

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 October 24, 2023. In the Reconsideration Decision, the Ministry determined that 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*.

The Ministry was not satisfied that:

- the Appellant had a severe mental or physical impairment.
- in the opinion of a prescribed professional, the Appellant’s impairment directly and significantly restricted her ability to perform daily living activities either continuously or periodically, for extended periods; and
- as a result of such restrictions, the Appellant requires help to perform those activities.

The Ministry also determined that 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 (the “Act”) - section 2
Employment and Assistance for Persons with Disabilities Regulation (the “Regulation”) – 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 Ministry’s letter to the Appellant, dated July 19, 2023 (the “Ministry Letter”), denying her application for the PWD designation;
- the Ministry’s Person with Disabilities Designation Denial Decision Summary, dated July 11, 2023, which determined that the Appellant met only the age and duration requirements for a PWD designation;
- the Appellant’s Application for the PWD designation (the “Application”), which included:
 - the Appellant’s Applicant Information (the “Self Report”), which was undated and referred to a “reference sheet done by physician attached”;
 - the Appellant’s Self-Report, which was completed in a form substantially similar to the Medical Report (the “Medical Report”) and Assessor Report (the “Assessor Report”), completed by the Appellant’s doctor (the “Doctor”) as part of the Application;
 - the Medical Report, completed by the Doctor and dated June 12, 2023; and
 - the Assessor Report, completed by the Doctor but not dated;
- the Appellant’s Request for Reconsideration, dated October 2, 2023, with which the Appellant included a typed note indicating the following:
 - she is 62 years old;
 - she suffers from suicidal thoughts, depression, stress, anxiety, issues resulting from knee surgery, and breathing issues due to anxiety and stress;
 - she is estranged from her children and divorced from her spouse;
 - she had been living with her children until March 2023 when they asked her to leave;
 - she is unemployed and visits food banks daily;
 - she had knee replacement surgeries on each of her knees in 2016 and 2018, respectively, and now experiences pain and mobility issues;
 - she finds it painful to walk for longer than five minutes, requires a cane, and cannot walk more than a block without stopping to rest;
 - she cannot climb stairs without difficulty, requires frequent resting, and becomes short of breath when walking or climbing;
 - she cannot lift more than five pounds of weight without pain;
 - she has low motivation, a grade 6 education, low literacy skills, and a lack of proficiency in English;
 - she has experienced issues with concentration and memory due to her depression;

- her ability to carry out activities like catching a bus on time, getting groceries, simple house cleaning and preparing a meal have been restricted because of her knee pain; and
- when she was living with her children, she required their help with completing some tasks due to her being slow to complete them.

The Appellant's Notice of Appeal was filed on November 1, 2023. In the Notice of Appeal, the Appellant wrote that:

- her physical health is declining;
- one of the signs of deteriorating health is more frequent pain; and
- she had difficulty maintaining her regular basic living activities.

The Application

The Self Report

In Part B of the Self Report on the Application, the Appellant referred to a "reference sheet done by physician attached" (the "Reference Sheet"). However, at the hearing the Appellant confirmed that this reference sheet which had a layout that was similar to the Medical Report and the Assessor Report, had actually been completed by a social worker who inputted the information given by the Appellant.

In the Self Report, the Appellant described herself as being:

- able to walk less than one block;
- unable to climb stairs unaided;
- restricted to lifting items under 2 kilograms;
- able to sit with no limitations; and
- having difficulty with communication due to "Language barriers."

The Appellant also described having the following significant deficits with cognitive and emotional functioning:

- language;
- memory;
- emotional disturbance;
- motivation;
- motor activity; and
- attention or sustained concentration.

The Appellant commented that she has extreme sadness and is stressed due to her life conditions and described having a hard time taking care of herself and completing her daily living activities, due to being physically restricted.

In the portion of the Reference that mirrored the Assessor Report, the Appellant set out that she lives alone and has no help to complete her daily living activities due to restricted physical mobility.

The Appellant noted that she has poor speaking, reading, and writing abilities but noted that a language barrier was the cause for this.

With respect to her mobility and physical ability, the Appellant noted that:

- she requires periodic assistance with walking indoors (“has to be slow and careful”);
- takes significantly longer than typical with walking outdoors (“Cannot walk more than 10 minutes without a break”)
- takes significantly longer with climbing stairs (“will take at least a minute to climb one stair”);
- requires continuous assistance with lifting (“Cannot lift at all”);
- requires continuous assistance with carrying and holding (“Cannot carry or hold more than 2 kilograms”);

The Appellant also commented that she walks very slow and has to take breaks every 5 to 10 minutes when walking. She also noted that she needs the support of railings and is very slow to climb stairs. Finally, the Appellant noted that she walks with a cane due to her knee pain.

