

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

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the ministry) reconsideration decision dated June 6, 2024. The ministry denied the appellant designation as a person with disabilities (PWD). The ministry determined that the appellant met the age (18 years or older) requirement, and the duration requirement (the appellant has an impairment that is likely to continue for at least two years).

However, the ministry was not satisfied that

- the appellant has a severe physical or mental impairment;
- the appellant's impairment significantly restricts the ability to perform daily living activities; and
- the appellant requires the significant help or supervision to perform daily living activities.

The ministry also found the appellant was not one of the prescribed classes of persons eligible for PWD on the 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), section 2

The full text of these sections of legislation is set out at the end of the decision.

**Part E – Summary of Facts**

The hearing took place on July 17, 2024, as a videoconference. The appellant, his social worker, and the ministry attended the hearing.

**Evidence before the ministry at reconsideration**

The appellant's PWD application:

- The Applicant Information (self report) section dated March 12, 2024.
- The Medical Report section (March 15, 2024) completed by the appellant's nurse practitioner who has been the appellant's nurse practitioner for 5+ years and who has seen the appellant 2-10 times in the past 12 months.
- The Assessor Report section (March 1, 2024) completed by the appellant's social worker (a substance use counsellor) who has been the appellant's social worker for 1 month and who has seen the appellant 2-10 times in the past 12 months.
  - To complete this form, the social worker used an office interview and file/chart information (files from the social worker's organization).
  - The social worker's organization is providing long term addiction and mental health support and counselling for the appellant.

The appellant's Request for Reconsideration (May 7, 2024).

A letter from the social worker (dated May 7, 2024).

**New evidence provided on appeal**

The appellant submitted a Notice of Appeal (June 24, 2024), stating that

- his "doctor's report was not complete and not detailed enough".

The appellant, the social worker, and the ministry provided oral submissions at the hearing.

**Summary of relevant evidence**Self Report

The appellant wrote:

- He lost his job in 2020 after working at his job for 20 years. The plant closed. Previously he worked on the family farm.
- Most of his life he has suffered from chronic bowel issues.

- He has seen many doctors and specialists with no real conclusion.
- He has been diagnosed with IBS and chronic constipation.
- His need to constantly take laxatives results in bloating, stomach issues and constant pain.
- He has also tried alternative methods with no relief.
- If he is lucky, he has 1 good day a week.
- His condition has progressively become worse over the years.
- His ability to do everyday activities has been greatly reduced.
- A fiber diet and other methods have not helped.
- All this has a negative effect on his mental health and lifestyle. It is often very difficult.
- He also has issues with sensitive teeth, knee problems, and trouble sleeping.
- His limited income keeps him in a constant state of stress and depression. His debts are piling up and he has no way of paying them. He is just trying to make ends meet.
- "Having no clear awareness is very frustrating both mentally and physically. It takes a toll."
- It is very depressing not being able to live a normal life.
- He appreciates the help he is getting from family, doctors, and counselling.

### Medical Report

#### Diagnoses:

- Digestive Disorders (chronic constipation and abdominal pain) (onset 1993)
- Depression/Anxiety (onset 2021)
- Substance Use disorder (in remission) (onset 2018)

#### Health History:

- The appellant has struggled with chronic abdominal pain + constipation since the nurse practitioner has known him (since 2018).
- He has had work-ups with various surgeons and gastroenterologists without a clear diagnosis nor treatment.
- Some of these treatments are cost prohibitive.
- He is on opioid agonist treatment (OAT), and he has been an ideal person in treating his substance use disorder since [the nurse practitioner] has know him."
- He has "weight loss due to medical conditions."
- He has not been prescribed any medications and/or treatments that interfere with his ability to perform daily living activities.
- He does not require any prostheses or aids for his impairment.

Degree and Course of Impairment:

- The impairment is likely to continue for two or more years.
- “Lifelong bowel issues – attempting OAT changes to see if helps relieve his symptoms.”

