

PART C – DECISION UNDER APPEAL

The decision under appeal is the reconsideration decision dated January 25, 2018, made by the Ministry of Social Development and Poverty Reduction (the ministry), which determined that the appellant was not eligible to receive the transportation support allowance (TSA) for the month of August 2017 because (i) the appellant was issued a bus pass for that month, and (ii) the ministry is prohibited under section 23(2) of the EAPWDR from making retro-active reimbursements.

PART D – RELEVANT LEGISLATION

The relevant legislation is sections 23(2), 24.1 and 51 of the *Employment and Assistance for Persons with Disabilities Regulation*.

PART E – SUMMARY OF FACTS

The appellant is in receipt of income assistance as a person with disabilities. As such, he is entitled to either a bus pass or a \$52 per month TSA in lieu of a bus pass. The appellant receives services from the ministry through a third-party administrator (TPA).

According to ministry records:

- On July 14, 2017, it received a Third Party Service Request Form from the TPA asking that the appellant receive a bus pass.
- The ministry issued the appellant a bus pass in August 2017.
- On September 19, 2017, it received a service request from the TPA asking that the appellant receive the TSA rather than a bus pass backdated to the month of August.
- The ministry issued the TSA to the appellant for September and October 2017, but could not do so for August because: (i) a bus pass had been issued to the appellant for that month, and (ii) it did not receive the service request from the TPA before the cut-off date of September 5.

The appellant did not attend the hearing. The panel being satisfied that the appellant received sufficient notice of the hearing proceeded with the hearing without the appellant in accordance with section 86(b) of the *Employment and Assistance Regulation*.

In his Notice of Appeal the appellant states that the ministry misunderstood his July 14 request for a “bus pass”. Rather than asking that his TSA be changed to a bus pass (as per section 24.1 of the EAPWDR) he was asking that he be issued a bus pass under section 51 of the EAPWDR. He also states that this happened to him once before, in December 2016, and the ministry corrected its mistake in January 2017. He goes on to state that, being familiar with this mistake, when he once again received a bus pass rather than the TSA in August 2017, he immediately returned the bus pass to the TPA in the last week of July or first week of August and asked them to correct the situation. Unfortunately, this was a new TPA and, as they were still organizing and training staff, his request was not immediately processed. However, the appellant states that the TPA informed him that they did submit his request on September 4, 2017. The end result from the appellant’s perspective is that he did not receive his \$52 TSA for August and has not received the bus pass under section 51.

PART F – REASONS FOR PANEL DECISION

The issue under appeal is the reasonableness of the ministry's decision finding the appellant is not eligible to receive the TSA for the month of August 2017 because (i) the appellant was issued a bus pass for that month, and (ii) the ministry is prohibited under section 23(2) of the EAPWDR from making retro-active reimbursements.

The relevant legislation is sections 23(2), 24.1 and 51 of the EAPWDR:

Effective Date of Eligibility

23 (1) ...

(2) Subject to subsections (3.01) and (3.1), a family unit is not eligible for a supplement in respect of a period before the minister determines the family unit is eligible for it.

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.

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 the spouse of a person with disabilities in the family unit if that spouse

(a) is 60 or more years of age,

(b) receives the federal spouse's allowance or federal guaranteed income supplement, or

(c) is 65 years of age or more and meets all 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* or in a transportation service region, as defined in the *South Coast British Columbia Transportation Authority Act*.

At the hearing, the ministry representative stated that the ministry received a service request from the TPA on July 14, 2017, simply asking for a "Bus Pass". The ministry took this to mean that the appellant wished to switch from receiving the TSA to receiving a bus pass. Accordingly, it issued the appellant a bus pass for August. When the ministry received a service request on September 19, 2017, asking that the appellant's TSA be reinstated, it did so beginning September 2017. As the cut-off date for changes to the appellant's August transport supplement was September 5, it could not retro-actively make that change for the appellant.

It appears that the ministry misunderstood the intent of the July 14 service request received from the TPA. The service request form was before the ministry at the time of the reconsideration and the panel notes that it simply states: "Bus Pass". The panel also notes that the appellant did not present the facts or make the arguments that he did at appeal at the reconsideration stage.

While it is unfortunate that this misunderstanding has led to the appellant losing \$52 and never receiving a bus pass under section 51, given the information and arguments that were before the ministry at the time of the reconsideration decision it was a reasonable decision because, to the best of the ministry's knowledge the appellant had received a bus pass in August and the request to receive the TSA instead for that month was made too late.

Accordingly, the panel finds that the Ministry's decision to deny the appellant the TSA for August 2017 was a reasonable application of the relevant legislation and confirms the Ministry's reconsideration decision.