With respect to her cognitive and emotional functioning, the Appellant noted the following impacts in the Self Report due to her mental impairment:

- major impact on her bodily functions;
- no impact on her consciousness;
- major impact on her emotion;
- no impact on her impulse control;
- no impact on her insight and judgment;
- major impact on her attention and concentration;
- major impact on her executive functioning;
- moderate impact on her memory;
- major impact on her motivation;
- major impact on her motor activity;

- moderate impact on her language function;
- no psychotic symptoms;
- no neuropsychological problems; and
- no other emotional or mental problems.

The Appellant described herself as unable to keep up with her executive functioning and being unable to plan or organize things due to being physically restricted. She noted being unable to perform motor activities due to her knee problems and being emotionally disturbed with feelings of sadness due to her family issues.

With respect to her daily living activities, the Appellant noted the following:

- she takes considerably longer with dressing (“takes 15 minutes and has to struggle a lot”);
- she is independent with grooming;
- she needs continuous help with bathing;
- she is independent with toileting and feeding herself;
- she needs continuous support in regulating her diet;
- she takes considerably longer to transfer in and out of bed (“takes 10 to 15 minutes due to her knee pain”);
- she needs continuous support with transfers in and out of chairs (“needs support of the cane”);
- she takes considerably longer to do laundry;
- she needs continuous support to do basic housekeeping;
- she needs continuous support with all aspects of shopping (“children will do it for her”);
- she needs continuous support with meal planning and food preparation;
- she takes considerably longer to cook;
- she is independent with safely storing food;
- she needs continuous support with all aspects of paying rent and bills (“children help her and do it for her”);
- she takes considerably longer to fill prescriptions, which are delivered;
- she is independent with safely handling and storing medications;
- she needs periodic assistance with getting in and out of vehicles and using public transportation; and
- she is independent only with using transit schedules and arranging transportation.

With respect to social functioning, the Appellant describes herself as independent in all areas with good functioning within her immediate social network but marginal functioning within her extended social network.

The Appellant described receiving help from friends but did not make mention of any other help required or used.

The Medical Report

In Part B of the Medical Report, the Doctor diagnosed the Appellant with the following:

- depression, with an onset in 2018;
- stress with coping, with an onset in 2019;
- knee surgery, with an onset of 2016; and
- dyspnea (not yet diagnosed), with an onset in 2022.

The Doctor noted, in Part C of the Medical Report, that the Appellant had multiple health problems, including:

- knee pain;
- mood depression; and
- shortness of breath (not yet diagnosed)

Which “make her unable to work and perform activities.”

The Appellant was noted to be 148 centimetres in height and 68 kilograms in weight. The Doctor stated that the Appellant had been prescribed some sleeping and anti-depressant medications with may make her dizzy.

In terms of functional skills, the Doctor confirmed that the Appellant could:

- walk 2 to 4 blocks unaided on a flat surface;
- climb 2 to 5 steps unaided;
- lift 2 to 7 kilograms of weight; and
- remain seated for 1 to 2 hours.

The Doctor also confirmed that the Appellant had no communication difficulties, other than lack of fluency in English, and had significant deficits only in the areas of emotional disturbance and attention or sustained concentration.

The Assessor Report

In the sections of the Assessor Report dealing with the Appellant's impairment, the Doctor set out that the Appellant:

- had satisfactory speaking and reading ability;
- poor writing ability, although this was not noted by the Doctor to be related to her physical or mental impairment;
- good hearing ability;
- needed periodic assistance with walking indoors, walking outdoors, climbing stairs, standing, lifting, and carrying and holding.

The Doctor described the impacts of the Appellant's mental impairment as follows:

- the Appellant had no psychotic symptoms;
- impulse control, insight and judgment, attention and concentration, memory, and language were minimally impacted;
- bodily functions, consciousness, executive actions, motivation, motor activity, and other neuropsychological problems were moderately impacted; and
- there was a major impact on the Appellant's emotion.

With respect to daily living activities, the Doctor noted the following:

- the Appellant is independent with toileting, feeding herself, transfers in and out of bed, banking, budgeting, paying her rent and bills, filling and refilling prescriptions, taking medications as directed, using public transit, and arranging her transportation;
- the Appellant needs periodic assistance with dressing, grooming, bathing, regulating her diet, transferring on and off chairs, doing laundry, going to and from stores, reading prices and labels, making appropriate shopping choices, paying for purchases, meal planning, safely storing foods, safely handling and storing medication, and getting in and out of vehicles; and
- needed continuous assistance with respect to food preparation and cooking.