Functional Skills:

- Can walk more than 4 blocks unaided on a flat surface.
- Climb more than 5 steps unaided.
- No limitations in lifting.
- No limitations in remaining seated.
- Has no difficulty with communication.
- Has significant deficits with cognitive and emotional function (emotional disturbance, motivation, and “some learning difficulties as youth.”).
- “Worsening depression/anxiety past 3 years, aggravated by medical condition (abdominal pain/bloating/constipation).
- Recent low motivation w/onset depression.”

Daily Living Activities:

- The appellant’s impairment does not directly restrict his ability to perform Daily Living Activities.
- The appellant is independent in all listed daily living activities (personal self care, meal preparation, management of medication, basic housework, daily shopping, mobility inside the home, mobility outside the home, use of transportation, management of finances, social functioning).

Additional Comments:

- “Progressive symptoms, worsening over past few years.
- Making strives to change lifestyle and medications just may contribute.
- Seeing counsellor, he individually sought help for his progressive depression.”

Assessor Report

The appellant resides with his mother.

Impairments that impact ability to manage Daily Living Activities:

- “Applicant has physical and medical impairments as well as mental health and substance use diagnosis that significantly impact activities of daily living.”

Ability to Communicate:

- Speaking, writing, and hearing abilities are satisfactory
- Reading is poor. "Comprehension issues"

Mobility and Physical Ability:

- Independent in all listed areas (walking indoors, walking outdoors, climbing stairs, standing, lifting, carrying and holding).

Cognitive and Emotional Functioning (impact on daily functioning)

- Major impacts for bodily functions (eating, toileting, sleep disturbance, emotion (depression), insight and judgement (unsafe behavior), and motivation.
- Moderate impacts for impulse control, attention/concentration, executive, memory, motor activity (increased or decreased goal-oriented activity), other neuropsychological problems, other emotional or mental problems.
- Minimal impact for consciousness, language, and psychotic symptoms.
- "Client has severe IBS [irritable bowel syndrome] symptoms that have major impact on eating and toileting. Require modified diet. Chronic depression has a major impact on anxiety, motivation, sleep disturbance, concentration and energy."

Daily Living Activities:

- Personal Care:
  - Independent with dressing, grooming, bathing, feeding self, transfers in/out of bed, transfers on/off chair.
  - Requires periodic assistance from another person with toileting ("takes laxatives, extreme constipation"), and regulating diet.
- Basic Housekeeping:
  - Independent with laundry and basic housekeeping.
- Shopping:
  - Independent with going to and from stores, reading prices and labels, paying for purchases, and carrying purchases home.
  - Requires periodic assistance from another person with making appropriate choices.

"Clients IBS issues are very restrictive for him. Needs to be at home on days when he takes laxatives. Applicant's depression also impedes client's ability to manage some ADLs and receives direct support from family."

- Meals:
  - Requires periodic assistance from another person with meal planning, food preparation (“Family assists”), cooking (“Family assists”), and safe storage of food.
- Pay Rent and Bills:
  - Independent in all areas.
- Medications:
  - Independent with taking as directed, and safe handling and storage.
  - Requires periodic assistance from another person with filling/refilling prescriptions.
- Transportation:
  - Independent in all areas.

- Social Functioning:

Requires continuous support/supervision with

- Making appropriate social decisions (“Impaired social judgement, has placed himself at risk and in vulnerable situations due to substance use.”);
- Developing and maintaining relationships (“Isolated and limited social connections and relationships”.);
- Appropriate interactions with others (“Limited problem-solving skills and anxiety limits ability to connect socially.”);
- Dealing appropriately with unexpected demands (“challenged to deal with unexpected demands.”);
- Securing assistance from others (“Direct support to secure assistance.”).

Marginal functioning with immediate social network (“Marginal social connections and relationships.”)

Marginal functioning with extended social networks (“Direct support to access secures and supports.”)

