

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

The decision under appeal is the Ministry of Social Development and Poverty Reduction (“Ministry”) Reconsideration Decision dated June 4, 2024, denying persons with disabilities (“PWD”) designation.

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

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

The Ministry found the Appellant was not one of the prescribed classes of persons eligible for PWD on alternative grounds. As there was no information or argument on this point, the Panel considers it not to be an issue in this appeal.

### **Part D – Relevant Legislation**

Employment and Assistance for Persons with Disabilities Act (“Act”), s. 2  
Employment and Assistance for Persons with Disabilities Regulation (“Regulation”), s. 2  
Employment and Assistance Act, s. 22(4)

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

**Part E – Summary of Facts**

The hearing took place on July 15, 2024, by teleconference.

Evidence Before the Ministry at Reconsideration:

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

- Medical Report and Assessor Report completed by the Doctor
- Appellant's Self Report
- Appellant's written statement in the Request for Reconsideration;
- Appellant's four page typed submission to the Ministry in support of the Request for Reconsideration; and
- MRI of the head and cervical spine, report dated October 17, 2023
- Hospital Records from Hospital #1 dating back to 1975
- WorkSafe BC records from 2014, relating to a finding of permanent partial disability due to chronic neck pain, including rehabilitation reports and hospital records from Hospital #2.

Medical Report:

The Doctor states that the Appellant has been their patient for 10 years, and they have seen the Appellant between 2 and 10 times in the past 12 months.

Diagnosis:

The Doctor provides the following diagnoses:

- Pain syndrome spine (onset 2015)
- Mood disorder, 'stress', mood low (onset February 2014)
- Migraines (onset 2020).

Health History:

The Doctor states that the Appellant has:

- Chronic pain syndrome many years:
  - Severe back pain and foot numbness
  - L5-S1 [illegible] tear (2017 scan)
- Facial pain left side, for which the Appellant takes Gabapentin, and has attended the ER
- Mood disorder for which the Appellant takes Cipralax
- History of migraines.

The Doctor says that they have advised the Appellant to pace themselves, stretch, and limit heavy work. They indicate that the Appellant does not require any prostheses or aids for their impairment.

*Functional Skills:*

The Doctor indicates that the Appellant can:

- Walk 4+ blocks unaided on a flat surface
- Climb 5+ stairs unaided
- Lift 2 to 7 kilograms
- Remain seated less than 1 hour.

They indicate that the Appellant has no difficulties with communication, but has significant deficits with cognitive and emotional functioning, stating "some" emotional disturbance. They comment that the Appellant has "good overall speech & thinking" and "she can be overwhelmed at times."

*Daily Living Activities:*

The Doctor indicates that the Appellant's impairment directly restricts their ability to perform the following daily living activities:

- Basic housework, periodically
- Use of transportation, continuously.

They do not tick the "yes" box to indicate that social functioning is restricted, but they do tick the box to say that there is a periodic restriction of social functioning. They state that the Appellant "cannot go out on excursions or keep up with social life depending on how her body feels" and "cannot go out and be as social or do physical activities depending on the pain scale of her body." They also comment "limited bending and lack of strength in the legs to squat and get up."

They do not indicate any assistance needed with daily living activities.

*Additional Comments:*

The doctor comments "cumulative health conditions affect her ability to work and function. (WCB injury MVA)."

*Assessor Report:*

The Doctor also completed the Assessor Report.

*Mobility and Physical Ability:*

The Doctor indicates that the Appellant takes significantly longer than typical to walk outdoors and climb stairs. They indicate that the Appellant needs periodic assistance from another person to lift, carry and hold, commenting "avoid [illegible] lifting."

*Cognitive and Emotional Functioning:*

The Doctor indicates no major or moderate impacts on daily cognitive and emotional functioning. They indicate minimal impact in the following areas:

- Bodily functions
- Emotion
- Impulse control
- Attention/concentration
- Motor activity
- Other emotional or mental problems.

