

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation's ("Ministry's") reconsideration decision dated March 20, 2017, which held that the appellant was not eligible for the Transportation Support Allowance ("TSA") for September to December 2016 in the form of money because she did not give the Ministry notice, under section 24.1(2) of the *Employment and Assistance for Persons With Disabilities Regulation* (EAPWDR), requesting to change the form of allowance from a bus pass to money until January 17, 2017.

PART D – Relevant Legislation

Employment and Assistance for Persons With Disabilities Regulation (EAPWDR), section 24.1.

PART E – Summary of Facts

Information before the Ministry at reconsideration

The Ministry had the following information at reconsideration:

- The appellant receives disability assistance as a sole recipient, and she received the TSA in kind (i.e., in the form of a bus pass) in September 2016 when the program started;
- The transportation company confirmed that the appellant used her bus pass on September 6, October 3, October 9, and November 1, 2016;
- The appellant contacted the Ministry on January 17, 2017 and requested to be issued the TSA in the form of money, backdated to September 2016. The appellant told the Ministry that she did not use the bus pass, and that she had contacted the Ministry in August 2016 to request the change;
- The Ministry had no record of the appellant contacting the Ministry about the TSA prior to January 17, 2017; and
- The Ministry began providing the TSA to the appellant in the form of money commencing January 2017.

In addition, documents before the Ministry at reconsideration included the following:

- The appellant's request for reconsideration, dated March 3, 2017, with attached typewritten statement in which the appellant says that:
 - at the commencement of the TSA program, she did not apply for a bus pass renewal, nor did she receive a renewal notification or submit an application;
 - she called the Ministry to let them know she did not wish to renew the bus pass, but no record of her call was made as a result of "human error";
 - a letter from the Ministry dated June 20, 2016 stating she did not have to return her bus pass if she elected not to renew it, but that the pass would not be valid after September 1, 2016;
 - she did not remember the exact date that the bus pass would cease to be valid—"I must have thought that my bus pass was valid until the end of the year since I used it and it was valid"—but the fact that she only used it four times since September 1, 2016 shows she seldom uses it; and
 - with respect to using the bus pass, there should have been "no room for error" on her part, as the Ministry should have cancelled it as of September 1.
- The first page of a letter from the Ministry to the appellant, dated June 20, 2016, explaining changes to the BC Bus Pass Program and the TSA, and stating "The bus pass you hold will no longer have an expiry date of December 31, 2016. At any time, you can decide on a month-by-month basis to contact the ministry to cancel your BC Bus Pass and instead receive your \$52 Transportation Support Allowance on your next assistance payment."
- An undated letter from the Ministry notifying the appellant of changes to the BC Bus Pass program as of the February 2016 Provincial Budget, and that "If you choose this option, you will receive a 2017 BC Bus Pass renewal notification in late summer, 2016."

Information provided on appeal

In her notice of appeal, dated March 28, 2017, the appellant states that she cancelled her bus pass in August 2016; she did not apply for a new bus pass for September 2016, and accordingly her bus pass should not have been valid after September 1, 2016.

In written submissions, dated April 5, 2017, the appellant states the June 20, 2016 letter from the Ministry that appears in the Reconsideration Record is missing the second page. She attaches a two-

page Internet print-out, which contains the same information that was in the letter. The Internet print-out notes “Option 1: I want to keep my bus pass ... you don’t need to do anything,” and “Option 2: I want to cancel my bus pass and receive my transportation support as a \$52 payment ... You must let us know by August 5, 2016 for this to be in effect for September 1”. The Internet print-out also states, “The BC Bus Pass does not expire. At any time, you can contact the ministry to cancel your BC Bus Pass and receive your \$52 Transportation Support Allowance on your next assistance payment instead.” It lists phone, email, and in-person options for contacting the Ministry.

In further written submissions, dated April 18, 2017, the appellant forwarded to the tribunal an email noting her usage of her bus pass (obtained by the Ministry from the transportation company) for the following months of 2016: January (4 days), February (2 days), March (1 day), April (2 days), May (4 days), June (3 days), July (4 days), August (3 days), September (1 day) and December (no days). An email from the Ministry within this chain indicates that the appellant did not request her usage for October and November 2016, as she already had that information.