Support /supervision required which would help to maintain the appellant in the community:

- “Ongoing mental health direct support to improve applicant’s social functioning.”

Assistance Provided:

- Help required for daily living activities is provided by family, health authority professionals, and community service agencies.
- "Family members provide direct assistance. Physician support and addiction counselling and mental health intervention."
- Additional assistance required:
  - "Direct and ongoing assistance to maintain social functioning.
  - Assistance with substance use counselling to maintain abstinence.
  - Mental health services including psychiatrist, consultation for depression, and physician support for IBS issues."
- The appellant does not use an assistive device or an assistance animal.

Additional Information:

- "Applicant's impairments relate to Irritable Bowel Syndrome which causes restrictions on applicant's ability to be away from home for any length of time.
- Applicant also has major depression which impacts his ability to have energy and motivation to complete ADLs.
- Applicant's historical substance use impairs applicant's social and cognitive functioning and has resulted in applicant being vulnerable and has caused safety issues for applicant."

Request for Reconsideration

The social worker wrote:

- The appellant's digestive disorders cause chronic and severe constipation and abdominal pain.
- Most days of the week he needs to be close to a bathroom when he takes his medications to move his bowels. This severely limits his ability to complete daily tasks such as shopping, running errands, cooking, leisure activities, and he is unable to work.
- He has also lost significant weight and requires a modified diet to manage his digestive disorder.
- His condition results in loss of energy, motivation and fatigue, and most days of the week he doesn't have the energy to attend to daily activities.
- The appellant's condition is ongoing long-term - it will not change.
- As a result of the diagnosed condition the appellant has severe and ongoing limitations in his ability to complete activities of daily living, and he is reliant on

primary family to assist on an ongoing basis. The appellant's family is immediately available to assist with activities of daily living.

- His depression and anxiety contribute to a lack of energy, sleep disturbance, difficulty concentrating and focusing, and his mood is low.
- This also impacts his ability to problem solve, concentrate, and abstract thinking.
- His anxiety impedes his ability to engage in social situations and access typical services in the community.
- As noted in the Medical Report, depression and anxiety have been an emerging issue over the past 3 years and the onset of his depression and anxiety have become more acute.
- His depression impacts the appellant's motivation and energy required to complete activities of daily living, and he is reliant on family to assist.
- Given the long-term of his digestive disorder this will impact the appellant's mental health in an ongoing way as he will be required to cope with severe and restricted limitations to leaving his home and likely will struggle with anxiety and depression on an ongoing basis.
- The diagnosis of a substance use disorder further impedes the appellant's cognitive, emotional and social functioning.
- He is on ongoing methadone maintenance and will be tapering off methadone and transitioning to suboxone.
- As he makes this transition over a lengthy period, the side effects of methadone tapering will further complicate his digestive issues, and he will experience nausea, further fatigue, muscle and body aches, and changes in mood with increased irritability as he makes the transition. This transition will occur over a long period of time.
- The appellant's medical condition impacts his functioning at a severe level and is of an ongoing nature that requires both assistance from family and professionals over the long term.

#### At the hearing

The appellant reported:

- He is in constant pain every day because of his constipation.
- He can't do anything because of this pain.
- He does not take over-the-counter pain medications, they don't work.
- Over the years his abdominal pain increased, the last 4-5 years were the worst.
- He needs to take laxatives for his bowel movements. Products from the health food store don't help.
- He is on a fibre diet and eats red cabbage, kale, fruit, salad and fibre bars.