The Doctor comments: "some general impaired mental health factors. New stressors or routine is hard for her. Very pleasant lady, "fragility" and limited supports. Single mother to 2 kids, one with disabilities."

*Daily Living Activities:*

The Doctor indicates that the Appellant is independent in all daily living activities listed on the Assessor Report, commenting "no safety concerns." They indicate that the Appellant has good functioning with the Appellant's immediate and extended social networks.

*Assistance Provided for Applicant:*

The Doctor indicates that help required for daily living activities is provided by family. In the section for indicating assistance provided through the use of assistive devices, they write "N/A".

*Self Report:*

*Applicant Information:*

The Appellant states:

- Their body continues to deteriorate due to a car accident in 2013.
- They cannot do normal work duties because of the condition of their lower back, pelvis, right leg, "sciatic", right foot, shoulders and neck.
- They cannot sit or stand for prolonged periods because of pain in their back and right leg.
- They have continuous headaches and back pain if they overdo any physical labour; then they have to take pain medication or lie down and close their eyes.
- Bending and sitting puts terrible strain on their back, causes sciatic pain, and cripples them.

- Housework, especially vacuuming is very hard on their body, and they cannot bend over to do laundry, or lift from a squat.
- When they try to work, they suffer pain as soon as they start, and it takes days to recover.
- They try to walk for exercise but if they go a bit too far, they get shooting pains up their right buttock, and they have to have someone come pick them up or wait it out.
- They cannot do aerobics or dance any more.
- They have become depressed from the stress.
- They have aching pain in their right foot and ankle, injured in a car accident.
- They have tried acupuncture, massage therapy, chiropractic, prolotherapy and physiotherapy.

*Request for Reconsideration:*

The Appellant states:

- When the Appellant was five years old the Appellant was hospitalized for a head injury.
- Two years ago, the Appellant fell through a roof and "slammed my right butt and right hand onto the plank to stop my fall but damaged my spine again."
- They try to work, with a lot of pain.
- They need the income to get treatments for lifelong injuries.
- They have a permanent neck disability, with pain going down their spine to their pelvis whenever they do physical work.
- After they were denied PWD designation they tried to work for two days, and then spent 10 days recovering.

*Typewritten statement:*

The Appellant states:

- Their condition is severe and prolonged.
- They relate a history of injuries starting when they were 5 years old, including:
  - a face and neck injury when they fell off a bike at high speed
  - a severe blow to the head when they fell off a swing
  - being hit on the head with a shovel
  - fractured toe and foot bones, resulting in foot pain and plantar fasciitis
  - fall down stairs at work resulting in a tailbone injury
  - car accident in 2013, causing injuries to their head, neck, shoulder, back and right leg that never healed
  - a fall through a roof in 2018, damaging their lower spine again.
- The Appellant also relates that they had complications during pregnancy due to carrying a child with special needs, combined with their compromised physical condition due to previous injuries. They had further health issues with the delivery of their second child.

- Since the car accident their health has declined even though they try to stay active and be productive.
- If they start to feel better and try to do housework for half a day, they are in pain and it takes days to recover; they have to lie down and take pain medication, and they are not able to care for their children.
- Since the fall in 2018, they cannot walk normally because of pain in their right leg and pelvis.
- They have great pain in their right side if they walk too long, do physical work, bend or drive for any long period of time.
- Getting out of bed is a challenge because of the pain.
- They cannot sleep through the night due to pain.
- They have to do whatever job they can, because they have to support their children, one of whom has short stature and is not able to do many things for themselves.
- Their neck injury is permanent, as the WorkSafe BC records show.
- The physical nature of their work, including 18 years in the food and beverage industry and sometimes working two jobs in one day, has exacerbated chronic pain from their injuries and caused long term migraine headaches, upper shoulder, hip and lower back pain.
- They changed careers in 2004, to [REDACTED] thinking that would be less physical work, but the physical demands of bending over, massaging clients and physical cleaning tasks made their physical condition worse.
- They have tried many treatments to try to manage their condition, including chiropractic treatments, prolotherapy, massage, acupuncture, pain medication, anti-depressants and counselling.
- They cannot do a desk job because they can only sit for a short period.
- Their arms and hands fall asleep at night and they are very stiff in the morning, especially their right foot.
- They wake up with a terrible headache, feeling hungover, though they do not drink alcohol.
- They rely on pain medication to get through the day and if they work consecutive days they cannot recover fully in between.
- They are afraid they will end up in a wheelchair if they continue to work full time or do any physical job for any long period of time.
- They struggle to maintain even part-time employment, because of severe back pain.
- It is difficult to find work due to the stigma around back problems.
- They are facing significant financial burdens because their rental accommodation is being demolished and they have to find new accommodation, which will be double the cost, and this situation puts an additional mental and financial burden on them.

