

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (“the ministry”) Reconsideration Decision of February 5, 2015 in which the ministry declared the appellant ineligible for a bus pass supplement because she does not meet the eligibility criteria set out in Section 66 (1) of the Employment and Assistance Regulation (EAR).

PART D – Relevant Legislation

Employment and Assistance Act (EAA) Sections 1 (1), 4.
Employment and Assistance Regulation (EAR) Section 66

PART E – Summary of Facts

The appellant is a recipient of income assistance as a single person.

The evidence before the ministry at the time of reconsideration was the appellant's request for reconsideration received by the ministry on February 4, 2015. Part 2, completed by the ministry, states that on January 23, 2015 the appellant contacted the ministry to request funds to assist with purchasing a bus pass. The ministry worker told the appellant that if she met the eligibility criteria set out in the Employment and Assistance for Persons with Disabilities Regulations (EAPWDR) she would be eligible for a bus pass at a reduced rate.

The appellant completed Part 3 of the request for reconsideration, stating the following reasons for her request:

- she submitted an application for Persons with Disabilities in December 2014 and expects that it will be approved, but the waiting period will be 2 -3 months;
- she resides in [a transition house] and receives \$95 per month comforts allowance;
- she suffers from several health issues and is being referred to specialists;
- she requests a monthly bus pass for 3 -5 months;
- she also requests a supplement of \$60 per month until the PWD application process is settled.

The appellant also submitted a letter dated January 28, 2015 from a mental health services social worker who stated that he understands that the appellant has many appointments each week and struggles to get to and from them.

In her Notice of Appeal dated February 10, 2015 the appellant stated that she disagreed with the reconsideration decision of the ministry because:

1. she lives in a transition house as per Section 66, #9 (sic);
2. she needs a bus pass for medical reasons;
3. she is almost 60 years old, having been born in 1956;
4. she receives \$95 per month.

At the hearing the appellant added the following details about her circumstances:

- she believes she meets some of the criteria;
- the ministry should recognize that there is a human element to her situation and exercise a little flexibility by granting her a bus pass supplement;
- she is wiped out financially due to divorce and her husband owes her \$100,000 in alimony but has left the country;
- she has now been forced to live in a transition house;
- she has long-standing and current health issues which have never been properly addressed because she has not stayed anywhere long enough to address them;
- her health issues include depression with occasional suicidal thoughts, chronic obstructive pulmonary disease, problems with her neck, investigations for multiple sclerosis and balance problems;
- her health continues to deteriorate and she is vitamin deficient and 15 pounds underweight;
- the transition house provides bus tickets to residents only if they are attending mental health appointments.

In response to questions from the ministry representative the appellant stated that she does not receive any money from the federal government.

The ministry relied on its Reconsideration Decision, which determined that the appellant does not meet the legislative eligibility criteria for a bus pass supplement set out in EAR Section 66 (1) for the following reasons:

- she does not receive the federal spouse's allowance or federal guaranteed income supplement;
- she is not 60 or more years of age and receiving 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 or houses) of Schedule A;
- she is not 65 years of age or more and meeting guaranteed income supplement eligibility criteria except the 10 year residency requirement.

At the hearing the ministry representative acknowledged that because the appellant's PWD application is still pending the applicable legislation in the appellant's circumstances is the EAA and the EAR as cited in the reconsideration decision, not the Employment & Assistance For Persons With Disabilities Act and Regulation cited by the ministry in Part 2 of the request for reconsideration.

PART F – Reasons for Panel Decision

The issue under appeal is the reasonableness of the ministry decision of February 5, 2015 in which the ministry declared the appellant ineligible for a bus pass supplement because she does not meet the eligibility criteria set out in Section 66 (1) of the Employment and Assistance Regulation (EAR).

The relevant legislation is as follows:

EAA:

Interpretation

1 (1) In this Act:

"**income assistance**" means an amount for shelter and support provided under section 4 [*income assistance and supplements*];

Income assistance and supplements

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

EAR:

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 and transition 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.

The appellant argues that she needs a bus pass in order to attend medical appointments and tests because she suffers from serious current and long-standing health conditions which limit her ability to walk. She has no money because her former husband owes her more than \$100,000 in alimony and has left the country. She receives only \$95 per month comforts allowance from her total income assistance, and she is not eligible for bus tickets from her transition home unless she is attending a mental health appointment. She says that she is depressed and at times suicidal. She believes that she meets some of the criteria for a bus pass supplement because she is almost 60 years old and lives in a transition house.

The ministry argues that the appellant is not eligible for a bus pass supplement because she does not meet the legislative criteria set out in EAR Section 6 (1), specifically that she does not receive the federal spouse's allowance or federal guaranteed income supplement and is not 60 years of age.

Panel Decision

EAR Section 66 (1) states that 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 bus pass for the personal use of a person in the family unit if that person:

1. receives the federal spouse's pension or the federal guaranteed income supplement;
2. is 60 or more years of age and receiving income assistance under certain sections of EAR Schedule A; or
3. is 65 or more years of age and meets the requirements of the federal guaranteed income supplement except the 10 year residency requirement.

The panel finds that the ministry reasonably applied the provisions of EAR Section 66 (1) in declaring the appellant ineligible for a bus pass supplement. She is not yet a recipient of disability assistance. Therefore her eligibility is limited to the 3 categories listed above. The appellant does not qualify for the first category because she does not receive a federal spouse's pension or federal guaranteed income supplement. She does not qualify for the second or third categories because she is not yet 60 years of age.

In conclusion, the panel finds that the ministry reasonably applied the applicable legislation in the circumstances of the appellant, and confirms the decision.