- He eats twice a day. He is scared to eat more often because he is afraid of ensuing abdominal pain and constipation.
- It takes 45 minutes to 1 hour for a bowel movement, which is very rough on him.
- He has bowel movements twice a week on average; he has gone 10 days without bowel movement. His stool is often very hard, but soft at other times.
- He is afraid of uncontrolled bowel movements outside of his home.
- The specialist says he has “lazy bowels” that don’t function anymore.
- He had constipation and abdominal pain since the age of 11 and was admitted into emergency because of this.
- Later, at age 15 and 16, he was no longer treated at emergency but sent home.
- He is constantly bloated, is not sleeping properly at night, water sits in his stomach.
- He has seen specialists about his abdominal issues and paid \$300 per month for prescription medication, without success.
- He gets 2 hours of uninterrupted sleep.
- He has 2 decent days per month.
- He had suicidal thoughts before he started taking anti-depressants.
- He does not want the pain anymore.
- One of the reasons the appellant had taken heroin was for pain relief.
- He must take 2 oral doses of methadone each day.
- He has been “clean” for 4 years after he was on heroin for 3 years.
- Without taking methadone he would suffer bone pain, cold and hot sweats, sleeplessness and other symptoms. The counsellor added that there would be the risk of a relapse to heroin.
- His average day is boring. He lies on the couch with knees up and arms crossed, reads the newspaper, watches a bit of TV, does crossword puzzles, and sometimes goes out for some fresh air. Then he goes to bed.
- His reading and spelling is at a grade 9 level.
- Unless a book is interesting, he cannot remember what he reads.
- He loses concentration and focus.
- He feels useless and wants a purpose.
- He always liked to work. He was working all his life and is not a lazy person.
- It is mostly his mother who helps him. She does the shopping, gets groceries and laxatives, does his errands.
- His mother and sometimes his sisters cook for him. His mother takes him to town.
- His mother does most of the house cleaning, he tries to help her.
- He does his own laundry.
- He can cook a bit but doesn’t feel like doing it.
- His girlfriend left him, and he cannot play with his nephews anymore because he has to stay home all the time.

- He lives in the basement of his parents' home. He can hardly afford to pay them any rent which causes him stress.
- His parents are getting older; they have their own issues.
- He also has issues with 2 chipped teeth but cannot afford a dentist.
- His nurse practitioner helped him get clean of drugs and is trying to get him off methadone and start him on suboxone.
- The appellant was not present for the most part when the nurse practitioner filled out the Medical Report section of the PWD application form.
- The nurse practitioner does not understand the appellant's need for help from his family.
- He was looking for another doctor/nurse practitioner who would understand his situation better. Unfortunately, he couldn't find one to this date.

The social worker explained:

- Methadone helps with his pain, but it can also cause constipation.
- The tapering process is very challenging.
- The nurse practitioner failed to address the level of support the appellant needs.
- The nurse practitioner works in a walk-in clinic. They were rushed and hardly covered any details with the appellant.
- The social worker sees the appellant once every 2 weeks and has seen him 8 times since the initial assessment.
- The social worker has not talked to the appellant's family members.
- They acknowledged the discrepancies between the medical report and the assessor's report.

The ministry restated the reconsideration decision.

### **Admissibility of new evidence**

The ministry did not object to the information in the appellant's Notice of Appeal, or any part of the information provided by the appellant and the social worker at the hearing. The panel finds that the information provided by the appellant and the social worker on appeal and at the hearing is reasonably required for a full and fair disclosure of all matters related to the decision under appeal, as it contributes to the panel's understanding of the appellant's impairment and the circumstances surrounding his PWD application. The panel therefore admits this information as evidence pursuant to section 22(4) of the Employment and Assistance Act.

**Part F – Reasons for Panel Decision**

The issue on appeal is whether the ministry's decision that the appellant was ineligible for PWD designation was reasonably supported by the evidence or was a reasonable application of the legislation in the circumstances of the appellant. That is, was the ministry reasonable when it determined that

- the appellant does not have a severe physical or mental impairment;
- the appellant's impairment does not significantly restrict his ability to perform daily living activities; and
- the appellant does not require the significant help or supervision to perform daily living activities.