- Depression directly restricts their ability to perform daily living activities either continuously or periodically for extended periods; depression is worsening due to financial and emotional strain.

Hospital and WorkSafe BC records confirm many of the injuries and events described by the Appellant in their Self Reports. In 2014, WorkSafe BC determined that the Appellant has a permanent partial disability due to chronic neck pain, assessed as 2.5% of total disability.

Additional Evidence:

Appellant:

At the hearing, the Appellant repeated some of the information in their Self Report, and also said:

- They were already on the verge of tears, and their leg was already in pain after driving for five minutes.
- Since they were 16 years old they have worked three physical jobs and hurt their body many times.
- Giving birth to their first child, [REDACTED] ruined their pelvis, it took a few years to recover, and when delivery of their second child was induced, their "pelvis was done".
- They have no stability in their right leg, they trip over their foot, and they have fallen many times.
- Their savings are gone and they cannot work as much any more.
- They cannot handle the throbbing pain from their buttocks to their throat.
- They cannot afford chiropractic treatment, so their chronic neck pain gets worse.
- It takes them 20 minutes to get dressed in the morning and they have to sit down to put their pants on.
- They have neuralgia in their face.
- When they walk up stairs they have to stop every third step, and they are bent over and stumbling.

In response to questions from the Panel, the Appellant said:

- They had tried to work for two days pressure washing the outside of a house, thinking that work would be okay because it was just holding the wand of the pressure washer, but moving it back and forth "paralysed" their pelvis and they could not finish the job. Afterwards, they spent two days in bed and could not walk up stairs. They had to use muscle relaxants and anti-inflammatory medication, heat pads and ice. It took 10 days for the pain to go away.
- They can sit for 20 minutes before they have right leg pain and cannot sit any longer.
- Their spine is a "walking S-curve", which makes it hard to shoulder check when driving.

- They wear a back belt, a sacral belt and a shoulder belt, and the Doctor is aware that they use these braces.
- They rarely do housework and their house is a disaster. They try to get their children to do the housework, and their younger child loads the dryer. They cannot do the push-pull motion for vacuuming because they "have no abdominals any more."
- If they walk one block, their foot hurts all night.
- The Doctor tells them not to walk as much, and do not reach overhead.
- When they go shopping, they can only carry one thing at a time, their children have to load the car, they have to park close to the store, and they had to buy a van because the driver's seat is higher than a car, and they had trouble getting in and out of a car.

Admissibility of Additional Evidence:

The Ministry did not object to the additional oral evidence of the Appellant at the hearing. The additional evidence provides further information about the Appellant's physical and mental condition. The Panel finds that the additional evidence is reasonably required for the full and fair disclosure of all matters in the appeal. Therefore, the Panel finds that the additional evidence is admissible under the Employment and Assistance Act, s. 22(4).



