

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development (ministry) reconsideration decision dated September 27, 2012 which denied the appellant's request for a supplement to cover the cost of an annual bus pass. The Ministry held that the requirements of Section 51 of the Employment and Assistance for Persons With Disabilities Regulation (EAPWDR) were not satisfied as the ministry found that the appellant is in receipt of a Special Transportation Subsidy (STS) for 2012.

PART D – Relevant Legislation

Employment and Assistance for Persons With Disabilities Regulation (EAPWDR), Section 51

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

PART E – Summary of Facts

The evidence before the ministry at the time of the reconsideration decision consisted of the Request for Reconsideration- Reasons.

At the hearing, the appellant provided additional documents, namely:

- 1) Letter dated November 2, 2012 from a physician which states in part that the appellant has to take the bus now due to a change in her circumstances, however she needs to sit or stand near the driver;
- 2) Monthly Budget for the appellant which states in part that the appellant's rent is \$656 per month, that it was \$360 in her previous community, that she pays \$15 per month in bank charges, \$25 for hydro, \$60 for laundry, tenant insurance of \$50, which was \$27 in her previous community, cell phone at \$40 per month, cable/internet/landline at \$70 per month, which was part of her rent in her previous community, and \$50 per month for tobacco & papers, for a total of \$966 per month. Her income is \$1,071, less \$20 pay back and \$966 for expenses before food, leaving a balance of \$85 per month. She spent \$486.50 to date on bus fare and would spend another \$405 on 1-zone passes until April 2013, plus all extra fares for additional zone trips, for a total of \$891.50 for July 2012 to April 2013.

The ministry did not object to the admissibility of these documents. The panel reviewed the documents and admitted them under Section 22(4) of the Employment and Assistance Act, as relating to the appellant's change in circumstances and being in support of the information that was before the ministry on reconsideration.

In her Notice of Appeal, the appellant stated that she cannot afford \$81 per month for a 1-zone pass to get to/from her volunteer position which gives her food in exchange for her volunteer work. She is offering \$40 per month repayment if she can get a yearly pass. The appellant stated that her situation is totally different than before. She lost her October 2012 pass so it cost \$162 for October 2012 transport alone, instead of food. Her living expenses have doubled but her income is unchanged and she is trying to move. The appellant stated that stress makes her physically ill.

In her Request for Reconsideration, the appellant stated that she has been trying to survive on limited food from the organization for which she does volunteer work since her money has been spent on a bus pass to be able to volunteer. The appellant stated she is cut off from her friends since she has moved to a new community. She suffers physical pain from her disabilities. Her rent and tenant's insurance doubled in the new community, she has to pay for laundry, cable, bus pass, and she cannot afford food or vitamins now. Without a bus pass, she cannot volunteer. The legislation says to repay [the Special Transportation Subsidy (STS)] totally, it does not say pay it all at once. Just because it does not say that the STS can be repaid in payments while she gets a bus pass does not mean that it cannot be. She cannot afford a \$81 per month bus pass and she does not have \$800 to drop.

At the hearing, the appellant stated that when she was living in her previous community she was riding on the bus, sitting at the back and wearing her headphones, when a fight broke out and she narrowly missed being assaulted and she "freaked out." After this incident, she did not feel safe on the bus and her doctor wrote a note to say she cannot take the bus and she received the STS in 2010 so that someone could drive her around. The appellant stated that she automatically received the STS again for 2011. The appellant stated that in March 2012, her doctor suggested that she try taking the bus again and the doctor wrote a note to say that the appellant could ride the bus as long as she sits or stands near the driver. The appellant stated that she took the note to the ministry, but she acknowledges that the ministry does not have a record of receiving this note and the doctor's office does not have it on file as it was written on a prescription pad. The appellant stated that she was verbally advised in July 2012 by someone with the bus pass program that the system showed that she was eligible for the bus pass program. The appellant stated that in March 2012, she did not know that she would have to move away from her previous community, which changed her transportation needs.

The appellant stated that in June 2012, her ex-spouse found her and she had to leave her previous community and move to her current community in July 2012. The appellant stated that her expenses are much higher in her current community, that she has to pay for laundry, cable, internet, telephone, which were all included in her rent in her previous community. The appellant stated that she cannot afford to continue to buy the regular bus pass and she is willing to pay back the STS at the rate of \$40 per month so she can get the subsidized bus pass. The appellant stated that her monthly budget shows that she only has \$85 left after all her expenses to cover the cost of food and an occasional cup of coffee. The appellant stated that she volunteers at an organization that provides her with vouchers for shopping for food, but she cannot get the vitamins she needs at a cost of \$60 per month.

