

Part C – Decision Under Appeal

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the “Ministry”) Reconsideration Decision dated August 12, 2024, denying the Appellant the persons with disabilities (“PWD”) designation.

The Ministry found that the Appellant met the age and duration of impairment requirements.

However, the Ministry found:

- The Appellant did not have a severe physical or mental impairment;
- The Appellant's daily living activities are not directly and significantly restricted; and,
- The Appellant does not need significant help to do daily living activities because of any significant restrictions.

The Ministry also 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 (the “Act”), Section 2

Employment and Assistance for Persons with Disabilities Regulation (the “Regulation”), Section 2

Employment and Assistance Act, Section 22(4)

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

Part E – Summary of Facts

The hearing was held by videoconference on September 13, 2024, with the Appellant, the Appellant's Representative, a representative from the Ministry (the "Ministry Representative"), and three panel members in attendance.

The information the Ministry had at the time of the Reconsideration Decision included:

- The Medical Report, dated May 28, 2024, completed by the Appellant's Doctor (the "Doctor"). Information in the Medical Report is summarized in the appropriate sections of the discussion below;
- The Assessor Report, dated May 28, 2024, also completed by the Doctor. Information in the Assessor Report is summarized in the appropriate sections of the discussion below;
- The Self Report, dated June 17, 2024 and signed by the Appellant. Information in the Self Report is summarized in the appropriate sections of the discussion below; and,
- The Request for Reconsideration, dated July 19, 2024. Information in the Request for Reconsideration is summarized in the appropriate sections of the discussion below.

Diagnoses

In the Medical Report and the Assessor Report, the Doctor says the Appellant has generalized anxiety disorder (GAD), panic disorder, chronic low back pain, and inflammatory arthritis of the spine. The dates of onset of these impairments are not provided.

Physical Functioning

In the Medical Report, the Doctor says the Appellant has no limitations in his physical functioning skills (walking, climbing stairs, lifting, or remaining seated).

Where asked to provide any other information that might be relevant in understanding the significance of the Appellant's medical condition or the nature and extent of his impairments and its effect on his daily living activities, the Doctor has written "*(The Appellant) has also sustained traumatic brain injuries which exacerbated his GAD. He also has inflammatory arthritis at his spine which causes daily pain. He has a congenital lumbar spine abnormality. His pain has not improved with oral analgesia, physiotherapy, or kinesiology.*"

In the Assessor Report, the Doctor says the Appellant is independent in all listed aspects of mobility and physical ability (walking indoors and outdoors, climbing stairs, standing, lifting, and carrying and holding).

In the Self Report, the Appellant says he has "*lower back issues which affect my day physically*". He also says "*When I do physical stuff, walking, lifting, sitting, standing for long periods I am usually bed ridden the next day or 2. If I am doing any bending or lifting I can only last for about 15 – 20 minutes before I have to stop and rest. Sometimes I have to take it easy rest of day.*"

Driving long distance is painful. I stiffen up and my back turns to hunchback. Stretching sometimes helps but not most of the time. I try to always work through the pain and then I am sore for weeks to come."

Mental Functioning

In the Medical Report, under Health History, the Doctor has written "*(The Appellant) has struggled with lifelong anxiety. This significantly impairs his ability to work, socialize and communicate with others. He has associated insomnia tremors, psychosomatic agitation, worry, panic and decreased self-efficacy. His depression/anxiety stress scale (DAS) score (is) extremely severe and his GAD-7 (anxiety) score (shows) severe anxiety.*" The Doctor also indicates that the Appellant has psychological difficulties with communication, and has written "*Extreme limitation with interpersonal communication related to social functioning.*"

In the Medical Report, the Doctor says the Appellant has significant deficits in his cognitive and emotional functioning in the areas of executive planning, emotional disturbance, impulse control, language, motor activity, and psychotic symptoms, adding "*(The Appellant) has severe anxiety with frequent physical symptoms. His executive functioning is impaired when he becomes exacerbated. He can become frustrated with poor impulse control.*"

In the Assessor Report, the Doctor says the Appellant's speaking, reading, writing, and hearing abilities are all satisfactory.

