

### PART C – Decision under Appeal

The appellant appeals the reconsideration decision of the Ministry of Social Development and Social Innovation (ministry) dated October 24, 2014, in which the ministry denied his request for a supplement for a bus pass on the basis that the appellant did not meet the eligibility requirements set out in section 51(1) of the *Employment and Assistance for Persons with Disabilities Regulation* (EAPWDR) as the appellant is not “eligible for disability assistance” as required by section 51(1).

### PART D – Relevant Legislation

*Employment and Assistance for Persons with Disabilities Act* (EAPWDA), sections 1(1) & 5  
*Employment and Assistance for Persons with Disabilities Regulation* (EAPWDR) section 51(1).

## PART E – Summary of Facts

The panel waited 15 minutes to begin the hearing, but the appellant did not attend the hearing. The panel received confirmation from the Tribunal that the appellant had been notified of the date, time and location of the hearing. Accordingly, under s. 86(b) of the *Employment and Assistance Regulation*, the panel heard the appeal in the appellant's absence.

The appellant has been designated a person with disabilities. The information before the ministry at reconsideration included the following documents:

- The appellant's request for reconsideration dated October 14, 2014, together with the appellant's one-page handwritten submission dated October 14, 2014 (discussed below);
- A letter from the appellant's physician dated October 7, 2014 which states that "due to multiple medical concerns, including seizure disorder, [Parkinson's] disease and cardiovascular [co-morbidities], the above person [the appellant] is eligible for a bus pass;
- A letter dated November 7, 2013 to the appellant from a case manager at the office of the superintendent of motor vehicles confirming that the appellant's driver's licence had been cancelled due to his medical conditions;
- A notice of cancellation from the office of the superintendent of motor vehicles dated November 8, 2013 regarding the appellant's licence; and
- A copy of a medical consent form dated June 2, 2014 and signed by the appellant.

In the appellant's submission with his request for reconsideration he wrote that he "also qualifies for a bus pass supplement under section 51(1)(b)(i)". In the handwritten submission attached to the request for reconsideration, the appellant wrote that during the past 4 years, he was issued a bus pass on a yearly basis and that he "meets all the deadlines in income eligibility requirements." The appellant wrote that he is a "very sick individual who does not have the means to travel to numerous doctors appointments and admissions to different hospitals" and that his driver's licence had been cancelled by the office of the superintendent of motor vehicles. The appellant asked that the ministry consider his case "on compassionate and humanitarian grounds."

At the hearing, the ministry confirmed that the appellant is designated a person with disabilities, but he has a medical services only file with the ministry and last received disability assistance in November 2013. The ministry confirmed that since October 2013, the appellant receives CPP disability benefits totaling \$837.96 per month, which exceeds the appellant's maximum disability assistance rate for his family unit of \$814.42 per month.

## PART F – Reasons for Panel Decision

The issue on this appeal is whether the ministry's decision to deny the appellant's request for a supplement for a bus pass on the basis that he did not meet the criteria set out in section 51(1) of the EAPWDR is reasonable. The criteria to be applied by the ministry on a request for a supplement for a bus pass for a person with disabilities are set out in section 51 of the EAPWDR as follows:

- (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.

In his notice of appeal, the appellant wrote that the ministry has not fully considered his "financial, illness and ability to drive." The appellant's position is that he meets the eligibility criteria to receive a supplement for a bus pass because he previously received a bus pass supplement, he meets the income requirements, and he is no longer able to drive because his driver's licence has been cancelled due to medical reasons. He asks for the bus pass supplement on compassionate and humanitarian grounds so that he can get to his medical appointments.

The ministry says that the appellant does not meet the legislative requirements under subs. 51(1) for a supplement for a bus pass as he is not "eligible for disability assistance" due to excess income – because the amount the appellant receives each month in CPP disability benefits exceeds the amount of monthly disability assistance for which he is eligible, he is not "eligible for disability assistance" as required by subs. 51(1). The ministry also says that the appellant does not qualify for a supplement for a bus pass under subs. 51(1)(b)(i) as that section only applies to the spouse of a person eligible for disability assistance.

An applicant for a supplement for a bus pass under s. 51 of the EAPWDR must meet the criteria set out in subs. 51(1)(a) or (b). The first requirement of subs. 51(1) is that the applicant be eligible for disability assistance. The appellant does not dispute that he receives CPP disability benefits in the amount of \$837.96 per month, which exceeds the maximum disability assistance rate for his family unit of \$814.42 per month, and that he has not received disability assistance since November 2013. The panel notes the appellant applies for the supplement for himself, not for his spouse, and thus subs. 51(1)(b) does not apply to him.

The panel finds that the ministry's determination that the appellant did not meet the requirement of subs. 51(1) of the EAPWDR as he is not eligible for disability assistance because he receives CPP disability benefits in excess of the monthly disability assistance for which he is eligible was a reasonable application of the legislation to the appellant's circumstances and reasonable based on the evidence. The panel therefore confirms the ministry's reconsideration decision.