

Part C – Decision Under Appeal

The decision under appeal is the Reconsideration Decision of the Ministry of Social Development and Poverty Reduction (“Ministry”). The Ministry decided that the Appellant did not meet all of the requirements of section 2 of the *Employment and Assistance for Persons with Disabilities Act* for person with disabilities designation (“PWD”). The Ministry found that the Appellant met the age and duration requirements, but did not meet the following:

- the Appellant has a severe physical and/or mental impairment;
- the Appellant’s daily living activities are directly and significantly restricted either continuously or periodically for extended periods; and
- because of those restrictions, the Appellant needs an assistive device, significant help or supervision from another person, or needs an assistance animal.

The Ministry also found that the Appellant is not qualified for PWD designation on alternative grounds, which includes: a person who is in palliative care; a person who received At Home Program payments through the Ministry of Children and Family Development; a person who gets or ever got Community Living BC for community living support; and a person who is considered disabled under section 42(2) of the *Canadian Pension Plan Act*.

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”), section 2

The complete legislation is found at the end of this decision in Appendix A.

Part E – Summary of Facts**Evidence at the time of Reconsideration**

The Appellant's PWD application that includes:

- A Medical Report dated November 16, 2023 which was completed by the Appellant's doctor. The doctor has seen the Appellant 11 or more times and has known the Appellant for 17 months prior to completing the PWD application.
- An Assessor's Report dated September 26, 2022 which was completed by the Appellant's social worker. The social worker met the Appellant once to complete the PWD application. The Assessor's Report was completed through an office interview with the Appellant.
- The PWD application also included the Appellant's self-report dated October 20, 2023. The self-report was left blank.

Request for Reconsideration dated February 13, 2024. In it, the Appellant stated the following:

- There is constant pain throughout his body, specifically back and legs.
- He has constant sciatic nerve pain, toes and feet feel numb, arms go numb, have bone chips in the elbows, neck hurts.
- His mom helps with [daily living activities] like cooking meals, shopping, housekeeping, and laundry.
- He is limited in mobility to mostly sitting and laying down and is hard to stay in one position for long, and struggle with sleep.
- He uses a cane to walk indoors and is embarrassed to use the cane outside.

At Reconsideration, the Appellant also submitted:

- CT Scan Results from August 8, 2023.
- A letter from the Appellant's doctor dated February 8, 2024. The letter, in part, stated the following:
 1. There was an error in the original PWD application regarding the restriction with lifting. The Appellant cannot lift more than 5-10lbs without debilitating pain causing him to have to put the item down and have someone else move it.
 2. Since the PWD application was completed, the Appellant's pain has increased impacting his ability to do his daily living activities and basic mobility is taking longer than it previously did.
 3. He can now walk less than 1 block unaided before needing to stop. This has a large impact on his ability to do his own shopping, and most of this is done by family/friends now.

4. The Appellant's mother helps daily living activities such as meal preparation and housework now more than before. Without help it would take significant increased time to complete the tasks as he needs to take frequent breaks due to pain. He can stand to complete a chore, such as doing dishes, for approximately 5 minutes before needing to sit down.

Diagnoses

In the Medical Report, the doctor diagnosed the Appellant with spinal stenosis, opioid use disorder, degenerative disc disease (DDD), generalized anxiety and major depressive disorder. The onset of each condition was not indicated.

Health History

The doctor said the following about the Appellant's condition:

- Daily pain which impairs functioning, mobility and ability to sit or stand for any long duration.
- Cannot work due to pain.
- Takes longer to do tasks that require physical ability.
- Anxiety has limited his ability to engage socially.
- Anxiety prevents him from driving and he relies on others for transportation.
- There is pain with DDD.
- No medications and/or treatments that interfere with the ability to perform daily living activities have been prescribed.
- The Appellant uses a cane as a walking aid approximately 50% of the time.

Degree and Course of Impairment

The Appellant's impairment may last 2 or more years from the date of the PWD application. The doctor stated that "unknown as is currently pending assessment for potential surgery, may have better functional outcomes postop".

