

APPEAL NUMBER  
2020-00081

**PART C – DECISION UNDER APPEAL**

The decision under appeal is the Ministry of Social Development and Poverty Reduction (ministry) reconsideration decision dated 10<sup>th</sup> March 2020 (RD) that denied a supplement to the appellant for an annual bus pass under BC Bus Pass Program, as the ministry was not satisfied that the appellant met “any of the” legislated criteria. In particular, the ministry determined that the appellant was not in receipt of federal spouse’s allowance or the guaranteed income supplement (GIS) prescribed under the Employment and Assistance Regulation, Section 66.

**PART D – RELEVANT LEGISLATION**

- Employment Assistance Act (EAA), Section 4
- Employment and Assistance Regulation (EAR), Section 66

**PART E – SUMMARY OF FACTS**

The information before the ministry at the time of reconsideration included the following:

a. A written communication from the appellant's child, on behalf of the appellant, dated 22<sup>nd</sup> January 2020 that, amongst other matters stated that:

(i) the appellant is eligible for Bus Pass Program, as the appellant is receiving Old Age Security (OAS) and GIS; and

(ii) a BC Bus Pass Program Letter (dated 13<sup>th</sup> January 2020) from the ministry was enclosed with the said communication. The said letter, amongst other matters, states that, based on the information provided by the appellant, the appellant was not eligible for a bus pass at "this time"; and

(iii) a letter dated 2<sup>nd</sup> November 2019 from Service Canada, was enclosed with the said communication, which amongst other matters stated that Service Canada had approved the appellant's application dated 27<sup>th</sup> May 2019 for OAS effective as of May 2019.

The panel has reviewed the contents of the letter dated 2<sup>nd</sup> November 2019 from Service Canada only confirms that the appellant's application for OAS has been approved effective as of May 2019. It does not make any reference to GIS approval for, or payments to, the appellant.

b. Appellant's Request for Reconsideration dated 5<sup>th</sup> February 2020 in which the appellant, amongst other matters, submitted that: (i) the appellant was receiving Old Age Security and GIS effective from May 2019, as described in a copy of a letter attached to the Reconsideration Request from Service Canada that confirmed that the appellant was eligible for the BC Bus Pass Program;

Additional information before the Panel at the Hearing:

1. Reconsideration decision dated 10<sup>th</sup> March 2020, which amongst other matters stated the following:

i. on 13<sup>th</sup> January 2020 that the appellant was advised by mail by the ministry that the appellant did not meet the criteria for the bus pass supplement;

ii. In Section 3 of the appellant's Request for Reconsideration, the appellant had explained that the appellant was receiving Old Age Security and the GIS (effective date May 2019). The appellant had also indicated that the appellant had attached a letter from Service Canada that confirmed that the appellant is eligible for the BC Bus Pass Program;

iii. The letter provided by the appellant indicated that the appellant's application for Old Age Security (OAS) was dated May 27, 2019 and the appellant was

approved effective May 2019;

- iv. The appellant was over the age of 65 years old and while the appellant was in receipt of OAS, the appellant was not in receipt of the guaranteed income supplement (GIS);
  - v. The minister may provide a supplement to or for a family unit to provide an annual pass for the personal use of a person in the family unit if the family unit contributes \$45 towards the cost and one of the following criteria are met:
    - (i) The appellant receives federal spouse's allowance or federal guaranteed income supplement;
    - (ii) The appellant is 60 years or older and receiving *income assistance* under Section 2, 4, 6 or 9 of Schedule A;
    - (iii) The appellant is 65 years or older and would qualify for the Guaranteed Income Supplement (GIS) but does not meet the Canadian 10-year residency rule;
  - vi. In reviewing its decision by way of reconsideration, the ministry finds that the appellant is (i) not in receipt of federal spouse's allowance or the guaranteed income supplement, (ii) not in receipt of income assistance under section 2, 4, 6 or 9 of Schedule A, and (iii) the ministry is not satisfied that the appellant is not in receipt of GIS due to not meeting the Canadian 10-year residency rule;
  - vii. While the ministry recognized that the appellant is in receipt of OAS, the appellant is not in receipt of GIS and, as such, the appellant did not meet any of the legislated criteria for the bus pass supplement and therefore the ministry is unable to approve the appellant's request;
  - viii. As the appellant has not met the legislated criteria for a supplement for an annual bus pass, the appellant's request is denied.
2. In the appellant's Notice of Appeal dated 16<sup>th</sup> March 2020, the appellant, amongst other matters, stated that: (i) the appellant is receiving OAS and GIS; (ii) the appellant did not know that the appellant needed to provide an official confirmation from Service Canada; and (iii) the appellant hoped that when the appellant has submitted the completed documentation, she will be able to use the Bus Pass Program benefits the completed documentation.
  3. A Release of Information Form duly signed by the appellant on 24<sup>th</sup> March 2020, authorizing a child of the appellant to be the appellant's representative at the hearing of the appeal.
  4. A Written Submission Extension Request from the appellant dated 1<sup>st</sup> April 2020 for

an extension of time to make further submissions in support of the appellant's Notice of Appeal, which stated that appellant was unlikely to receive a Service Canada confirmation by 2<sup>nd</sup> April 2020 in view of the specific circumstances described by the appellant. The said request for extension of time was approved by both the ministry and Tribunal to 16<sup>th</sup> April 2020.