In the Assessor Report, the Doctor also indicates that the Appellant's mental impairment is a major restriction or has a major impact on his daily functioning in the following areas: emotion, impulse control, attention/concentration, executive functioning, memory, and motivation; a moderate impact on his insight and judgement; and a minor impact on his consciousness and other neuropsychological problems.

In the Self Report, the Appellant says "*I have multiple concussions which brings along memory issues, irritability, trouble communicating, no drive to do anything ... I shake a lot and it causes a lot of self doubt ... Any little stupid things can set me off with anger, frustration and sometimes rage.*"

In the Request for Reconsideration, the Appellant says "*I am requesting reconsideration because I do have severe anxiety issues ... I can't hold anything still in my hands (due to) tremors and when I get really nervous I get full body tremors. I am having hard time controlling my temper ... the more I get confused the worse it gets. I am lost in my head ... I don't remember what my favorite foods or hobbies are ... I have been dealing with this since I was 13 and it's only getting worse and yes it does affect my day to day.*"

Restrictions in the Ability to Perform Daily Living Activities

In the Medical Report, the Doctor says the Appellant has not been prescribed any medications that interfere with his ability to do daily living activities.

In the Assessor Report, the Doctor also says the Appellant is independent with respect to doing the following daily living activities:

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

The legislation also lists two additional daily living activities that apply to a person with a severe mental impairment, specifically "*make decisions about personal activities, care or finances*", and "*relate to, communicate or interact with others effectively*". Regarding the latter daily living activity, the Doctor indicates that the Appellant requires periodic support or supervision in all listed areas: making appropriate social decisions, ability to develop and maintain relationships, interacting appropriately with others, ability to deal appropriately with unexpected demands, and ability to secure assistance from others. In addition, the Doctor indicates that the Appellant has marginal functioning with both his immediate and extended social networks. The Doctor does not provide any further details or comments in the spaces provided in the Assessor Report.

In the Self Report, the Appellant says "*The affect my concussions has had on my life is not fun. I have problems remembering to shower, I can't go out in public because I have problems with self confidence due to shaking ... I can't talk with people in groups I don't know and sometimes with my own family. Talking or writing to/with people I get tongue tied or brain tied and I don't know what to say or write.*"

Need for Help

In the Medical Report the Doctor says the Appellant does not require any prostheses or aids for his impairment.

In the Assessor Report, the Doctor says the Appellant gets the help he requires with daily living activities from his family. The Doctor also says that the Appellant does not have an assistance animal.

Additional Information Submitted after Reconsideration

Notice of Appeal

In the Notice of Appeal dated ,26th August 2024 the Appellant says the reason he is appealing the Ministry's Reconsideration Decision is that the Ministry "*has not met me face to face to make a decision ... I can't explain myself on paper ... you haven't even contacted me by phone or reached out to my mom (who) is my advocate ...*".

Evidence Presented at the Hearing

At the hearing, Appellant's Representative, speaking on behalf of the Appellant, said that the Appellant's Representative had only had the opportunity to read the appeal documents a couple of days ago, and the Appellant's Representative had only met with the Doctor "*once last month*". The Appellant's Representative explained that the Doctor had been the Appellant's family physician for only the past two years, following the retirement of the Appellant's previous doctor, who had been his family doctor since the Appellant was born.

The Appellant said the Doctor's office is in a community some distance from the one in which the Appellant lives, and the Appellant was on a waiting list for eight months before he was accepted as the Doctor's patient. In response to a question from the panel, the Appellant said that the information in the Medical Report and the Assessor Report was provided as a result of questions posed by the Doctor to the Appellant at an in person consultation and over the telephone, and that the Appellant had not seen the Medical Report or the Assessor Report until after they had been submitted to the Ministry as part of the Appellant's PWD application.