Physical Impairment

The Medical Report, indicated the following about the Appellant:

- Can walk 2-4 blocks unaided on a flat surface, he can climb 5+ steps unaided, he lift without limitations and can remain seated for less than 1 hour.

The Assessor's Report indicated the following about the Appellant:

- Walking indoors and walking outdoors are performed independently.
- Climbing stairs ("hip pain"), standing ("hard to stand long"), lifting ("avoid[s] heavy lifting; hurts"), and carrying/holding ("avoid[s] heavy lifting, hurts") take significantly longer to perform.

- “Back pain, hip pain, arthritis in those areas. Poor sleep due to pain. Both knees broke in past, healed, extensive pain”.

Mental Impairment

The Medical Report indicated the following about the Appellant:

- There are no difficulties with communication.
- There are significant deficits with cognitive and emotional function in the areas of memory, emotional disturbance, motivation, and attention or sustained concentration. The Appellant also has sleep issues related to pain.

The Assessor Report indicated the following about the Appellant:

- Speaking, reading, writing and hearing are good.
- There are impacts on daily functioning with cognitive and emotional functioning. Major impacts to motivation. Moderate impacts to bodily functions, emotion, attention/concentration and memory. All other listed areas have either minimal or no impact.
- All tasks listed under social functioning are performed independently and there is good functioning with immediate and extended social networks. Under other, the assessor indicated anxiety and stated that “relating to new people, talking”.

Daily Living Activities

The Medical Report said the following about the Appellant:

- There are periodic restrictions to management of finances and social functioning.
- There are no restrictions to personal self-care, meal preparation, management of medications, basic housework, daily shopping, mobility inside the home, mobility outside the home, and use of transportation.
- “Issues with budgeting, impulse spending”.
- “Impaired in group settings, unable to attend group settings; non-function 1-on-1 or small amount of people”.
- The Appellant “will specify” what assistance is needed with daily living activities.

The Assessor Report said the following about the Appellant:

- Under Personal-Care, all listed tasks are performed independently and transfers (in/out of bed) take significantly longer (“getting out due to back pain”).
- Under Basic Housekeeping all listed tasks are performed independently.
- Under Shopping, all listed tasks are performed independently.
- Under Meals, all listed tasks are performed independently.
- Under Pay Rent/Bills, banking and pay rent and bills are performed independently and budgeting takes significantly longer (“over-spending”).

- Under Medications, all listed tasks are performed independently.
- Under Transportation, all listed tasks are performed independently.
- Under Social Functioning, all listed tasks are performed independently.

Help

The Assessor Report said the following about Appellant:

- Lives with family, friends or caregiver.
- Family and friends provide help with daily living activities. "Friend drives him to appointments or anywhere else required".
- Assistance is not provided through the uses of assistive devices or an assistance animal.

Evidence At Appeal

A Notice of Appeal was submitted on March 13, 2024. The Appellant argued that:

- Need help with daily living activities which is usually provided by the Appellant's mom.
- Can only walk very short distances (less than a block).
- X-rays and CT Scan shows I need consult with neurosurgeon.
- He cannot work to support himself.
- Spinal problems now causing urinary problems.
- All of this is causing high anxiety and depression ("i.e. pain/debt").

The Panel found that the Notice of Appeal is the Appellant's argument and accepted it accordingly.

The Appellant also submitted the following at appeal:

- A letter from another doctor dated March 15, 2024. The letter, in part, stated that following:
 1. The Appellant is complaining of chronic lower back pain referred to his right leg.
 2. Tingling and numbness of his foot.
 3. He has restricted mobility that is affecting his ability to do his daily tasks.
 4. He has multiple level degenerative disc disease of lumbar spine with spinal canal stenosis.
- Radiology Results report dated May 29, 2024.

Evidence at the Hearing

At the hearing, the Appellant's advocate stated, in part, the following:

- The Appellant needs help with everything.
- He cannot stand long.
- His mom does all the cooking.
- He hunches over when walking like an elderly person.
- He is depressed and in pain.