At the oral hearing, the appellant reiterated that she called the Ministry to cancel her bus pass before August 5, 2016, but that the Ministry made no record of her call. In support of her position, she said she called the Ministry several times in December 2016 and January 2017 in an effort to speak with a supervisor, and that the Ministry recorded none of those calls either. The appellant argues that common sense supports her position: she uses her bus pass so infrequently that she would have been foolish not to call to cancel it right away to obtain the \$52 per month rather than save the small sum she would have paid to ride the bus. She says cancelling the bus pass was the only reasonable option and she pursued it. In answer to questions from the panel, the appellant said she had no record of her calls, the exact dates, or the names of the people she spoke to. She did not realize she should create a record herself, and did not send the Ministry any emails about cancelling her bus pass.

The Ministry relied on the reconsideration summary provided in the Record of Ministry Decision. The Ministry also explained that, at reconsideration, the reconsideration officer relied on an audit trail of client calls. Whenever a client calls the Ministry and provides their ID number or name, an automatic record is created. The audit trail revealed no calls from the appellant to the Ministry between November 10, 2014 and January 17, 2017. The Ministry noted that, although the appellant had not called until January 17, 2017, the Ministry used its discretion to cancel the bus pass and provide the TSA in the form of money for the month of January 2017.

New evidence on appeal

The panel admitted the additional information in the Internet print-out and usage information about the appellant’s bus pass in 2016, under s. 22(4) of the *Employment and Assistance Act* as information in support of the information available at reconsideration. The information substantiates the previous information about changes to the TSA program and the appellant’s use of her bus pass that was before the Ministry at reconsideration.

PART F – Reasons for Panel Decision

Issue on appeal

The issue is whether the Ministry's decision that the appellant was not eligible for the TSA for September to December 2016 in the form of money because she did not give the Ministry notice under section 24.1(2) of the EAPWDR requesting to change the form of allowance from a bus pass to money until January 17, 2017, is reasonably supported by the evidence or a reasonable application of the applicable legislation in the circumstances of the appellant.

The relevant legislation: EAPWDR, section 24.1

Disability assistance in the form of transportation support allowance

24.1 (1) The minister may provide to or for a family unit, for a calendar month, in respect of each applicant or recipient who is designated as a person with disabilities in the family unit, one of the following forms of transportation support allowance:

(a) in money, in the amount of \$52;

(b) in kind, in the form of a monthly pass for the personal use of the person with disabilities to use a public passenger transportation system in a transit service area established under section 25 of the [British Columbia Transit Act](#), or in a transportation service region as defined in the [South Coast British Columbia Transportation Authority Act](#), which is deemed to have a value in the amount of \$52 for the purposes of this regulation.

(2) If an applicant or recipient who is provided a transportation support allowance under either paragraph (a) or (b) of subsection (1) gives the minister notice that the recipient wishes to be provided the other form of transportation support allowance provided under that subsection, the minister may provide that other form of transportation support allowance for a subsequent month.

(3) If the amount of disability assistance calculated in respect of a family unit under section 24 is less than the applicable amount for the family unit's transportation support allowance, disability assistance may be provided in accordance with this section up to an amount equal to the applicable amount for the family unit's transportation support allowance.

[en. B.C. Reg. 175/2016, App. 1, s. 5.]

The Panel's Decision

Section 24.1(2) states that if a recipient of a monthly pass "gives the minister notice that the recipient wishes to be provided the other form of transportation support allowance" (i.e., money in the amount of \$52), the minister may provide that other form for a subsequent month. The key factor is that the recipient must give notice to the minister in sufficient time for the minister to exercise its discretion to provide the other form of transportation for "a subsequent month."

Here, the appellant, who was the recipient of a bus pass, claims she gave notice to the Ministry in August 2016—arguing that it would have been foolish for her not to do so given her infrequent bus use—and that the Ministry failed to record her notice. She says any use of her bus pass during the September to December 2016 period occurred mistakenly, as she did not remember when exactly the pass expired.

The Ministry states it has no record of the appellant contacting the Ministry before January 17, 2017

to give notice that she wished to change the form of transportation support allowance. The Ministry says it has no record of any call from the appellant between November 10, 2014 and January 17, 2017. Further, the Ministry obtained information from the transportation company confirming that the appellant had used her bus pass four times during the period of September to December 2016.

Given that the appellant has no supporting evidence (beyond her statement) to show she contacted the Ministry in August 2016 to change her form of transportation support, and given the fact that she used her bus pass during the September to December 2016 period, the panel finds the Ministry's determination that the appellant did not give notice under section 24.1(2) until January 17, 2017 is reasonably supported by the evidence.

Conclusion

Accordingly, the panel confirms the Ministry's reconsideration decision that found the appellant ineligible for the TSA for September to December 2016. The appellant is not successful in her appeal.