The Appellant and the Appellant's Representative also said that until recently they did not have access to any of the Appellant's medical records (the "Records"). In trying to access the Records, the Appellant had had to pay \$100 for the past ten years of Records, which they had only received in the past few weeks, and which were not available to the Doctor when they completed the Medical Report and the Assessor Report. The Appellant's Representative said that now that the Doctor has seen the Records for the ten years before they became the Appellant's Doctor "*(They are) understanding more about what is going on now*".

The Appellant also explained that he could have acquired his medical records that were over ten years old, but it would have cost the Appellant an additional \$100, which he couldn't afford.

The Appellant's Representative gave a history of the Appellant's injuries. The Appellant played minor hockey, and first suffered a concussion while playing hockey at the age of 13 or 14. He stopped playing hockey following a major concussion when he was 17. The Appellant said that the concussions he suffered when he was an adolescent resulted in chronic traumatic encephalopathy (CTE), which among other impairments has left him suicidal, and for which he has received cognitive behavioural therapy (CBT), which has not been totally effective.

The Appellant's Representative said that since he suffered the concussions, the Appellant has had frequent tremors, is prone to "*lashing out*", and is "*unable to put normal conversations into perspective*". The Appellant's Representative also said that it takes them 20 to 30 minutes to calm the Appellant after he lashes out, and that the Appellant has lost several friends as a result.

The Appellant and the Appellant's Representative also said that the Appellant had suffered a serious car accident on November 30, 2013 (the "2013 Accident"), when his vehicle had been t-boned by a semi semi-trailer truck, following which he had been hospitalized for 36 hours before being released by the hospital's emergency department. The Appellant's Representative said the Appellant had suffered severe injuries to his upper and lower back as a result of the 2013 Accident. This has significantly restricted the Appellant's physical functioning.

Despite the Doctor's contrary evidence as presented in the Medical Report and the Assessor Report, since the 2013 Accident the Appellant said he has been unable to stand for more than 15 to 20 minutes or to sit in a chair for more than five minutes at a time. While the Appellant is able to drive, if he drives for more than two hours at a time he has to lie down for hours. With regards to his lifting abilities, the Appellant said that he can lift up to 150 lbs., but he can only do that once.

The Appellant's Representative also explained that the Appellant's tailbone is fused to the base of his spine, a congenital condition that cannot be addressed through surgery.

The Appellant's Representative also stressed that, despite the Appellant's physical impairments, their main concern is with the impact his physical impairments have had on the Appellant's mental health.

In response to a question from the panel, the Appellant said that he has been prescribed Serotonin, which he takes every day, to address the fact that his body does not effectively regulate adrenaline.

In response to another question from the panel about whether the Appellant has seen a sports medicine specialist about the impact of his concussions on his health, the Appellant said that the Doctor is both a family physician and a sports medicine specialist. He also confirmed that the Doctor has now received the Records.

When asked by the panel whether the Appellant's Representative had taken any steps to provide any of the Appellant's historical medical information to the Ministry, the Appellant's Representative said that they had not had an opportunity to get copies of the information from the Doctor yet.

In response to questions from the panel about his abilities to do daily living activities and any help he receives with them, the Appellant said that he lives with his father who does all his shopping, and he will often go days without bathing or doing his laundry. He also said that he doesn't like to go out in public due to his mental impairment, so he is unable to shop and he also has to rely on his father to cook for him. The Appellant's Representative said that they often remind the Appellant to do his laundry, and that they often have to check up with him on housekeeping, laundry and personal hygiene.

The Appellant also said that he didn't understand "*why everything has to be written down on a piece of paper*". He said he has trouble expressing himself in writing, and he wanted to know

why the Ministry doesn't have a "*team of people*" in the Ministry office who are there to help people with mental impairments applying for the PWD designation. The Ministry said they didn't have the resources to provide that service, and relied on the documents submitted from prescribed professionals as part of the application process.

In response to a question from the panel as to whether there were any social service agencies in the Appellant's community that might be able to assist the Appellant, the Ministry said that there are such province-wide agencies who can help applicants and provide them with advice, mentioning Disability Alliance of BC as one such agency. The Ministry said that they also provide support in the information available on website.