At the hearing, the Appellant stated, in part, the following:

- He uses walking aid (cane) and can only walk 20-30 feet at a time.
- His legs shake and toes go numb when he walks for long.
- He is in pain all day long.
- His knees, hips and back are in constant pain.
- His nerves (in the spine) are cut off and pinched.
- For approximately one year he has been using a raised toilet seat to sit as he cannot sit on the toilet on his own. At times he needs help getting up from the raised toilet seat.
- He cannot put on his socks and his mom has to do it for him.
- He must wear loose-fitting clothes because things like jeans aggravate the pain.
- He is on methadone treatment after becoming addicted to prescribed opioids. He wants to ween off but the methadone helps with the current pain he feels.
- He has the support of two different doctors (as stated in the evidence).
- Things are worse now than one year ago.
- He can only do dishes for about 5 minutes as standing and holding his hands out becomes too painful.
- He sits for most of the day but that too causes pain and numbness. He then must move. When he walks, he must do so with a cane, even indoors, and only for short distances otherwise his legs go numb and feet tingle.
- He uses a cane 100% of the time. However, in public he will use crutches as he is embarrassed to use a cane in public.
- The Assessor's Report is old because he could not get an appointment to get an updated form. He also was unaware that his medical practitioner could complete the Assessor's Report as well.
- He has a consultation with a surgeon on July 4, 2024. He is hoping that back surgery will improve his condition but he does not know what to expect.
- He has been in pain for almost two years.
- In terms of his daily living activities, he cannot independently perform basic housekeeping, shopping or meals. He needs help with transportation as it is difficult to get in/out of a vehicle. He is independent with personal care, medication, and pay rent/bills.

At the hearing, the Ministry relied on its Reconsideration Decision. The Ministry added the following:

- The radiology results report did not provide much detail.
- The March 15, 2024 letter did not speak to severity, did not mention if the Appellant uses aids but does indicate that the Appellant's condition has progressed and this information could have been helpful at Reconsideration.
- The Assessor Report is outdated and there was not mention about the use of crutches or raised toilet seat. A new, updated Assessor report would have been helpful as it appears that the Appellant's condition has worsened.

Admissibility of Additional Evidence

The Ministry did not object to the admission of any additional evidence the Appellant submitted at the hearing.

A Panel may consider evidence that is not part of the record that the Panel considers is reasonably required for a full and fair disclosure of all matters related to the decision under appeal.

The Panel found that the evidence submitted at appeal (the letter dated March 15, 2024 and the Radiology Results Report dated May 29, 2024) and at the hearing (the Appellant's testimony) provided additional detail or disclosed information that provides a full and fair disclosure of all matters related to the decision under appeal. The Panel has admitted this new evidence as being in accordance with s. 22(4) of the *Employment and Assistance Act*.

Part F – Reasons for Panel Decision

The issue on appeal is whether the Ministry's Reconsideration Decision, which found that the Appellant is not eligible for designation as a PWD, was reasonably supported by the evidence or was a reasonable application of the legislation.

Panel Decision**Severe Impairment**

In the Reconsideration Decision, the Ministry was not satisfied that the information showed that the Appellant has a severe physical or mental impairment. The Ministry is of the opinion that to show that an impairment is severe, the information has to be weighed against the nature of the impairment and how it impacts functioning either physically or mentally. Having a diagnosis of a medical condition does not mean that the impairment is severe or that the person is qualified for PWD. The information has to show that the impairment, which is caused by a medical condition, restricts a person's ability to function on their own or effectively. The Ministry has to look at the impairment and see if it impacts daily functioning. The Ministry depends on the information in the PWD application and any other information that is given. The Panel finds that the Ministry's approach to determine severity is reasonable.

The Panel also notes that the ability to work is not a consideration for PWD eligibility because the ability to work is not a requirement of section 2(2) of the Act and is not listed as a daily living activity.

Physical Impairment

The Appellant stated that his back, knee and hip pain is so severe that it has impacted his physical functioning and mobility.

The Ministry concluded that, based on the information provided in the original PWD application and Request for Reconsideration, the Appellant does not have a severe physical impairment.