**PANEL DECISION****Severity of Impairment – Physical or Mental**

Section 2 of the Act requires the Minister to be satisfied that the appellant has a severe impairment. "Severe" and "impairment" are not defined. 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 daily physical and mental functioning including any restrictions is a reasonable interpretation of the legislation. However, the panel notes that frequency and/or duration of impairment is not required in the assessment of severity by the legislation at this stage of the legislative test. The panel also notes that the legislation does not identify employability or financial limitations as considerations when determining PWD eligibility.

**Physical Impairment**

The appellant's position is that he is severely impaired by his chronic and increasing abdominal pain caused by his chronic bowel issues. He argues he does not have a normal life because he always has to be near a bathroom due his constant need to take laxatives, which forces him to stay home most of the time and prevents him from going out.

The ministry acknowledged that the appellant's physical functioning would be affected by his digestive issues but determined that they cannot confirm the appellant experiences a severe impairment of his physical functioning with no reported restrictions in his functional skills, mobility and physical abilities.

The panel finds that there is sufficient evidence that the appellant has a severe physical impairment.

As diagnosed by the nurse practitioner, the appellant's digestive disorders are life-long and manifest in chronic abdominal pain and chronic constipation. The symptoms are progressive and have been worsening over the past few years. The social worker explains that the appellant's bowel issues severely restrict the appellant's functioning. They result in fatigue, loss of energy and loss of motivation. Methadone helps with his pain, but it can also cause constipation and worsen the appellant's digestive disorders. The side-effects of the appellant's methadone tapering occur over a long period of time, further complicating his digestive issues, resulting in nausea, more fatigue, and muscle and body aches. The dependence on laxatives for bowel movements forces the appellant to always be near a bathroom whenever he takes his laxatives.

The social worker's opinion of the severity of the appellant's physical impairment is confirmed by the appellant's narrative. The appellant reports that he is in constant pain every day because of his constipation, and that he lies on the couch most of the day because of this pain. He does not take over-the-counter pain medications because they don't work. He only eats twice a day because he is afraid of the ensuing abdominal pain and constipation. His bowel movements take very long and are very rough on him. He is afraid of bowel movements outside of his home. He has 2 "decent" days per month.

As a result of the various physical impairments demonstrated in the reports, the panel finds that the ministry was not reasonable in its determination that the appellant does not have a severe physical impairment. When the ministry determined that the appellant's physical functioning is not severely impaired by his digestive issues, they failed to address the appellant's fatigue and loss of energy resulting from his worsening chronic pain and chronic constipation, as well his eating and toileting difficulties. In addition, the ministry failed to address the negative physical side-effects of the appellant's methadone treatment (nausea, more fatigue, and muscle and body aches).

### **Mental Impairment**

The appellant's position is that his digestive disorders have a negative effect on his mental health and lifestyle. It is very depressing for him not being able to live a normal life. "Having no clear awareness is very frustrating both mentally and physically. It takes a toll."

The ministry was not satisfied that the appellant has a severe mental impairment. They found that the assessments provided by the social worker are not consistent with those provided by the nurse practitioner. These discrepancies made it difficult to determine the appellant's overall level of functioning. The ministry noted that impacts related to bodily

functions and motor activity seem mostly related to his digestive issues and not to a mental impairment.

The panel finds that there is sufficient evidence that the appellant has a severe mental impairment. The panel finds that the appellant's worsening depression, anxiety and low motivation, in conjunction with his substance use disorder (even though "in remission") severely restricts his mental functioning. According to the nurse practitioner in the Medical Report, the appellant's deficits in the areas of emotional disturbance (worsening depression and anxiety), motivation, and learning difficulties are significant. This is consistent with the social worker's assessment in the Assessor Report. The social worker notes that the appellant's chronic depression causes sleep disturbance, loss of energy and low mood. They also explain that the appellant's methadone maintenance is longtime. Tapering off will also take a long time, and the transition to suboxone will be challenging. Side-effects of methadone tapering include increased fatigue and changes in mood with increased irritability.