At the hearing, the Ministry Representative relied on the Reconsideration Decision, stressing the lack of detail provided by the Doctor regarding the Appellant's ability to perform daily living activities, and that the Ministry relies on the medical opinion and expertise from a PWD applicant's medical practitioner or other prescribed professional, as required under the legislation, to determine if an impairment directly and significantly restricts the applicant's ability to perform daily living activities either continuously or periodically for extended periods. In this case, the Ministry said, the Doctor had indicated that the Appellant was independent with respect to all daily living activities.

Admissibility of New Evidence

There is no new evidence contained in the Notice of Appeal.

New verbal evidence presented by the Appellant and the Appellant's Representative at the hearing included:

- Information concerning the Appellant's missing medical history records that the Doctor did not have access to when the application was prepared; and
- Additional details regarding the Appellant's physical impairments and their impact on his ability to perform daily living activities; and,
- Additional information about the medications the Appellant is taking on a daily basis.

The Ministry did not object to the new evidence provided by the Appellant and the Appellant's Representative.

No new evidence was provided by the Ministry.

The panel is authorized under Section 22(4) of the *Employment and Assistance Act*, to consider evidence in addition to the information the Ministry had at the time of the Reconsideration Decision if it is reasonably required for a full and fair disclosure of all matters related to the decision under appeal. The panel admits all of the new verbal evidence provided at the hearing because it might reasonably be required for a full disclosure of everything related to the appeal.

Part F – Reasons for Panel Decision

The issue in the appeal is whether the Reconsideration Decision was reasonable based on all the evidence or whether the legislation was reasonably applied in this case. In other words, was it reasonable for the Ministry to determine that:

- The Appellant does not have a severe mental or physical impairment;
- The Appellant's daily living activities are not directly and significantly restricted either continuously or periodically for extended periods due to the severe impairment; and,
- It could not be determined that the Appellant needs help to do daily living activities because of significant restrictions.

ANALYSIS**Severity of Impairment**

The legislation requires that the Ministry determine whether it thinks an impairment is severe. Clearly this assessment must be made in light of the evidence. The evidence of severity is contained in an applicant's PWD application, together with the relevant new evidence admitted by the Panel.

The information in the Self Report, if there is one, and any other information provided by anyone else who is not a medical practitioner or prescribed professional but who has knowledge of an applicant's impairments, should also be considered. However, the legislation requires that the Ministry rely primarily on an assessment of the severity of an applicant's impairment as expressed by medical practitioners and prescribed professionals. The Ministry has created the Medical Report and the Assessor Report for this purpose.

The panel notes that the legislation provides no guidance on how prescribed professionals are to form their opinions. However, the panel finds prescribed professionals should be reasonably expected to provide fair and honest opinions of the severity of an applicant's impairments. These opinions might be the result of direct observation, medical tests, or other similar measures. They might also be, in part, as a result of the applicant's response to questions posed by the prescribed professional, if detailed empirical evidence is not otherwise available. In the latter case, the prescribed professional is duty-bound by their professional standards to express doubt in what an applicant says if, in their professional opinion, it is not consistent with the known symptoms of a diagnosed illness.

Physical Functioning*The Appellant's Position*

The Appellant's position is that his physical impairments, which include a congenital condition and injuries to his upper and lower back resulting from the 2013 Accident, have resulted in significant restrictions in his walking, standing, sitting and lifting abilities. In addition, the tremors he suffers as a result of concussions affects his ability hold and open things.

The Ministry's Position

The Ministry's position is that, while the Doctor reports that the Appellant has frequent physical symptoms, it is not clear what physical symptoms are the result of the Appellant's anxiety or how long those symptoms last. The Ministry also notes that the Doctor indicates that the Appellant's physical functioning is both independent and effectively managed without the need for any physical aids. In addition, it is unclear why the Doctor does not identify any impacts on the Appellant's physical functioning skills or when assessing his ability to perform daily living activities. For these reasons, the Ministry has determined that a severe physical impairment has not been demonstrated.

