

PART C – DECISION UNDER APPEAL

This is an appeal of a reconsideration decision ('the decision') issued by the Ministry of Social Development ('the Ministry') on February 9, 2012.

In the decision, the Ministry denied the Appellant a bus pass supplement, finding that, as he was no longer in receipt of disability assistance, he did not meet the criteria set out in section 51 of the Employment and Assistance for Persons With Disabilities Regulation.

PART D – RELEVANT LEGISLATION

Employment and Assistance for Persons With Disabilities Act (EAPWDA), Sections 1 and 5

Employment and Assistance for Persons With Disabilities Regulation, Section 51

PART E – SUMMARY OF FACTS

The Appellant was not in attendance at the hearing. After confirming that the Appellant was properly notified, the hearing proceeded pursuant to Section 86(b) of the Employment and Assistance Regulation.

The evidence before the Ministry at reconsideration was as follows:

- An undated note from the Appellant which reports that he pays \$650 monthly for rent, leaving \$260 for food, clothing and living expenses. His bus pass is critical for groceries, medical appointments and transportation for everyday living. He states it is not possible to afford \$45 for a monthly bus pass. Included with the note is a rent receipt dated December 7, 2011 for \$650.
- A letter from Dr D, which describes the Appellant's medical history, which precludes him from driving. He must rely on public transportation. Isolation would severely affect his emotional and mental health.

Of relevance to this decision, the Ministry records in the reconsideration decision that:

- The Appellant was approved for a Persons With Disability (PWD) designation in March 2003.
- In March 2011 the Appellant's CPP payments were greater than the amount for which he was eligible under the EAPWDR.
- This rendered him ineligible for disability assistance and his file became 'Medical Services Only' (MSO).

No direct evidence is provided with respect to this point by either the Ministry or the Appellant, however the Panel relies on the evidence in the reconsideration decision, noting that the Appellant did not contradict it in either his submission for the reconsideration decision nor his Notice of Appeal.

PART F – REASONS FOR PANEL DECISION

The issue to be decided is whether the Ministry's reconsideration decision, which denied the Appellant a bus pass supplement, was reasonably supported by the evidence, or a reasonable application of the applicable enactment in the circumstances of the person appealing the decision. The Ministry denied the Appellant the supplement, finding that, as he was no longer in receipt of disability assistance, he did not meet the criteria set out in section 51 of the Employment and Assistance for Persons With Disabilities Regulation.

The legislation relevant to this appeal is found in the EAPWDR.

Section 51 states:

- (1) The minister may provide a supplement to or for a family unit that is eligible for disability assistance and contributes \$45 to the cost to provide an annual pass for the personal use of
- (a) a person with disabilities in the family unit, or
 - (b) the spouse of that person if that spouse
 - (i) is 60 or more years of age,
 - (ii) receives the federal spouse's allowance or federal guaranteed income supplement, or
 - (iii) is 65 years of age or more and meets all of the eligibility requirements for the federal guaranteed income supplement except the 10 year residency requirement.
- (2) In this section, "**annual pass**" means an annual pass to use a public passenger transportation system in a transit service area established under section 25 of the *British Columbia Transit Act*.

Section 1 of the EAPWDA defines disability assistance:

"disability assistance" means an amount for shelter and support provided under section 5 [*disability assistance and supplements*]

Section 5 of the EAPWDA states: "Subject to the regulations, the minister may provide disability assistance or a supplement to or for a family unit that is eligible for it."

For the Minister to pay a supplement under section 51 of the EAPWDA, the family unit must be "eligible for disability assistance." Disability assistance is defined in section 1 as "an amount for shelter and support provided under section 5."

The Ministry's position is that as he is no longer eligible for disability assistance, the Ministry cannot provide him with a supplement for a bus pass.

The Appellant argues that on his income he cannot afford a bus pass. His physician provided a letter in support of his application opining that the Appellant is unable to drive and is dependent upon public transport. To deprive him of this would be damaging to his mental and physical health.

The Panel accepts the evidence that the Appellant is no longer eligible for disability assistance as a result of an increase in his CPP payments and that he is on Medical Services Only.

The Ministry was therefore reasonable in finding that the Appellant was no longer eligible for a bus pass supplement given that he no longer met the requirements of section 51 of the EAPWDR, namely that he must be eligible for disability assistance. Section 1 defines disability assistance as an amount provided for shelter and support under section 5 of the EAPWDA. The support received

from CPP for the Appellant does not qualify under this section.

The panel finds that the Ministry's decision was reasonably supported by the evidence and confirms the reconsideration decision.