

PART C – Decision under Appeal

The appellant appeals the October 30, 2015 reconsideration decision of the Ministry of Social Development and Social Innovation (ministry) in which the ministry denied the appellant's request for a bus pass supplement on the basis that the appellant does not qualify for a bus pass supplement under section 66(1) of the *Employment and Assistance Regulation* (EAR) or under section 51(1) of the *Employment and Assistance for Persons with Disabilities Regulation* (EAPWDR).

PART D – Relevant Legislation

*Employment and Assistance Act* (EAA), sections 2 and 4.  
*Employment and Assistance Regulation* (EAR), section 66.  
*Employment and Assistance for Persons with Disabilities Regulation* (EAPWDR), section 51.

## PART E – Summary of Facts

The evidence before the ministry at reconsideration included the appellant's request for reconsideration dated October 22, 2015.

The appellant receives income assistance as a single person; she is currently 51 years old and says she has no resources to purchase a bus pass herself. The appellant is a single mother of a child who recently turned 18 (adult child) and has been designated by the ministry as a person with disabilities (PWD) and receives disability assistance. The appellant says she needs a bus pass so that she can go on public transit with her now adult child. The appellant says that because of disabilities, the adult child cannot safely take public transit alone (even though the child is now 18) and that the adult child will not take public transit without her, which limits the adult child's ability to access resources and programs.

At the hearing, the appellant read a letter dated November 23, 2015 from a manager of the Ministry of Children and Family Development (MCFD) respite benefit services who knows the appellant and her child. The MCFD manager says in the letter that the appellant's child is now designated a PWD and although the child receives a bus pass as a PWD and attends programs, the child's disabilities limit the child's ability to take public transit without the appellant and the child faces safety risks if the appellant does not accompany the child. This letter was not before the ministry at reconsideration, but the ministry representative at the hearing did not object to its admission at the hearing.

Under section 22(4)(b) of the *Employment and Assistance Act*, this panel may admit as evidence at this hearing only the information and records that were before the ministry when the decision being appealed was made, or oral or written testimony in support of the information and records that were before the ministry when the decision being appealed was made. The MCFD manager's letter of November 23, 2015 is written testimony in support of submissions to the ministry at reconsideration regarding the adult child's circumstances in taking public transit. Accordingly, the panel admits it as evidence under s. 22(4)(b) of the EAA.

## PART F – Reasons for Panel Decision

The issue on this appeal is the reasonableness of the ministry's reconsideration decision of October 30, 2015, denying the appellant a bus pass on the basis that the appellant does not meet the requirements for a bus pass under section 66 of the EAR or under section 51 of the EAPWDR. There is no dispute that the appellant receives income assistance under the EAA.

The relevant provisions of the legislation are the following:

### EAA

#### 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 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*.

### EAPWDR

#### 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*.

### Submissions

The appellant says as a single recipient of income assistance she cannot afford to buy a bus pass for herself and has no resources to buy a bus pass. She argues that she should not be denied a bus pass because she needs to accompany her child, who is a designated PWD. She argues that it is unsafe for her child to take public transit alone. The appellant acknowledges that she is not designated a PWD (it is her child who has PWD designation and receives disability assistance and a

bus pass), and that she is currently 51 and does not qualify for the bus pass supplement under section 66 of the EAR. The appellant argues that the ministry should make an exception for her and provide her with a bus pass supplement, as without the appellant accompanying her child, the child will not access the services the child needs to gain some measure of independence and assistance with the child's disabilities. The appellant said she is very frustrated with the fact that the ministry does not recognize that she is trying to help her child become more independent and teach her child to use public transit safely and that she needs a bus pass to do this.

The ministry's submission referenced the legislation. The ministry says that the appellant does not meet the requirements for a bus pass supplement under section 66 of the EAR because the appellant does not receive the federal spouse's allowance or federal guaranteed income supplement (as required by subs. 66(1)(a)), and the appellant is 51 years old and thus does not meet the requirements of subs. 66(1)(b) or (c). The ministry also says that the appellant is not a designated PWD and is not a spouse of a person who is a designated PWD, and thus does not meet the requirements for a bus pass supplement under s. 51 of the EAPWDR. The ministry says that the legislation does not allow the ministry to provide a bus pass supplement to the parent of an adult child who is a designated PWD, and does not allow the ministry to make exceptions to the legislation.

#### Decision

The appellant receives income assistance as a single person and lives with her child who is a designated PWD and receives disability assistance. The appellant is 51 years old and does not receive a federal spouse's allowance or federal guaranteed income supplement.

Under section 66(1) of the EAR, 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 receives the federal spouse's allowance or federal guaranteed income supplement, is 60 or more and receives income assistance, or is 65 or more and meets all of the eligibility requirements for the federal guaranteed income supplement except the 10 year residence requirement.

The appellant acknowledges that she does not meet the requirements for a bus pass supplement under section 66 of the EAR as she does not receive the federal spouse's allowance or federal guaranteed income supplement, and she is under 60 years of age. The panel finds that the ministry reasonably found that the appellant is ineligible for a bus pass supplement under section 66 of the EAR.

Under section 51 of the EAPWDR, 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 person with disabilities in the family unit, or the spouse of that person (person with disabilities) if the spouse is more than 60, receives the federal spouse's allowance or federal guaranteed income supplement, or the spouse is 65 years or more and meets all of the eligibility requirements for the federal guaranteed income supplement except the 10 year residence requirement.

The appellant acknowledges that she does not meet the requirements for a bus pass supplement under section 51 of the EAPWDR as she is not a person with disabilities, she is not the spouse of a

person with disabilities, and she is under 60. The panel also finds that the ministry reasonably found that the appellant is ineligible for a bus pass supplement under section 51 of the EAPWDR.

The appellant argues that she should be eligible for a bus pass supplement as the parent of an adult child with disabilities. However, there is no provision in the EAPWDR allowing for the ministry to provide a bus pass supplement to the parent of an adult child who receives disability assistance. Further, there is no provision in the EAR allowing the ministry to provide a bus pass supplement to someone who does not meet the requirements for the supplement set out under section 66.

The panel finds that the ministry's determination that the appellant is ineligible for a supplement for a bus pass because she does not meet the requirements under section 66 of the EAR or under section 51 of the EAPWDR is a reasonable application of the legislation in the appellant's circumstances. The panel confirms the ministry's reconsideration decision.