In the Reconsideration Decision, the Ministry noted the Appellant's functional skills and the doctor's narrative as indicated in the Medical Report. The Ministry stated that with respect to daily living activities, the doctor reports the limits with walking require help with shopping, mother helps with daily living activities such as meal prep and housework and it would take significantly more time to complete tasks without the help and reports the limit with standing impacts the ability to do cleaning such as the dishes. It is unclear how much longer than average you would take to complete daily living activities.

The Ministry noted that “The Assessor Report is over a year old; however, is consistent with the recent diagnosis of DDD and spinal stenosis when noting back, hip, knee and shoulder pain, taking longer on stairs, difficulties with standing, and pain with heavy lifting and carrying”.

The Ministry concluded that “Although they reported [the Appellant] as independent with [daily living activities] at that time, they reported [the Appellant] took longer getting in/out of bed due to the back pain, family helps, friends needed to drive to appointments, and [the Appellant] routinely used a cane 2-3 times a week at home to compensate for the impairment. However, is unclear what daily living activities the cane was used for as they reported minimal help required”.

The Ministry concluded that “Given the assessment, and new information provided by the Appellant and medical practitioner, the Ministry is satisfied a moderate physical impairment in function has been established, based on the multilevel DDD, spinal stenosis, pain in many joints, and limits with walking, standing, lifting, sitting, and carrying. However, without further detail from the medical practitioner about the current impacts on daily functional skills, restrictions to daily living activities, and what specific help is currently required, this application makes it difficult to establish a severe physical impairment in function”.

The Panel’s task is to determine if the Ministry’s decision is reasonable. The legislation and the PWD form set out that there are five criteria that determine PWD designation, and an applicant must meet all five criteria. In the Reconsideration Decision, the Ministry has supported its position on one criterion (severe physical impairment) with the information from a second criterion (daily living activities). That is, the Ministry has supported its assessment of whether the Appellant has a severe physical impairment by assessing his ability to complete daily living activities. The Panel finds that this is unreasonable since physical impairment is a separate criterion from daily living activities.

The Ministry has determined that the Appellant has a moderate physical impairment. The Panel considered the information in the Medical Report that the Appellant can walk 2-4 blocks unaided, climb 5+ steps, lift without limitation and remain seated for less than 1 hour. The doctor indicated that the Appellant has “daily pain which impairs functioning, mobility and ability to sit or stand for any long duration”. The Panel also considered that February 8, 2024 letter from the doctor. In it the doctor corrects the original assessment in the PWD application. The doctor indicated that the Appellant can only lift 5-10lbs without debilitating pain, can walk unaided less than 1 block and he can only stand for approximately 5 minutes. This information is consistent with the Appellant’s testimony at

the hearing. The Panel also considered the March 15, 2024 letter in which a doctor stated that the Appellant has chronic lower back pain, tingling and numbness in his foot, and restricted mobility. This is consistent with the Appellant testimony at the hearing. The Panel considered the Assessor Report as well but notes that the information is not current. The Assessor Report indicated that that the Appellant takes significantly longer to climb stairs, stand, lift and carry/hold. The Appellant indicated that his condition is worse now than one year ago which the Ministry accepted. The Panel finds that when all of the evidence is considered, which includes the narrative provided by the doctors, a severe physical impairment has been established.

Given the information in its totality, the Panel finds that the information provided does establish that the Appellant has a severe physical impairment. As a result, the Panel finds that the Ministry was not reasonable when it found that the Appellant does not have a severe physical impairment as is required by section 2(2) of the Act.

Mental Impairment

The Appellant argued that he is depressed and anxious.

The Ministry argued that based on the information provided in the PWD application, the Appellant does not meet the legislative requirements of severe mental impairment.

In this Reconsideration Decision, the Ministry stated that the doctor reported opioid use disorder, generalized anxiety, and major depressive disorder, the anxiety limits the ability to engage socially, prevented the Appellant from getting a license, and he relies on others for transportation. The doctor reported that the Appellant receives opioid treatment; however, they are still trying to get to stable dosing. The doctor reported significant deficits with cognitive and emotional function, specifically with emotional disturbance, motivation, attention or sustained concentration, and memory. Also, sleep issues related to pain were identified. The doctor did not report restrictions to daily living activities, except periodic restrictions with social functioning. Given the assessment, a severe mental impairment cannot be established and only demonstrates at most a mild-to-moderate mental impairment given the doctor's report of restrictions to daily living activities.