Panel Decision

The Ministry must be satisfied that the applicant has a severe impairment. The Ministry relies on the information in the PWD application provided by a medical practitioner and/or a nurse practitioner, together with prescribed professionals and the applicant, and makes a determination. The panel generally finds this approach reasonable. In those assessments, in this case made by the Doctor in the Medical Report and the Assessor Report, the Doctor says the Appellant has no limitations in his physical functioning skills and is independent in all listed aspects of mobility and physical ability.

The Doctor also says the Appellant has a congenital lumbar spine abnormality and inflammatory arthritis at his spine which causes daily pain. In addition, the Doctor indicates that the Appellant's pain has not improved with oral analgesia, physiotherapy, or kinesiology. However, the Doctor has not provided any indication, in either the Medical Report or the Assessor Report, that the Appellant's physical functioning is significantly impaired as a result of his physical functioning restrictions. No other assessments or reports are included in the evidence.

The panel admitted oral evidence presented at the hearing by the Appellant and the Appellant's Representative that included additional details about the Appellant's physical impairments and their impact on his physical functioning. Because this oral evidence was unsupported by any medical documents, such as the results of physical functioning tests or the opinions of prescribed professionals, and because this oral evidence conflicts with the information provided by the Doctor, the panel assigns this new information little weight.

The panel finds the Ministry's findings with respect to physical functioning to reasonably reflect the information provided by the Doctor in the Medical Report and the Assessor Report. Specifically, the Doctor has said that the Appellant's physical functioning is independent and effectively managed without the need for any physical aids, and the Doctor does not identify

any impacts on the Appellant's physical functioning skills or in assessing his ability to perform daily living activities,

Based on all the available evidence, the panel finds that the Ministry reasonably determined that the Appellant did not have a severe physical impairment.

Mental Functioning

The Appellant's Position

The Appellant's position is that his multiple concussions have resulted in a severe mental impairment. He has significant problems with his memory, and he is irritable and often lashes out. He also has trouble communicating with both his family and his extended social network.

The Ministry's Position

The Ministry is satisfied that the Appellant's deficits and impacts on daily functioning as reported by the Doctor support a moderate mental impairment. However, there is not enough evidence to establish a severe mental impairment given that the Doctor reports that the Appellant's ability to communicate is satisfactory, and that he is independent with all daily living activities, except that he needs periodic support with social functioning.

Panel Decision

The Doctor, as a prescribed professional, is best qualified to diagnose a person's impairments and to assess their severity.

The Doctor has stated that the Appellant's lifelong anxiety "*significantly impairs*" his ability to work, socialize and communicate with others, and his associated mental impairments are "*extremely severe*", and include "*severe anxiety*" with "*frequent physical symptoms*". The Doctor also says the Appellant has significant deficits in his cognitive and emotional functioning in six of the listed areas, and that the Appellant's executive functioning is impaired when he becomes exacerbated, which can result in frustration and poor impulse control.

The Panel notes that the Doctor has described the Appellant's symptoms as being severe and extremely severe, and that they represent a significant impairment. Given the Doctor's assessments as set out in the Assessor Report, the information regarding the Appellant's mental impairments can only reasonably be found to demonstrate a severe mental impairment. Therefore, the panel finds that the Ministry's determination that the Appellant does not have a severe mental impairment is not reasonable.

Restrictions in the Ability to Perform Daily Living Activities

The Appellant's Position

The Appellant's position is that he is continuously unable to do many of the daily living activities associated with personal hygiene and self care, housework, shopping for personal needs, preparing meals, and moving about indoors and outdoors.

The Ministry's Position

The Ministry's position is that, while the Doctor had indicated that the Appellant's anxiety score is "severe" and that he suffers from tremors and back pain, the Doctor did not appear to complete a thorough assessment of the impact of those impairments on his daily living activities. In addition, there were also inconsistencies in the Information provided. For example, in the Medical Report the Doctor said it was 'unknown' if there are direct restrictions to his ability to perform daily living activities, whereas in the Assessor Report the Doctor indicated that the Appellant was independent with all daily living activities. As a result, the Ministry was unable to conclude that there is a severe impairment that directly restricts the Appellant's ability to do daily living activities.