**Part F – Reasons for Panel Decision**

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

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

Appellant's Position:

The Appellant says that their application should be approved because they have an extensive history of injuries and impairment. They say that their condition is severe and prolonged, with a significant impact on their daily life. They are unable to work as they did in the past and they have suffered with depression for years due to chronic pain. The Appellant says that, with disability assistance, they will have a chance to heal and recover properly, physically and mentally, so they can go back to work fully recovered and prosper. Without PWD designation, the Appellant says their health mental status and life circumstances will deteriorate further. With PWD designation, they would be able to work enough to earn some extra money, and they need extra money to afford chiropractic treatment and pain medication.

Ministry Position:*Physical Impairment:*

The Ministry maintains that the Appellant's physical impairment is moderate, rather than severe. They place greater weight on the current information from the Doctor than on the Appellant's Self Reports and the medical records the Appellant provided, because the Doctor has known the Appellant for 10 years and seen the Appellant between 2 and 10 times in the past 12 months. The Ministry acknowledges that the Appellant has limitations in physical functioning due to chronic pain of the spine but says that the information in the Medical Report about the Appellant's mobility and physical ability indicates a moderate, rather than a severe, physical impairment.

*Mental Impairment:*

The Ministry acknowledges that the Appellant experiences low mood and can be overwhelmed at times. However, the Ministry says that the information provided does not establish that the Appellant has a severe mental impairment. They note the Doctor's information in the Medical and Assessor Reports and note that the Appellant has only minimal impacts in cognitive and

emotional functioning, with social functioning good overall. The Ministry also maintains that, as the Doctor reports, the Appellant is independent in daily living activities that the Ministry says would typically be difficult for someone who has significant restrictions in mental functioning.

*Daily Living Activities:*

The Ministry acknowledges that the Doctor indicates the Appellant's impairment continuously restricts the Appellant in managing transportation, and periodically restricts them from performing basic housework. However, the Ministry maintains that the information provided by the Doctor does not establish that a severe impairment significantly restricts daily living activities continuously or periodically for extended periods.

*Help Required:*

The Ministry says that, as it has not been established that daily living activities are significantly restricted either continuously or periodically for extended periods, the Ministry also cannot determine that the Appellant needs significant help with restricted activities.

Panel Decision:

*PWD Designation – Generally*

The legislation provides the Ministry with the discretion to designate someone as a PWD if the requirements are met. In the Panel's view, PWD designation is for persons who have significant difficulty in performing regular self-care activities. If the inability to work is the major reason for applying for PWD designation, the Panel encourages the applicant to speak to the Ministry about other potential programs such as Persons with Persistent Multiple Barriers to Employment (PPMB) or explore federal government programs such as Canada Pension Plan disability benefits. A person who is disabled under section 42(2) of the Canada Pension Plan Act is a prescribed class of persons who may be eligible for PWD designation under section 2.1 of the Regulation.

Some requirements for PWD designation must have an opinion from a professional, and it is reasonable to place significant weight on these opinions. The application form includes a Self Report. It is also appropriate to place significant weight on the Self Report and evidence from the Appellant, unless there is a legitimate reason not to do so.

The Panel will review the reasonableness of the Minister's determinations and exercise of discretion.

*Severe Mental or Physical Impairment*

“Severe” and “impairment” are not defined in the legislation. The Ministry considers the extent of any impact on daily functioning as shown by limitations with or restrictions on physical abilities and/or mental functions. The Panel finds that an assessment of severity based on physical and mental functioning including any restrictions is a reasonable application of the legislation.

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

The Appellant has provided lengthy medical records that show a long history of injuries, including a determination by WorkSafe BC that the Appellant has a permanent partial disability due to chronic neck pain. However, determination of eligibility for PWD designation is based on the Appellant’s current level of impairment, and the Panel finds that it is reasonable for the Ministry to place greater weight on the current information from the Doctor, than on medical records from ten years ago or more.

The Panel also notes that both the Appellant and the Doctor focused on the Appellant’s ability to work, which is not assessed in an application for PWD designation.