The Appellant's social functioning was described by the Doctor as follows:

- she requires periodic support or supervision with respect to making appropriate social decisions, developing and maintaining relationships, interacting appropriately with others, dealing appropriately with unexpected demands, and securing assistance from others;
- her mental impairment renders her marginally functioning with respect to her immediate social network and she has very disrupted functioning with respect to her extended social networks.

The Doctor set out that the Appellant required help with her daily living activities from friends. The Doctor concluded the Assessor Report with the following comments:

- multiple issues;
- asked by her own children to move out;
- temporarily stays with a friend;
- needs accommodation; and
- unable to be employed.

Evidence at the Hearing

The Appellant

At the hearing of the appeal, the Appellant brought several new documents, including:

- an ambulance invoice in the amount of \$450.00 in respect of a fall the Appellant had at an airport when she was traveling to another province for a wedding in September 2023;
- four prescriptions from her doctor for a variety of medications, including:
 - Paxil and Lorazepam, dated March 31, 2023;
 - Zopiclone, dated April 27, 2023;
 - Buscopan and Amitriptylene, dated March 15, 2023; and
 - Amoxicillin, Mucinex, and Rupall, dated October 26, 2023
- receipts for two prescriptions in the amounts of \$28.07 and \$18.16, respectively; and
- two notes from her doctor.
(the "New Documents")

The Appellant began by indicating that she could not walk very far and that anything more than a block causes pain, requiring her to stop and rest for up to ten minutes.

The Appellant described experiencing pain in her lower back, having had an x-ray of the lower back done on the Monday immediately prior to the hearing of the appeal. The Appellant did not yet have the results of that x-ray.

The Appellant described not being able to sit for very long because of pain in her knees. She noted again that she had undergone knee surgeries in 2016 and 2018 on each of her knees. After the surgery, the Appellant did some physiotherapy at the hospital and continued with her exercises at home. She is currently taking medications for pain and depression.

The Appellant stated that she is unable to do any housework and that she has a friend come in to help her three times per week. The friend comes over to cook, do laundry, and clean floors. The friend is not being paid for her assistance.

The Appellant noted that she had lived with her children from 2017 to March 2023, at which time all of them were evicted from their residence. The Appellant has been separated from her spouse since approximately 2009 and lived alone and with a friend prior to living with her children.

The Appellant stated that, presently, she cooks some things for herself when her friend is not available. She lives in a private home, renting a room and a sitting room.

The Appellant described taking public transit to get to the hearing. She did nothing else on the day of the hearing due to her knee pain. The Appellant described taking about half an hour to walk a couple of blocks and required a rest on the way to the hearing of the Appeal. The Appellant described going to a food bank regularly and normally goes by herself.

According to the Appellant, she seldom goes out, unless it is to the food bank. She stated that she never sees friends and, other than the friend who comes to help her, has only one other friend who does not live close to her. The Appellant stated that her family doesn't see her and that no one went to visit her in the hospital when she had her knee surgeries. She has not seen her children since they all moved out of the residence they were living in together.

The Appellant's Friend

The Appellant's friend stated that she goes to the Appellant's home three times per week, ordinarily on Mondays, Wednesdays, and Fridays, and spends about three hours there each time. She stated that she had been doing this since at least April 2023. She does not get paid and does not feel right about taking any money from the Appellant.

She described the Appellant as using a cane to walk and stated that the Appellant's children ignore her.

The Appellant's friend described a shorter walk to the hearing but did indicate that the Appellant required a rest during the walk.

The Appellant's friend has known the Appellant for a long time and described her as wobbling when she walks. She stated that the Appellant's condition is getting worse.

The Ministry

The Ministry representative noted that the Doctor had known her for 21 years and the Ministry did take into account the Self Report.

The Ministry representative highlighted the discrepancies between what the doctor described in the Medical Report and the Assessor Report and what the Appellant set out in the Self Report, with respect to a number of matters including the Appellant's tolerances for sitting, walking, and standing. In the result, the Ministry determined that the Appellant's physical impairment was not severe.

The Ministry representative also noted that the Appellant's functioning was only moderately or minimally impacted in most areas, other than emotion and that, in the result, the Appellant had not satisfied the Ministry that she has a severe mental impairment.

With respect to daily living activities, the Ministry representative noted that, while periodic assistance was indicated, there were no comments from the Doctor on how often or for how long assistance was needed, making it difficult to determine whether any restriction on the Appellant's ability to carry out daily living activities is significant. Likewise, in the areas where continuous support was required, there was no comment which made it difficult to determine if the restrictions were significant, having regard to the functional abilities described in the Medical Report.

