

**PART C – DECISION UNDER APPEAL**

(State the reconsideration decision)

The decision under appeal is the Ministry's reconsideration decision dated March 13, 2008 which held that the appellant did not meet the legislative criteria for designation as a person with disabilities (PWD) under section 2 of the Employment and Assistance for Persons with Disabilities Act. The Ministry concluded that the appellant's mental impairment did not directly and significantly restrict her ability to perform daily living activities either continuously or periodically for extended periods and that she did not require help to perform those activities.

**PART D – RELEVANT LEGISLATION**

(State the relevant Legislation considered)

Employment and Assistance for Persons with Disabilities Act (EAPWDA), section 2.  
Employment and Assistance for Persons with Disabilities Regulation (EAPWDR), section 2.

**PART E – SUMMARY OF FACTS**

Please set out the facts as determined by the panel, based on the evidence at the hearing. Please note that subsection 22(4) of the Employment and Assistance Act states that, in a hearing referred to in subsection (3), a panel may admit as evidence only:

- (a) the information and records that were before the minister when the decision was being made, and  
(b) oral or written testimony in support of the information and records referred to in paragraph (a).

The evidence before the Ministry is comprised of the original application for PWD designation dated November 19, 2007 by the appellant. The appellant's physician completed the Physician's Report as part of this application and states that the appellant is diagnosed as having bipolar affective disorder and multinodular goitres. The physician also reports that the appellant suffers severe exacerbations when experiencing stress and requires close monitoring with respect to medication and/or hospitalization. The physician reports that the appellant has significant deficits with cognitive and emotional function with regard to memory, emotional disturbance, impulse control and motor activity and that these symptoms appear when exacerbation of her bipolar disease occurs. The physician also reports that the appellant's variety of medications which are of a permanent duration can have adverse effects including drowsiness, making it difficult for her to work.

The assessor's report completed by the appellant's physician indicates that the appellant's mental impairment has a major impact on her emotion, impulse control, insight and judgment, attention/concentration, motor activity, and psychotic symptoms; a moderate impact on language and minimal to no impacts regarding other cognitive and emotional functions. The physician's written comments with regard to these impacts on daily functioning note a periodic impairment when in a manic or depressive phase of the bipolar disease. With respect to all daily living activities the appellant is reportedly independent. The ministry on several occasions made attempts to clarify with the physician the impacts on daily living activities with respect to periodic impairment/exacerbations, but no response was provided.

The appellant in her original application states she needs routine to stay stable, finds life overwhelming, sleeps 2-4 hours per night, needs affordable housing and finds living with her family stressful. The appellant in her Request for Reconsideration dated February 25, 2008 reports she has severe stress from her bi-polar illness which was diagnosed in 1986, that she can't handle stress on the job and that she quits jobs when things go stressful. She states that she quit her last job in September 2007, needs some financial assistance for at least two years and that she lives alone. In her appeal dated March 17, 2008 she notes that even though she is on medication she suffers from stress on the job, has a hard time keeping a full-time job, and needs the pension to pay for rent, food and utilities.

A ministry representative did not appear for the hearing and after a reasonable delay the hearing proceeded in their absence.

At the hearing, the appellant informed the panel that she is      years old, lives alone with two pets in a condominium that her parents helped her purchase. Of the \$610.00 she receives monthly as a single recipient of income assistance \$500.00 goes to pay one-half of the mortgage as well as strata fees. She also states that although medication helps alleviate her condition, she finds full-time work stressful particularly that which involves high volume and supervisory pressure such as work in the food service industry and that she suffers from insomnia. The appellant reports that she just started part-time work on the weekends and needs some routine; otherwise she can forget and can have

trouble remembering things to do such as taking her prescriptions. She informed the panel she wants to remain living independently, needs more assistance to pay her bills instead of living off credit card debt and hopes in two years to maybe get more education and stabilize her life. Finally, with respect to daily living activities, the appellant states she sometimes gets help from her mother with grocery shopping.

**PART F – REASONS FOR PANEL DECISION**

(State the reasons for the panel decision)

The EAPWD Act authorizes the minister to grant PWD designation to a person if the minister is satisfied the person has a severe mental or physical impairment that, in the opinion of a medical practitioner, is likely to continue for at least 2 years, and in the opinion of a prescribed professional her condition directly and significantly restricts her ability to perform daily living activities either continuously or periodically for extended periods. The prescribed professional must also provide a medical opinion that as a result of her restrictions, she requires help to perform those activities.

In this appeal the minister is satisfied that the Appellant has a severe mental impairment and a medical practitioner has confirmed that this impairment is likely to continue for at least 2 years which leaves the remaining tests noted above to be satisfied.

The ministry contends that: (a) the assessments from the appellant's physician do not establish that the appellant's mental impairment significantly restricts her daily living activities either continuously or periodically for extended periods as no restrictions are documented; (b) the appellant does not meet the help criterion because she does not require the significant help or supervision of another person.

The appellant contends that, due to stress, she is unable to work full-time particularly in high pressure work environments and needs assistance to remain living independently on her own and to pay her bills.

The appellant's testimony provided no convincing evidence for the panel that her impairment directly and significantly restricts her ability to perform daily living activities or that she requires significant help or supervision of another person. Additionally, the legislation requires that a prescribed professional provide evidence to that effect. Without such evidence from a prescribed professional, the legislative criteria have not been met, and it was reasonable for the ministry to deny the appellant's application for PWD designation. The panel, therefore, confirms the Reconsideration Decision dated March 13, 2008 as a reasonable application of the legislation in the circumstances of the appellant.

ATTACH EXTRA PAGES IF NECESSARY