The panel notes that it is unclear how the nurse practitioner could report significant deficits in the areas of emotional disturbance and motivation in the Medical Report, and, at the same time, declare that the appellant has no restrictions with his social functioning. The social worker, on the other hand, reported that the appellant needs continuous support in all areas of social functioning and explains that the appellant's historic substance use has caused safety issues, has resulted in him being vulnerable, and there is a risk of a relapse to heroin.

The appellant's awareness of this challenging long-term situation has a significant impact on his life. He states that it is very depressing not being able to live a normal life.

As a result, the panel finds that, based on the above-mentioned evidence, the ministry was not reasonable in its determination that the appellant does not have a severe mental impairment.

### **Restrictions in the ability to perform daily living activities**

The appellant's position is that he is significantly restricted in his ability to perform daily living activities due to his physical and mental impairment. His ability to do everyday activities has been greatly diminished.

The ministry found that there is not enough evidence to confirm that in the opinion of a prescribed professional, the appellant is directly and significantly restricted in his ability to perform daily living activities continuously or periodically for extended periods. The nature, frequency, and duration of assistance required was not described, making it

difficult to confirm the appellant is significantly restricted periodically for extended periods as required by legislation. Also, the ministry was unable to determine why a need for assistance was indicated by the social worker while the nurse practitioner indicated no restrictions with daily living activities and no need for assistance.

Section 2(2)(b) of the Act requires that the ministry be satisfied that in the opinion of a prescribed professional, a severe physical or mental 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 determination as to whether it is satisfied, is dependent upon the evidence from prescribed professionals. The term "directly" means that there must be a causal link between the severe impairment and restriction. The direct restriction must also be significant.

The panel notes that a nurse practitioner and a social worker (substance use counsellor) have provided information about the appellant's ability to perform daily living activities. Their assessments differ widely and are inconsistent in parts. The nurse practitioner indicated that the appellant's impairment does not directly restrict the appellant's ability to perform daily living activities and that the appellant is independent in all daily living activities. However, the social worker reported that the appellant's physical and mental impairments impact his daily living activities significantly. The social worker acknowledged the inconsistencies and explained that the nurse practitioner failed to address the level of support the appellant needs. They were not successful in their attempt to find a different nurse practitioner or doctor to complete the Medical Report.

While the nurse practitioner assessed the appellant as independent in all daily living activities, the social worker noted that the appellant's mental impairment has a major impact on his eating, toileting and sleeping. They noted further that the appellant needs continuous support in all areas of social functioning and has only marginal functioning with immediate and extended social networks. His anxiety impedes his ability to engage in social situations and access typical services in the community. The appellant's historic substance use has caused safety issues, has resulted in him being vulnerable, and there is a risk of a relapse to heroin.

While the nurse practitioner indicates that the appellant has no difficulty with communication, the social worker describes the appellant's ability to communicate for the most part as satisfactory (not as "good"), while reading is described as poor ("comprehension issues").

While the nurse practitioner indicates that the appellant has not been prescribed any medications and/or treatments that interfere with the appellant's ability to perform daily living activities, the social worker states that the appellant needs to take medications to move his bowels and needs to be close to a bathroom on most days, which severely limits his ability to do shopping, running errands, cooking, and attending leisure activities.

While the social worker's assessment is more detailed and provides a bigger picture than the nurse practitioner's, the panel finds that, given the numerous inconsistencies of information between the 2 prescribed professionals, the panel, finds the ministry reasonable in determining that there is not enough evidence to establish significant restrictions to the appellant's daily living activities.

### **Help to perform daily living activities**

The appellant's position is that he appreciates getting help from family, doctors, and counselling.

The ministry's position is that, as it has not been established that daily living activities are significantly restricted, it cannot be determined that significant help is required from other persons or a device.

