

PART C – Decision under Appeal

The decision being appealed is the Ministry of Social Development and Social Innovation (the "Ministry") December 11, 2013 reconsideration decision in which the Ministry determined that the Appellant is not eligible for a bus pass supplement because he did not meet any of the eligibility requirements in section 66 of the Employment and Assistance Regulation and specifically he does not meet all of the requirements for the Federal Guaranteed Income Supplement ("GIS"), which is one of the eligibility criteria in section 66(c).

PART D – Relevant Legislation

Employment and Assistance Regulation Section 66.

PART E – Summary of Facts

With the consent of both parties, the hearing was conducted as a written hearing pursuant to section 22(3)(b) of the Employment and Assistance Act.

For its reconsideration decision, the Ministry had the following evidence:

1. Information from its records that the Appellant: applied for a bus pass supplement when he was 68 years of age; does not receive income assistance; does not receive the federal spouse's allowance or the federal GIS; does not meet the 10 year residency requirement to receive an Old Age Security pension ("OAS"); and, does not receive OAS.
2. Copies of 2012 Income Tax Returns filed by the Appellant and his wife showing a combined income of more than \$33,000 and an August 6, 2013 GST/HST credit notice for the Appellant..
3. Information from a federal government web site that to be eligible for the GIS, the Appellant must be receiving OAS and the combined annual income for him and his wife must be below the maximum annual allowable income. That maximum income threshold for a couple receiving OAS is \$22,080.
4. Appellant's request for reconsideration, dated October 5, 2013, in which he wrote that the 2012 tax return was filed on April 26, 2013. He stated that his spouse's age was 64 during the period covered by that tax return. They both do not receive OAS pension. Therefore, the Appellant wrote that the case should be considered as if his spouse is under 65 years for the bus pass supplement for 2014.

The appeal record has a second request for reconsideration form completed by the Appellant and dated December 24, 2013. In that form, the Appellant wrote that his spouse was 64 years old in 2012, the year the income tax returns were filed for the application for the bus pass for 2014. The Appellant stated that they both do not receive OAS or any allowances. Also, if the income tax return would have been filled in March 2013, then his spouse was under 65 years of age.

In his notice of appeal, the Appellant wrote that his spouse was 65 years of age in 2012 the year for which the income tax notice of assessment was filed. The tax return for 2012 was filed on April 26, 2013, but if it had been filed in March 2013 then at that time his spouse was under 65 years of age. The Appellant submitted that his spouse should be considered as under 65 years for the bus pass supplement application.

It is not clear to the Panel whether the December 24, 2013 request for reconsideration form was submitted to the Ministry for the reconsideration or to the Tribunal for this Appeal. In any event, the Panel admits, pursuant to section 22(4) of the Employment and Assistance Act, the information in that December 24, 2013 reconsideration request form and in the Appellant's notice of appeal as providing information about the Appellant's pension circumstances and therefore as being in support of the evidence that was before the Ministry at reconsideration.

The Ministry relied on and reaffirmed its reconsideration decision.

The Panel makes the following findings of fact:

1. The Appellant was 68 years old and his wife was 65 years old when the Ministry made its reconsideration decision.
2. Neither the Appellant nor his wife receive income assistance, an OAS pension or the GIS.
3. The combined income of the Appellant and his wife in 2012 was more than \$33,000.

PART F – Reasons for Panel Decision

The issue in this appeal is whether the Ministry reasonably determined that the Appellant is not eligible for a bus pass supplement because he did not meet any of the eligibility requirements in section 66 of the EAR, and specifically that he does not meet all of the requirements for the GIS, which is one of the eligibility criteria in section 66(c).

Section 66 of the EAR states:

Bus pass supplement

66 (1) The minister may provide a supplement to or for a family unit, other than the family unit of a recipient of disability assistance, that contributes \$45 to the cost, to provide an annual pass for the personal use of a person in the family unit who

(a) receives the federal spouse's allowance or federal guaranteed income supplement.

(b) is 60 or more years of age and receives income assistance under section 2 [*monthly support allowance*], 4 [*monthly shelter allowance*], 6 [*people receiving room and board*] or 9 [*people in emergency shelters transition and houses*] of Schedule A, or

(c) 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*.

The Parties' Positions

The Appellant submitted that his spouse was under 65 years of age in 2012, the year for which he submitted income tax returns for a bus pass supplement for 2014. Therefore, the bus pass application should be considered on the basis of his wife being under 65 years of age.

In its reconsideration decision, the Ministry determined that, because the Appellant does not receive the federal spouse's allowance or the GIS, he is not eligible for a bus supplement under section 66(a) of the EAR. He also is not eligible under section 66(b) because he does not receive income assistance. As for the provisions in section 66(c), the Ministry determined that the Appellant met the age requirement of 65. Then it considered whether the Appellant met the eligibility requirements for the GIS. The Ministry accepted that the Appellant would be receiving OAS if he met the residency requirement. However, the Ministry determined that the Appellant would not be eligible for the federal GIS because his and his wife's combined income during the last filed tax year of 2012 was more than \$33,000 which exceeds the \$22,080 maximum income threshold for receiving an OAS pension. Therefore, the Ministry concluded that the Appellant also did not meet the eligible requirements for a bus pass supplement in section 66(c) of the EAR.

The Panel's Findings and Conclusion

It is not clear to the Panel whether the Appellant's submissions are in support of a bus pass supplement for himself or for his wife. The Appellant did not address any of the criteria in section 66. He stated only that his wife was under 65 years of age in March 2013 and that is what should be considered.

In this case, the Panel finds that the evidence establishes that neither the Appellant nor his wife receive the federal spouse's allowance or the GIS. Therefore, the Ministry reasonably concluded that the Appellant did not meet the requirements for a bus pass supplement under section 66(a) of the EAR. As for the requirements in section 66(b), the Panel also finds that although the Appellant and

his wife are each more than 60 years old, they do not receive income assistance. Therefore, the Ministry reasonably concluded that the Appellant does not meet the requirements section 66(b).

With respect to the provisions in section 66(c), the Panel finds that although the Ministry accepted that the Appellant would receive an OAS pension except for the residency requirement, the Ministry reasonably determined that the combined income of the Appellant and his wife of more than \$33,000 in 2012 exceeded the maximum income threshold of \$22,080 for receiving OAS. Therefore, the Ministry reasonably concluded that the Appellant did not meet the eligibility requirements for a bus pass supplement under section 66(c) of the EAR.

In conclusion, after considering all of the evidence and the applicable enactments, the Panel finds that the Ministry's reconsideration decision was reasonably supported by the evidence and therefore the Panel confirms that decision.