The appellant stated that her medical files have all been transferred from her previous doctor's office to a medical clinic in her new community and that the letter dated November 2, 2012 essentially provides the same information as that of her doctor's note in March 2012, that she can take the bus again as long as she sits or stand near the driver. The appellant stated that she bought a bus pass for August, September and two for October since the first one was misplaced, and that she has spent a total of \$486.50 on transportation including the extra fares for additional zone trips. The appellant stated that it will cost her another \$405 on 1-zone passes until April 2013, for a total cost of \$891.50. The appellant acknowledged that she received the STS in April 2012 and that half of it was paid to her friend for car insurance so that he could drive her around, but he moved to another province.

The ministry's evidence is that the appellant is a Person With Disabilities (PWD) and is eligible for disability assistance. The STS is provided annually to disability recipients living in a valid transit area that are medically unable to use public transportation and is paid in lieu of the bus pass program. The appellant had provided information to the ministry that she was medically unable to take public transportation. STS is only available to recipients that do not have an annual pass and is provided in April 2012 for \$790.56 to assist with transportation costs. The appellant received her STS in April 2012 and must repay this amount before she is eligible for the bus pass. The appellant stated that she was not previously able to take the bus due to some incidents that occurred on the bus, but she would like to try taking the bus again. The ministry clarified that it must receive confirmation from the physician that the appellant is able to take public transportation. The appellant has not provided verification from a doctor that her medical condition has changed whereby she is now able to take public transit. The appellant indicated that she is willing to repay the STS in \$40 increments in order to receive the subsidized bus pass. At the hearing, the ministry stated that if the appellant's doctor was of the opinion that the appellant was able to take public transportation as of March 2012, the appellant could have immediately returned the STS received in April 2012 so that she could be considered eligible for the bus pass program again. The bus pass is subsidized by the ministry and is available at a reduced cost on a calendar year basis whereas the STS is paid on a fiscal year basis in April. The ministry clarified that the appellant can be considered for the bus pass program in January 2013.

PART F – Reasons for Panel Decision

The issue on the appeal is whether the ministry's decision which denied the appellant's request for a supplement to cover the cost of an annual bus pass because the appellant is in receipt of a Special Transportation Subsidy (STS) for 2012, was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the appellant's circumstances.

Section 51 of the EAPWDR provides:

Bus pass supplement

- 51 (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 5 of the EAPWDA provides:

Disability assistance and supplements

- 5 Subject to the regulations, the minister may provide disability assistance or a supplement to or for a family unit that is eligible for it.

The appellant's position is that she cannot afford \$81 per month for a 1-zone pass to get to/from her volunteer position which gives her food for her volunteer work. The appellant argues that her situation is totally different than before, that a doctor has confirmed that she can take the bus and she needs to take the bus in her new community. The appellant argues that without a bus pass, she cannot volunteer. The appellant argues that she is offering to pay back the full amount of the STS at the rate of \$40 per month if she can get a yearly bus pass. The appellant argues that the legislation says that she has to repay the full amount of the STS, it does not say that it has to be paid all at once. The appellant argues that she does not have the means to pay back the full STS of close to \$800 at once.

The ministry argues that the appellant was in receipt of the STS which confirmed that she was medically unable to take public transportation and she has not provided verification from a doctor that her medical condition has changed whereby she is able to take public transit. The ministry argues that by accepting the STS in April 2012, the appellant forfeited her access to a bus pass for the year. The ministry argues that the STS is provided by other legislation and there is no provision within the EAPWDA to appeal a decision that refuses to accept monthly repayments of the STS amount.

Section 51 of the EAPWDR provides a bus pass supplement for the personal use of a PWD to use a public passenger transportation system in a transit service area, and the STS is an alternate program, paid by the ministry in lieu of the bus pass, for those who, for medical reasons, cannot use public transportation. The panel finds that the appellant is a PWD who, for medical reasons, could not take public transportation in 2010 and that she began receiving the STS. The ministry stated that the STS is paid annually until confirmation is provided by a physician that the PWD is able to take public transportation. The panel finds that the ministry had no record of a doctor's note being provided in March 2012 to confirm that the appellant was able to begin

taking public transportation again, as long as she sits or stands near the driver, and that the STS of \$790.56 was paid to the appellant in April 2012. The panel finds that the STS was accepted by the appellant in April 2012 and was not returned to the ministry in order for her to qualify instead for the bus pass program. The panel finds that the ministry reasonably determined that the appellant is not eligible for the bus pass supplement while she is in receipt of the STS and that she remains in receipt of the STS for 2012 as it has not been repaid to date. The appellant provided a letter from a doctor dated November 2, 2012 stating that she is able to take public transportation, and the ministry confirmed that, based on this letter, the appellant can be considered for the bus pass program in the next calendar year, or in January 2013.

The panel finds that the ministry's reconsideration decision, which denied the appellant's request for a supplement to cover the cost of an annual bus pass because the appellant is in receipt of a Special Transportation Subsidy for 2012, was reasonably supported by the evidence and the panel confirms the ministry's decision.