The Ministry also stated that the Assessor Report is problematic because it has conflicting information. The Ministry stated that it appears to indicate there may have been moderate impacts to daily functions with many areas yet then reports no restrictions to daily living activities except related to budgeting and anxiety talking to new people and group settings. The Ministry states that this supports at most a mild mental impairment.

The Panel notes that the Ministry leans on information about daily living activities to determine a severe impairment when the two are separate criteria. The Panel also notes that the Ministry incorrectly stated that the doctor only indicated that there was a restriction to social functioning. The evidence indicates that the doctor also indicated that the Appellant has a periodic restriction to managing finances.

The Panel considered the information regarding cognitive and emotional functioning as indicated in the Assessor Report and notes that the Assessor indicated one major impact to motivation. All other areas of cognitive and emotional functioning are indicated as having a moderate, minimal or no impact. The Panel finds that this is indicative of a mild to moderate mental impairment.

The Panel considered the information in the Medical Report as well. The doctor indicated that the Appellant has significant deficits with cognitive and emotional functioning in the areas of memory, emotional disturbance, motivation and attention/sustained concentration. The doctor has also diagnosed the Appellant with major depressive disorder and generalized anxiety. The Appellant indicated that he is depressed as well and is anxious in group settings. The Panel finds that the doctor indicated that the cognitive and emotional deficits are significant. That is, these deficits are notable, remarkable and worthy of attention.

The Panel considered that the Assessor Report and the Medical Report provide different information. However, the Panel refers to the case *Hudson v. British Columbia (Employment and Assistance Appeal Tribunal)*, 2009 BCSC 1461 which held as part of the reasoning at section 44 of the judgement, that an assessment of restriction to daily living activities is sufficient if either the Medical Report or the Assessor Report confirm daily living activities are significantly and directly restricted. The Panel concludes that in this spirit, impairment can also be confirmed by either the Medical Report or the Assessor Report which is the case here.

As a result, the Panel finds that the information provided does establish that the Appellant has a severe mental impairment. As a result, the Panel finds that the Ministry was not reasonable when it found that the Appellant does not have a severe mental impairment as is required by section 2(2) of the Act.

Restrictions in the ability to perform Daily Living Activities

Section 2(2)(b)(i) of the Act requires that the Minister must be satisfied that in the opinion of a prescribed professional, a severe mental or physical impairment directly and

significantly restricts the Appellant's ability to perform daily living activities either continuously or periodically for extended periods. While other evidence may be considered for clarification or support, the Ministry's decision is based on the evidence from prescribed professionals. The term "directly" means that there must be a connecting link between the severe impairment and the restriction. The direct restriction must also be significant. Finally, there is a part related to time or duration – the direct and significant restriction may be either continuous or periodic. If periodic, it must be for extended periods. So, in the cases where the evidence shows that a restriction happens periodically, it is appropriate for the Ministry to ask for evidence about the duration and frequency of the restriction to be "satisfied" that it is for extended periods.

The Appellant argued that that due to complications from his medical conditions he is unable to function and complete his daily living activities.

The Ministry argued that it is not satisfied that the information in the PWD application shows that the impairment directly and significantly restricts daily living activities continuously or periodically for extended periods.

In its Reconsideration Decision, the Ministry acknowledged the report of functional skills and deficits noted with cognitive and emotional function and report of using a cane for walking about 50% of the time. However, it is problematic to assess restrictions to daily living activities given that on the Medical Report the doctor only reported periodic restrictions with managing finances and social functioning, and no restrictions to all other daily living activities. In February 2024, the doctor provided new information that reports that the Appellant's mother helps more now with meal preparation and housework and would take significantly longer to complete task otherwise as he needs to take frequent breaks due to pain, and struggle standing over 5 minutes. However, without a detailed assessment of each of the daily living activities from the doctor or another prescribed professional, this makes it difficult to establish the level of restrictions with each of the daily living activities and how much longer it takes than average for each, and what areas require assistance.