The Ministry also said it was prepared to consider any new information provided in a submission from a prescribed professional that might more accurately reflect the restrictions to the Appellant's ability to perform and manage his daily living activities, should the Appellant wish to appeal the Ministry's decision.

Panel Decision

The legislation requires that the Ministry's assessment of daily living activity be based primarily on the evidence provided by prescribed professionals.

As mentioned above, the Doctor says the Appellant has psychological difficulties with communication, which include an "extreme limitation with interpersonal communication related to social functioning". In addition, the Doctor says the Appellant needs periodic support or supervision with all aspects of social functioning.

The Doctor has clearly indicated in the Assessor Report that the Appellant needs continuous assistance with the daily living activity of relating to, or communicating or interacting with others effectively.

However, the court has determined (in *Hudson v. British Columbia [Employment and Assistance Appeal Tribunal]*) that "There is no indication that every one of the daily living activities listed must be affected. The ordinary meaning of the plural 'activities' in this section dictates that there must be evidence from a prescribed professional indicating a direct and significant restriction on at least two daily living activities."

Therefore, the panel notes that at least one additional daily living activity must, in the opinion of a prescribed professional, be directly and significantly restricted in this case for the test to have been met. As the Doctor has indicated in the Assessor Report that the Appellant is able to do all

other listed daily living activities independently, the panel finds that the Ministry reasonably determined that this criterion has not been met.

The panel admitted verbal evidence presented at the hearing by the Appellant and the Appellant's Representative that included additional details about the impact of the Appellant's physical and mental impairments on his ability to perform daily living activities. However, as was the case with this new information as it related to the Appellant's physical functioning discussed above, this verbal evidence was unsupported by any opinions of prescribed professionals. As the legislation requires this criterion to be confirmed by a prescribed professional, the panel is unable to use this information from the Appellant to satisfy the criterion.

Help with Daily Living Activities

The Appellant's Position

The Appellant's position is that he lives with his father, whom he relies on to cook his meals and do his shopping as he is incapable of doing those things for himself. He is also incapable of doing his laundry or taking care of his personal hygiene.

The Ministry's Position

The Ministry' position is that the Appellant's need for help with daily living activities has not been established as the Appellant is reported by the Doctor to not require any assistive devices, the services of an assistance animal, or help with any daily living activities, except for periodic assistance with social functioning. In addition, it cannot be determined that significant help is required because it has not been established that daily living activities are significantly restricted.

Panel Decision

Help, in relation to a daily living activity, is defined in the legislation as the need for:

- An assistive device;
- The significant help or supervision of another person; or,
- The services of an assistance animal.

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

Because the Ministry reasonably determined that the Appellant does not have significant restrictions in his ability to perform daily living activities, the panel finds that the Ministry reasonably determined that the Appellant does not need help.

Conclusion

Based on all the evidence, the Panel finds that the Reconsideration Decision was a reasonable interpretation of the legislation in the Appellant's circumstances, and therefore confirms the decision. The Appellant's appeal, therefore, is not successful.

* * *

The panel sympathizes with the Appellant in this case. It is apparent to the panel, based on the additional information provided by the Appellant and the Appellant's Representative at the hearing, that the Doctor was unaware of the Appellant's long term medical history when the Doctor completed the Medical Report and the Assessor Report. While the Doctor now has the Records, none of that written evidence was available to the Appellant to present to the Ministry or the Tribunal before the appeal was heard by the panel.

APPENDIX
RELEVANT LEGISLATION

The criteria for being designated as a PWD are set out in Section 2 of the Act 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 Regulation 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 ...

The *Employment and Assistance Act* provides as follows:

Panels of the tribunal to conduct appeals

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 2024-0329

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

Simon Clews

Signature of Chair

Date (Year/Month/Day)

2024/09/19

Print Name

David Handelman

Signature of Member

Date (Year/Month/Day)

2024/09/19

Print Name

Linda Pierre

Signature of Member

Date (Year/Month/Day)

2024/09/19