#### *1. Physical Impairment:*

The Panel finds that the Ministry was reasonable in its determination that, based on the information in the Doctor’s reports, the Appellant’s physical impairment is moderate rather than severe. The Appellant describes greater impairment of function than the Doctor indicates in the reports, however the Panel finds that it is reasonable for the Ministry to look for consistency between the Doctor’s reports and the Self Reports, and to give greater weight to the evidence of the medical professional.

While the Doctor identifies diagnoses of severe back pain and foot numbness, migraines and left side facial pain, the Doctor does not identify severe impairment of function. The information the Doctor provides in the Medical and Assessor Reports is not consistent with the Appellant’s evidence and does not indicate the level of impairment the Appellant describes. For example, while the Appellant says that they cannot walk more than a block, the Doctor says that the Appellant can walk 4+ blocks unaided. The Appellant describes difficulty climbing more than 3 steps, while the Doctor says the Appellant can climb 5+ stairs unaided. The Doctor also says that the Appellant does not need any assistive devices, while the Appellant says that the Appellant wears a back belt, a sacral belt and a shoulder belt. The Appellant says that the Doctor knows that the Appellant uses these devices, but the Doctor has not mentioned them in the Assessor Report. The Appellant describes being almost completely unable to do most housework, if it involves bending, lifting or repetitive motions, while the Doctor says in the Medical Report that

the Appellant is only periodically restricted in basic housework, and on the Assessor Report indicates that the Appellant is independent in all the listed daily living activities, including basic housework.

The Panel also notes that the Doctor provides little detail in the Medical and Assessor Reports, even though the reports ask the prescribed professional to provide further detail about impairments they identify. For example, the Doctor indicates that the Appellant takes significantly longer than typical to walk outdoors and climb stairs, but the Doctor does not give any details of how much longer the Appellant takes. Nor does the Doctor explain the impact of chronic pain on the Appellant's ability to function overall.

Given the inconsistency between the Doctor's evidence and the Appellant's evidence, the Panel finds the Ministry was reasonable in giving greater weight to the Doctor's evidence, and less weight to the Appellant's evidence, where it is not consistent with the Doctor's reports. The Panel also finds that Ministry was reasonable in determining that the information in the Doctor's reports indicates a moderate, rather than a severe, physical impairment.

## *2. Mental Impairment:*

The Panel finds that the Ministry was reasonable in its determination that the information provided does not indicate a severe mental impairment.

As noted above, the Panel finds that it is reasonable for the Ministry to give greater weight to the Doctor's evidence in the Medical and Assessor Reports, than to the Appellant's Self Report, where the Appellant's evidence is not confirmed in the Doctor's reports. The Doctor indicates that the Appellant has significant deficits in emotional and cognitive functioning, but then identifies only "some emotional disturbance", commenting that the Appellant "can be overwhelmed at times." In the Assessor Report, the Doctor indicates only minimal impact on any area of daily cognitive and emotional functioning, with good overall social functioning.

The Panel notes that the Appellant describes suffering from depression due to chronic pain and physical limitations, as well as life circumstances as a single parent caring for two children, one of whom has significant disabilities, and the financial pressure of being unable to work.

Considering the evidence as a whole, however, the Panel finds that the Ministry was reasonable in determining that, considering the information provided in the Medical and Assessor Reports about the impact of the mood disorder on functioning, the information provided did not establish a severe mental impairment.

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

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

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

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

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

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

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

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

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

The Panel finds that the information provided by the Doctor does not confirm direct and significant restrictions to the Appellant's ability to perform two or more Activities. In the Medical

Report, the Doctor indicates that the Appellant is periodically restricted in the ability to perform basic housework, and continuously restricted in their use of transportation. However, in the Assessor Report, the Doctor indicates that the Appellant is independent in all Activities listed, not needing assistance from another person or taking significantly longer than typical to perform Activities, including basic housekeeping and transportation. While the Doctor indicates that the Appellant does take significantly longer than typical to walk outdoors and climb stairs, and needs periodic assistance for lifting, carrying and holding, the Doctor does not provide any details, other than to comment "avoid supine lifting."