The Panel finds that the Ministry analysis of the evidence and findings based on the evidence is not reasonable. The evidence demonstrates that the doctor indicated that the Appellant has periodic restrictions with managing finances and social functioning. The PWD application defines periodic as "refers to the need for significant help for an activity some of the time as would be the case where a person required help due to the episodic nature of the impairment". In the Reconsideration Decision, the Ministry did not question if these restrictions were for extended periods or what the frequency or duration of the

restriction was. As such, the Panel finds that the Ministry has accepted that the restrictions to managing finances and social functioning is periodic for extended periods.

The Panel again refers to *Hudson v. British Columbia (Employment and Assistance Appeal Tribunal)*, 2009 BCSC 1461 in which it was found that only two daily living activities have to be significantly and directly restricted either continuously or periodically for extended periods to meet the legislative requirements. In this case, the Appellant has significant restrictions with two daily living activities periodically for extended periods.

The Panel considered the February 8, 2024 letter provided by the doctor. In this letter, the doctor indicated that the Appellant needs increased help with shopping, meals and basic housekeeping which is indicative of a significant restriction.

The Panel also considered the March 15, 2024 letter provided by another doctor. In this letter, it is indicated that the Appellant's restricted mobility is affecting his ability to do his daily tasks.

The Panel considered the Appellant's testimony at the hearing. The Appellant stated that he can no longer independently perform basic housekeeping, shopping or meals. The Panel found that the information provided by the Appellant added detail and clarity to the evidence provided by the doctor in the PWD application and additional evidence. When the Appellant's information is combined with the evidence from the doctors, which includes the narratives, the Panel finds that Appellant's severe physical impairment significantly and directly restricts the ability to perform basic housekeeping, shopping or meals continuously.

Given the information in its entirety, the Panel finds that the Ministry was not reasonable when it found that the Appellant does not have a severe physical or mental impairment that directly and significantly restricts daily living activities as is required by Section 2(2)(b) of the Act.

Help to perform Daily Living Activities

Section 2(2)(b)(ii) of the Act requires that, *because of direct and significant restrictions in the ability to perform daily living activities*, a person needs help to perform those activities. Help is defined as the need for an assistive device, the significant help or supervision of another person, or the services of an assistance animal in order to perform daily living activities.

The Appellant stated that due to his medical condition he needs help with daily living activities and that help is provided by aids, family and friends.

The Ministry argued that since the legislative requirements regarding direct and significant restriction to daily living activities was not met, the need for help cannot be met.

Direct and significant restrictions with daily living activities are a prerequisite of the need for help. The Panel previously found that the Ministry was not reasonable in its decision that direct and significant restrictions in the Appellant's ability to perform daily living activities have not been established. The Panel also finds that the Ministry did not reasonably conclude that it cannot be determined that the Appellant requires help to perform daily living activities as required by section 2(2)(b)(ii) of the Act.

The Panel considered the information in the PWD application which indicated that the Appellant uses a cane for 50% of the time. The Appellant indicated that now he uses either a cane or crutches 100% of the time, using the cane at home and crutches in public. The Assessor Report indicated that help is provided by family, friends and a cane. The February 8, 2024 letter from the doctor indicated that the Appellant's mother helps with shopping, housekeeping, and meals. The Appellant indicated that he uses a toilet riser but even then, he sometimes needs his mother's help to get back up off the riser. The Panel finds that the above information establishes that the Appellant requires significant help to perform his daily living activities.

Conclusion

The Panel finds that the Ministry's Reconsideration Decision, which found that the Appellant was not eligible for PWD designation, was not reasonably supported by the evidence and is not a reasonable application of the legislation, and therefore rescinds the decision. The Appellant is successful on appeal.

Appendix A

The criteria for being designated as a PWD are set out in Section 2 of the EAPWDA as follows:

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).

The EAPWDR provides as follows:

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.

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*

2024-0099

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

Neena Keram

Signature of Chair

Date: 2024/06/25

Print Name

Rick Bizarro

Signature of Member

Date: 2024/06/25

Print Name

Vivienne Chin

Signature of Member

Date: 2024/06/27