The panel notes that while the nurse practitioner does not speak to assistance required, the social worker reports that the appellant needs medical support for his digestive disorders, and direct ongoing mental health support, including help from a psychiatrist, addiction counselling and community service agencies, for his social functioning. The appellant explained that most of the help he needs he gets from his mother. She does the shopping, gets groceries and laxatives, does his errands, takes him to town, does most of the house cleaning and most of the cooking.

While the panel acknowledges the information from the social worker and the appellant about help, the panel notes that direct and significant restrictions with daily living activities must first be shown to decide that help is needed because of significant restrictions. As the panel already found that significant restrictions with daily living activities were not shown, the panel also finds that the ministry was reasonable to decide that the help requirement is not met.

**Conclusion**

The panel finds that based on the available information, the appellant meets the severity criterion, in addition to the age and the duration requirement. However, the panel finds that the appellant still does not meet all 5 required eligibility criteria. The panel finds that the ministry's reconsideration decision, which determined that the appellant was not eligible for PWD designation, was reasonably supported by the evidence. The panel confirms the decision. The appellant is not successful on appeal.



**Appendix - Relevant Legislation*****Employment and Assistance for Persons with Disabilities Act*****Persons with disabilities**

2 (1) In this section:

**"assistive device"** means a device designed to enable a person to perform a daily living activity that, because of a

severe mental or physical impairment, the person is unable to perform;

**"daily living activity"** has the prescribed meaning;

**"prescribed professional"** has the prescribed meaning.

(2) The minister may designate a person who has reached 18 years of age as a person with disabilities for the purposes of this Act if the minister is satisfied that the person is in a prescribed class of persons or that the person has a severe mental or physical impairment that

(a) in the opinion of a medical practitioner or nurse practitioner is likely to continue for at least 2 years, and

(b) in the opinion of a prescribed professional

(i) directly and significantly restricts the person's ability to perform daily living activities either

(A) continuously, or

(B) periodically for extended periods, and

(ii) as a result of those restrictions, the person requires help to perform those activities.

(3) For the purposes of subsection (2),

(a) a person who has a severe mental impairment includes a person with a mental disorder, and

(b) a person requires help in relation to a daily living activity if, in order to perform it, the person requires

(i) an assistive device,

(ii) the significant help or supervision of another person, or

(iii) the services of an assistance animal.

(4) The minister may rescind a designation under subsection (2).

## **Employment and Assistance for Persons with Disabilities Regulation**

### **Definitions for Act**

2 (1) For the purposes of the Act and this regulation, "**daily living activities**",

(a) in relation to a person who has a severe physical impairment or a severe mental impairment, means the following

activities:

(i) prepare own meals;

(ii) manage personal finances;

(iii) shop for personal needs;

(iv) use public or personal transportation facilities;

(v) perform housework to maintain the person's place of residence in acceptable sanitary condition;

(vi) move about indoors and outdoors;

(vii) perform personal hygiene and self care;

(viii) manage personal medication, and

(b) in relation to a person who has a severe mental impairment, includes the following activities:

(i) make decisions about personal activities, care or finances;

(ii) relate to, communicate or interact with others effectively.

(2) For the purposes of the Act, "**prescribed professional**" means a person who is

(a) authorized under an enactment to practise the profession of

(i) medical practitioner,

(ii) registered psychologist,

(iii) registered nurse or registered psychiatric nurse,

(iv) occupational therapist,

(v) physical therapist,

(vi) social worker,

(vii) chiropractor, or

(viii) nurse practitioner ...

APPEAL NUMBER 2024-0253

**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)     and Section 24(1)(b)   
Section 24(2)(a)     or Section 24(2)(b)

**Part H - Signatures**

Print Name

Inge Morrissey

Signature of Chair

Date (Year/Month/Day)

2024/07/22

Print Name

Glenn Prior

Signature of Member

Date (Year/Month/Day)

2024/07/23

Print Name

Jan Broocke

Signature of Member

Date (Year/Month/Day)

2024/07/23