The Appellant describes much more extreme and significant restrictions in their ability to perform Activities. However, under s. 2(2) of the Regulation, the Ministry must have the opinion of a prescribed professional, in this case the Doctor, that a severe mental or physical impairment directly and significantly restricts the Appellant's ability to perform Activities. Where the Appellant's evidence is inconsistent with the information provided by the Doctor, rather than providing additional detail about restrictions identified by the Doctor, it is reasonable for the Ministry to place greater weight on the assessment of the medical professional.

The Panel finds that the Ministry was reasonable in its determination that the limitations described in the Medical and Assessor Reports did not indicate a significant restriction in the Appellant's ability to perform two or more Activities.

*Help Required:*

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

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

*Additional Comments:*

In reaching its decision, the Panel wants to be clear that it is not making a finding that the Appellant's evidence is not credible. The Panel is finding that, for whatever reason, the information in the reports the Doctor completed, is not consistent with the Appellant's evidence, and the Panel finds that, in the circumstances, it was not unreasonable for the Ministry to place greater weight on the information provided by the Doctor.

Conclusion:

The Panel finds that the Ministry's decision to deny the Appellant PWD designation was reasonably supported by the evidence. The Panel confirms the Reconsideration Decision. The Appellant is not successful in the appeal.

Schedule – Relevant Legislation

Employment and Assistance for Persons with Disabilities Act

**Persons with disabilities**

s. 2 (1) In this section:

"assistive device" means a device designed to enable a person to perform a daily living activity that, because of a severe mental or physical impairment, the person is unable to perform;

"daily living activity" has the prescribed meaning;

"prescribed professional" has the prescribed meaning.

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

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

(b) in the opinion of a prescribed professional

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

(A) continuously, or

(B) periodically for extended periods, and

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

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

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

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

(i) an assistive device,

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

(iii) the services of an assistance animal.



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

## Employment and Assistance for Persons with Disabilities Regulation

### Definitions for Act

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

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

(i) prepare own meals;

(ii) manage personal finances;

(iii) shop for personal needs;

(iv) use public or personal transportation facilities;

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

(vi) move about indoors and outdoors;

(vii) perform personal hygiene and self care;

(viii) manage personal medication, and

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

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

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

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

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

(i) medical practitioner,

ii) registered psychologist,

(iii) registered nurse or registered psychiatric nurse,

(iv) occupational therapist,

(v) physical therapist,

(vi) social worker,

(vii) chiropractor, or

(viii) nurse practitioner, or

(b) acting in the course of the person's employment as a school psychologist by

(i) an authority, as that term is defined in section 1 (1) of the *Independent School Act*, or

(ii) a board or a francophone education authority, as those terms are defined in section 1 (1) of the *School Act*,

if qualifications in psychology are a condition of such employment.

(3) The definition of "parent" in section 1 (1) applies for the purposes of the definition of "dependent child" in section 1 (1) of the Act.

### Employment and Assistance Act

s. 22 (4) A panel may consider evidence that is not part of the record as the panel considers is reasonably required for a full and fair disclosure of all matters related to the decision under appeal.

APPEAL NUMBER 2024-0247

**Part G – Order**

The panel decision is: (Check one)       Unanimous       By Majority

The Panel       Confirms the Ministry Decision       Rescinds the Ministry Decision

If the ministry decision is rescinded, is the panel decision referred back to the Minister for a decision as to amount?      Yes       No

**Legislative Authority for the Decision:**

*Employment and Assistance Act*

Section 24(1)(a)       or Section 24(1)(b)

Section 24(2)(a)       or Section 24(2)(b)

**Part H – Signatures**

Print Name  
Susan Ferguson

Signature of Chair

Date (Year/Month/Day)  
2024/08/01

Print Name  
Kevin Ash

Signature of Member

Date (Year/Month/Day)  
2024/08/01

Print Name  
Mary Chell

Signature of Member

Date (Year/Month/Day)  
2024/08/01