellant's daily living activities, the Appellant requires help as defined in section 2(3)(b) of the Act.

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.

APPEAL NUMBER 2023-0186

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

Carmen Pickering

Signature of Chair

Date (Year/Month/Day)

2023/08/10

Print Name

Robert Kelly

Signature of Member

Date (Year/Month/Day)

2023/08/08

Print Name

Erin Rennison

Signature of Member

Date (Year/Month/Day)

2023/08/08