With respect to help required, the Ministry representative noted that because it had not been established that the Appellant's daily living activities were significantly restricted, it cannot be established that help is required to carry out the Appellant's daily living activities.

The Ministry representative, although not having seen the New Documents, did not object to their admissibility. The panel found that not all of the New Documents, most notably the ambulance invoice, directly address physical or mental functional abilities. The panel nevertheless admits the New Documents and the oral evidence given at the hearing, pursuant to section 22(4) of the *Employment and Assistance Act*, as information that is not part of the record but reasonably required for a full and fair disclosure of all of the matters related to the decision under appeal. The Doctor's notes, for example, describe the Appellant's condition (in particular, her mental health) and the prescriptions confirm some of the medications that the Appellant is taking for the relevant health issues.

Part F – Reasons for Panel Decision***Issue on Appeal***

The issue in this appeal is whether the Ministry was reasonable in its determination that the Appellant was not eligible for a PWD designation because the Ministry was not satisfied that:

- the Appellant has a severe mental or physical impairment;
- in the opinion of a prescribed professional, the Appellant's impairment directly and significantly restricted her ability to perform daily living activities either continuously or periodically for extended periods; and
- as a result of such restrictions, the Appellant requires help to perform those activities.

Panel Decision***Legal Principles***

The Act sets out the various criteria that must be met in order for a PWD designation to be made. These criteria are set out in section 2(2) of the Act:

- a person must be 18 years of age;
- the Ministry must be satisfied that the person has a severe physical or mental impairment;
- the opinion of a nurse or medical practitioner must be that the impairment is likely to continue for at least 2 years;
- the opinion of a prescribed practitioner must be that the person's daily living activities are directly and significantly restricted continuously or periodically for extended periods; and
- as a result of the person's restrictions, the person requires help to perform daily living activities.

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/or mental functioning, including any restrictions, is a reasonable application of the relevant section of the Act. However, by itself, a medical practitioner's description of an applicant's condition or impairment as "severe" is not determinative. The Ministry must make its determination of severity on a consideration of all the relevant evidence and legal principles.

Restriction to Daily Living Activities

The Act requires that a prescribed professional provide an opinion that an applicant's impairment restricts one's ability to perform daily living activities. In the B.C. Supreme Court decision of *Hudson v. Employment and Assistance Appeal Tribunal*, 2009 B.C.S.C. 1461, the court held that at least two daily living activities had to be restricted for the requirements of the Act to be satisfied but that not all of the enumerated activities needed to be restricted.

Section 2(1) of the Regulation specifically references the following daily living activities in respect of persons with a severe physical or mental impairment:

- preparing one's own meals;
- managing personal finances;
- shopping for personal needs;
- using public or personal transportation facilities;
- performing housework to maintain one's place of residence in acceptable sanitary condition;
- moving about indoors and outdoors;
- performing personal hygiene and self care; and
- managing personal medication.

For persons with a severe mental impairment only, section 2(1) of the Regulation specifically references the following daily living activities:

- making decisions about personal activities, care or finances; and
- relating to, communicating or interacting with others effectively.

The above daily living activities are also referenced in both the Medical Report and the Assessor Report, providing professionals who complete those reports with the opportunity to describe the extent of any restrictions to an applicant's daily living activities and to provide more detail about the restrictions. While the daily living activities in the Medical Report and Assessor Report do not match the daily living activities referenced in the Regulation exactly, they generally cover the same 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.

The restrictions to daily living activities must be significant and caused by the impairment.

The restrictions to daily living activities must also be continuous or periodic for extended periods, as per section 2(2)(b)(i) of the Act. Continuous means the activity is generally restricted all the time. A periodic restriction must be for an extended period. This means, generally, that the restriction is either frequent or, if not as frequent, occurs for longer periods of time. This can mean a daily living activity is restricted most days of the week or for an entire day on days where a person cannot perform the daily living activity without help or support. To determine whether a restriction is periodic for extended periods, it is reasonable to look for information on the duration or frequency of the restriction.

Help

Help is defined in section 2(3)(b) of the Act as one or more of:

- the use of an assistive device;
- the significant help or supervision from another person; or
- the services of an assistance animal.

Severity

The Doctor described the Appellant's functional physical skills (walking unaided, climbing unaided, lifting, and remaining seated) as somewhere in the middle of the range between having no limitations and being at the most restricted end of the range. Likewise, the Doctor found no impairment with communications and deficits with only emotional disturbance and attention and concentration. While the Self Report described more significant restriction with walking, climbing, and lifting, the Appellant described a higher tolerance for sitting than what had been described in the Medical Report. Likewise, the Appellant described more significant deficits with her cognitive and emotional functioning than what was described by the Doctor in the Medical Report with the Appellant describing deficits with language, memory, motivation, and motor activity, in addition to emotional disturbance and motivation.

