

## PART C – Decision under Appeal

The decision under appeal is the reconsideration decision of the Ministry of Social Development and Social Innovation (the ministry) dated April 14, 2015 which held that the appellant was not eligible for a bus pass supplement because he did not meet the requirement set out in section 66 of the Employment and Assistance Regulation (EAR) that he:

- receives the federal spouse's allowance or federal guaranteed income supplement;
- is 60 or more years of age and receives income assistance under section 2, 4, 6, or 9 of Schedule A, or
- 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.

## PART D – Relevant Legislation

EAR, section 66

## PART E – Summary of Facts

### *Information available at the time of reconsideration*

The appellant submitted an application for a bus pass supplement to the ministry on February 13, 2015 and was advised that he was ineligible on February 17, 2015. The appellant requested the ministry reconsider its denial and provided copies of BC Transit schedules to demonstrate that his community is serviced by BC Transit. The reconsideration decision again denied the appellant's request for a bus pass supplement and is the subject of this appeal.

The appellant is 60 or more years of age but not yet 65. He is not in receipt of income or disability assistance and there is no evidence that he receives the federal spouse's allowance or federal guaranteed income supplement.

### *Information provided on appeal*

Prior to the hearing, the appellant's advocate submitted a copy of a June 10, 2015 email from the Transit Coordinator of a service provider for BC Transit confirming that transit service is provided to the appellant's community.

The appellant and his advocate both participated in the teleconference. The advocate left after approximately 15 minutes to attend to another commitment. The advocate and the appellant confirmed that the appellant receives income from ICBC and CPP.

The ministry did not object to the additional oral and written testimony being admitted into evidence. As the information respecting transit service in the appellant's community and the appellant's sources of income corroborates the information before the ministry, the panel admitted the testimony pursuant to section 22(4) of the *Employment and Assistance Act* as being in support of the information available at reconsideration.

## PART F – Reasons for Panel Decision

### Issue on Appeal

The issue on appeal is whether the ministry's decision to deny the appellant a bus pass supplement was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the circumstances of the appellant. In particular, was the ministry reasonable in determining that the requirements of section 66 of the EAR were not met because the appellant was not:

- receiving the federal spouse's allowance or federal guaranteed income supplement (GIS);
- 60 or more years of age and receiving income assistance under section 2, 4, 6, or 9 of Schedule A, or
- 65 years of age or more and met all of the eligibility requirements for the federal GIS except the 10 year residency requirement.

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### Relevant Legislation

#### **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.

(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\*](#).

**Positions of the Parties**

The appellant's position is that he is disabled and unable to work and should therefore be eligible for the bus pass supplement which he needs in order to get around. He argues that other people in his community have the bus pass supplement and that it is an injustice to deny him just so that the ministry can save money.

The ministry's position is that the appellant does not fall within any of the three categories of persons for whom a bus pass supplement may be provided under the legislation because he is not in receipt of the spouse's allowance or GIS from the federal government or income assistance from the ministry and is not a person who is 65 or more years of age and meets the GIS eligibility criteria except the 10 year residency requirement.

**Panel Decision**

Eligibility requirements for a bus pass supplement are set out in section 66(1) of the EAR which sets out three categories of persons who may be provided a bus pass supplement. The first category is persons who receive either the spouse's allowance or the GIS from the federal government. As the appellant does not receive either of these forms of income, the ministry has reasonably determined he is not eligible on this basis. The second category is persons who are at least 60 years old and receive income assistance from the ministry. The ministry was reasonable to find the appellant ineligible on this basis because he does not receive income assistance from the ministry. The third category is for persons who are at least 65 years of age. As the appellant is not yet 65 years old, the ministry reasonably determined he was not eligible on this basis.

As the ministry reasonably determined that the appellant does not fall within to any of the three categories of persons who may be eligible for a bus supplement under section 66 of the EAR, the panel finds that the ministry's reconsideration decision to deny the appellant a bus pass supplement was a reasonable application of the legislation in the circumstances of the appellant. Therefore, the panel confirms the reconsideration decision and the appellant is not successful on appeal.