5. A letter dated 1<sup>st</sup> April 2020 from the Tribunal to the appellant confirming approval of the appellant's Written Submission Extension Request dated 1<sup>st</sup> April 2020.
6. Another Written Submission Extension Request from the appellant dated 16<sup>th</sup> April 2020 for an extension of time to make further submissions in support of the appellant's Notice of Appeal, which: (1) stated that Service Canada required 30 business days to respond to the appellant's request for confirmation; and (ii) requested a further extension of time of about 40 business days. This second request for extension of time was approved by both the ministry and Tribunal to 16<sup>th</sup> April 2020.
7. A letter dated 16<sup>th</sup> April 2020 from the Tribunal to the appellant confirming approval of the appellant's Written Submission Extension Request dated 16<sup>th</sup> April 2020.
8. A written communication from the appellant's child dated 19<sup>th</sup> May 2020 that attached a letter dated 7<sup>th</sup> May 2020 from Service Canada which, amongst other matters, confirmed that the appellant is a recipient of both OAS and GIS effective from May 2019;
9. A letter from the ministry dated 25<sup>th</sup> May 2020, which stated that (i) the ministry has reviewed the written submission of the appellant and the letter dated 7<sup>th</sup> May 2020 from Service Canada, which indicates that the appellant is receiving GIS effective as of May 2019; and (ii) had the ministry received the said letter, which the appellant has submitted in the appellant's written appeal submission, the ministry may have made a different decision.

#### Admissibility of Additional Information.

The appeal package contains the following additional information respectively submitted by the both the appellant and the ministry after the date of the RD:

1. The appellant's submission dated 19<sup>th</sup> May 2020 (submitted through the appellant's child), which attached the letter dated 7<sup>th</sup> May 2020 from Service Canada, which amongst other matters, confirm that the appellant is a recipient of both OAS and GIS effective from May 2019;
2. A letter from the ministry dated 25<sup>th</sup> May 2020 submitted by the ministry, which states that (i) the ministry has reviewed the written submission of the appellant and the letter dated 7<sup>th</sup> May 2020 from Service Canada, which indicates that the appellant is

receiving GIS effective as of May 2019; and (ii) had the ministry received the said letter, which the appellant has submitted in the appellant's written appeal submission, the ministry may have made a different decision.

The panel must determine whether the document contains legal arguments or new evidence, and whether the new information and new records are admissible as evidence.

Under section 22 of the EAA, a panel may admit as evidence:

(4) A panel may consider evidence that is not part of the record as the panel considers is reasonably required for a full and fair disclosure of all matters related to the decision under appeal.

Having considered the forgoing new information and evidence, the panel finds that the additional information described above is reasonably required for a full and fair disclosure of all matters related to the decision under this appeal.

Therefore, the panel finds that, pursuant to Section 22 and Section 22(4)(b) of the EAA, the said information and evidence is admissible, as it is reasonably required in support of the information and records that were before the Ministry at the time of reconsideration.

#### Finding of Fact

Having reviewed all the information and evidence before it at the time of the hearing of the appeal, the panel finds that the appellant is a recipient of OAS and GIS effective from May 2019, as required under Section 66 of EAR.

## PART F – REASONS FOR PANEL DECISION

The issue on the appeal is whether the ministry's decision, which denied the appellant's request for a supplement for an annual bus pass under BC Bus Pass Program on the grounds that the ministry was not satisfied that the appellant met any of the legislated criteria, was reasonably supported by the evidence or a reasonable application of the applicable enactment in the circumstances of the appellant.

The relevant applicable legislation is as follows:

### Employment and Assistance Act -Section 4

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.

### Employment and Assistance Regulation Section 66

#### 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* or in a transportation region, as defined in the *South Coast British Columbia Transportation Authority Act*.

### Panel Decision

#### Eligibility

The panel notes that Section 66 of the EAR requires that to be eligible for the BC Bus Pass Program, an appellant must contribute \$45 to the cost and meet **one** of the following criteria:

- The appellant receives federal spouse's allowance or federal guaranteed income supplement;

- The appellant is 60 years or older and receiving income assistance under Section 2, 4, 6 of 9 of Schedule A;
- The appellant is 65 years or older and would qualify for the Guaranteed Income Supplement (GIS) but does not meet the Canadian 10-year residency rule.

Based on the Finding of Facts made by the panel at the end of in PART E -SUMMARY OF FACTS (page 6 above), the panel finds that, as the appellant is a recipient of GIS effective from May 2019, the appellant is clearly eligible for the BC Pass Program.

The panel notes that, in a letter dated 25<sup>th</sup> May 2020 submitted by the ministry to the Tribunal, the ministry has stated that:

- (i) the ministry has reviewed the written submission of the appellant and the letter dated 7<sup>th</sup> May 2020 from Service Canada, which indicates that the appellant is receiving both OAS and GIS effective as of May 2019; and
- (ii) had the ministry received the said letter, which the appellant has submitted in the appellant's written appeal submission, the ministry may have made a different decision.

For the reasons described above, the panel finds the ministry's decision was not reasonably supported by evidence or a reasonable application of the applicable enactment in the circumstances of the appellant. Therefore, the panel rescinds the reconsideration decision of the ministry.

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**PART G – ORDER**

THE PANEL DECISION IS: (Check one)       UNANIMOUS       BY MAJORITY

THE PANEL       CONFIRMS THE MINISTRY DECISION       RESCINDS THE MINISTRY DECISION

If the ministry decision is rescinded, is the panel decision referred back to the Minister  
for a decision as to amount?       Yes  No

**LEGISLATIVE AUTHORITY FOR THE DECISION:**

*Employment and Assistance Act*

Section 24(1)(a)  or Section 24(1)(b)

and

Section 24(2)(a)  or Section 24(2)(b)

**PART H – SIGNATURES**

PRINT NAME

TAJDIN MITHA

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2020/06/10

PRINT NAME

MARLENE RUSSO

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2020/06/10

PRINT NAME

JULIE IUVANCIGH

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2020/06/10