With respect to the level of impairment described in the Assessor Report and the Self Report, there is not as significant a discrepancy. In all areas of communication, for example, the Doctor describes the Appellant's functioning as satisfactory or good and, while the Appellant describes her functioning as poor, there is a notation that this is due to a language barrier.

In terms of her mobility and physical abilities, the differences between the Medical Report and the Self Report are more significant, with the Appellant's Self Report indicating that she needs continuous assistance or takes significantly longer than typical with respect to most functions.

However, the Appellant also described herself as independent when it came to standing, despite the doctor indicating that she required periodic assistance.

Ultimately, the Medical Report suggests moderate restrictions to the Appellant's functioning, both physically and mentally, and a moderate level of impairment. Notwithstanding that, in some respects, the Self Report suggests more significant restrictions in the Appellant's function and a more significant degree of impairment, the panel finds that the Ministry was reasonable in its determination that the Appellant does not have a severe physical or mental impairment, particularly in a case such as this where, in some respects, the Self Report indicates less significant restrictions (seating tolerance), and a greater level of function (standing) than was indicated in the Medical Report.

Restrictions to Daily Living Activities

The discrepancies between the Self Report (and the letter included with her Request for Reconsideration) and the Medical Report and Assessor Report are also evident when it comes to the Appellant's daily living activities. While the Doctor describes the Appellant as being independent or needing only periodic assistance with respect to all daily living activities, other than basic housekeeping, carrying purchases home from shopping, food preparation, and cooking, the Self Report paints a much more negative picture of the Appellant's daily living activities.

However, when it comes to the restrictions on daily living activities, the requirement is that a prescribed professional give an opinion that a person's daily living activities are restricted continuously or on a periodic basis *for extended periods of time* (emphasis added). In the case of the Appellant, the prescribed professional, the Doctor, set out that the Appellant is continuously restricted with basic housekeeping, carrying purchases home from the store, and in food preparation and cooking. However, the Doctor does not set out the reason for these restrictions or relate them to the Appellant's impairment. Given that the Appellant describes herself as independent with standing, it is not clear, for example, whether her need for assistance with food preparation and cooking are related to a physical impairment or a mental impairment. At the hearing, moreover, the Appellant indicated that she does sometimes cook for herself. Likewise, the Doctor does not ascribe the Appellant's need for assistance in basic housekeeping or carrying purchases home to a particular diagnosed impairment, such as the Appellant's knee pain. Where the Appellant is described as requiring periodic assistance from another person in carrying out certain daily living activities, the Doctor offers no opinion as to whether that assistance is required for extended periods of time, as required by the legislation.

Likewise, in the areas of social functioning where the Appellant is reported to require periodic support or supervision, the Doctor does not indicate or explain whether or not such support or supervision is required for extended periods.

In view of the foregoing, the panel finds that the Ministry was reasonable in its determination that the Appellant had not satisfied the requirement that her impairment directly and significantly restricted her daily living activities on a continuous basis or on a periodic basis for extended periods.

Help

When it comes to help, the Doctor did not offer any opinion that the Appellant requires the help of an assistive device (including a cane) or a service animal. The Doctor did set out in the Assessor Report that the Appellant required the help of friends in order to carry out her daily living activities.

Again, however, the legislative criteria is that any help that is required be for the purpose of carrying out significantly restricted daily living activities. Where it cannot be shown that daily living activities are significantly restricted, this criteria is not met even where an applicant may be receiving help from another person or persons.

In the result, the panel finds that the Ministry was reasonable in its determination that the Appellant had not satisfied the requirement that, as a result of significant restrictions to her daily living activities, the Appellant requires help to perform those daily living activities.

Conclusion

In view of the foregoing, the panel finds that the Ministry was reasonable in its conclusion that the Appellant has not satisfied it that she has a severe physical or mental impairment and is significantly restricted in in her ability to carry out her daily living activities on a continuous basis or periodically for extended periods of time such that she requires help with respect to those daily living activities.

The Appellant is not successful in this appeal.

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

Section 2

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

Section 2

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.

Section 2.1

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).

2023-0339

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/November/29

Print Name

Diane O'Connor

Signature of Member

Date (Year/Month/Day)

2023/11/29

Print Name

Edward Wong

Signature of Member

Date (Year/Month/Day)

2023/11/29