

APPEAL NUMBER
2021-0173

Part C – Decision Under Appeal

The decision under appeal is the Ministry of Social Development and Poverty Reduction (Ministry) reconsideration decision dated August 19, 2021 which held that the appellant was not eligible for a backdated transportation supplement pursuant to Section 54.2 (1) of the *Employment and Assistance for Persons with Disabilities Regulation* (EAPWDR).

Part D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR), section 54.2 (1)

Part E – Summary of Facts

Evidence at Reconsideration

Since 2015, the appellant has been a recipient of PWD and he has received a monthly bus pass, including multiple replacement cards, up until July 2021. At this time, he requested the alternate supplement in the form of money (\$52) instead of the bus pass. In August 2021, the appellant received \$52 per his request.

Evidence on Appeal

In the Notice of Appeal, dated September 7, 2021, the appellant stated the reason for the appeal was “reimbursement for bus pass supplement”.

Evidence at the Hearing

At the hearing, the appellant stated, in part, the following.

- When he lived in a large metro area, he was given a notice that he could either have a bus pass or \$52 in lieu per month. However, he needed the bus pass while living there.
- He moved to a small community in November 2019 and no longer needed a bus pass.
- He moved to a larger centre in June 2021 and required the bus pass again to get around.
- He did not know that he could have the \$52 in lieu of the bus pass.
- He was not issued a sticker (or automatic renewal of his bus pass) in 2020 or 2021.
- He tries not to deal with the ministry, so he did not call the ministry when he did not receive the bus pass sticker in 2020 or 2021.

At the hearing the ministry relied on its reconsideration decision and added the following:

- The appellant was aware that he had a bus pass because he repeatedly requested replacement passes (Note: the record indicates that the last replacement pass was issued in July 2019 and the appellant moved to a small community in November 2019. Since then, there is no record of a replacement pass being issued).
- The ministry began the option to have \$52 in lieu of a bus pass began in 2017.
- The appellant was issued a renewal sticker for his bus pass (that is mailed out) for 2020.
- The ministry cannot confirm that a renewal sticker for the appellant’s bus pass was mailed out for 2021.

Part F – Reasons for Panel Decision

The issue at appeal is whether the ministry's decision that found that the appellant is not eligible for a backdated transportation supplement pursuant to Section 54.2 (1) of the EAPWDR was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the circumstances of the appellant.

Section 54.2 (1) of the EAPWDR sets out the following:

Persons with disabilities transportation supplement

54.2 (1) The minister may provide a transportation supplement to or for a family unit that is eligible for disability assistance or hardship assistance for a calendar month, in respect of each recipient who is designated as a person with disabilities in the family unit, in one of the following forms:

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

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

The Appellant's Position

The appellant argued that he did not know that he could receive money (\$52) in lieu of a bus pass. He also argued that he did not receive his bus pass sticker for 2020 or 2021.

The Ministry's Position

The ministry argued that the appellant has received a monthly bus pass since he became eligible for PWD up to and including July 2021. Pursuant to the legislation the appellant is only eligible for either the bus pass or the transportation supplement of \$52. Since he has received the bus pass, he is not eligible for the backdated supplement of \$52 per month for 3 years.

The Panel's Decision

The legislation states that the ministry may provide a transportation supplement in either the form of money (\$52) per month or a bus pass. In this case, the appellant received a bus pass from 2015 until December 2020. Since the appellant has received the transportation

supplement in one of the two forms that it is available during the period from 2015 to 2020, the panel finds that the appellant is not eligible to receive backdated cash for those years.

However, at the time of the hearing, the ministry could not confirm and has no record of a bus pass being issued to the appellant for 2021. Nor does the ministry have a record of the monthly \$52 in lieu being issued to the appellant in 2021. Since there is no record that the appellant received any transportation supplement for this period, the panel finds that the ministry was unreasonable in its decision that the appellant received a bus pass up to and including July 2021. The panel finds that the appellant is entitled to the requested \$52 for January 2021, February 2021, March 2021, April 2021, May 2021, June 2021, and July 2021.

Conclusion

The panel finds that the ministry unreasonably concluded that the evidence establishes the criteria set out in Section 54.2 (1) of the EAPWDR have not been met. The panel therefore finds that the ministry's decision to deny the appellant's request for a backdated bus pass supplement was not a reasonable application of the legislation and was not supported by the evidence. The panel rescinds the ministry's reconsideration decision. The appellant is successful at appeal.

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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)

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

Part H – Signatures

Print Name
Neena Keram

Signature of Chair

Date (Year/Month/Day)
2021/09/20

Print Name
Shirley Heafey

Signature of Member

Date (Year/Month/Day)
2021/09/20

Print Name
Glenn Prior

Signature of Member

Date (Year/Month/Day)
2021/09/20