

2021-0200

Part C – Decision Under Appeal

The decision under appeal is the Ministry of Social Development and Poverty Reduction (Ministry) reconsideration decision dated October 1, 2021, which held that the appellant was not eligible for a bus pass supplement pursuant to Section 66(1) of the *Employment and Assistance Regulation* (EAR).

Part D – Relevant Legislation

Employment and Assistance Act (EAA), section 4.

Employment and Assistance Regulation (EAR), section 66(1).

Part E – Summary of Facts***Evidence at Reconsideration***

1. Federal notice of assessment for 2020 dated May 6, 2021, which indicates an income of \$20,564.00 and a refund of \$200.00.
2. Federal GST credit and BC climate action tax credit notice dated July 5, 2021, which indicates a refund of \$630.00.
3. Request for Reconsideration (RFR), dated September 22, 2021, in part the following:
 - Due to Covid, my regular income is being affected.
 - I applied for CRB from CRA 2020. This has caused my income [to become] over the bus pass limit. This is only a temporary change.
 - Please reconsider as the bus pass is very important to me.

Evidence on Appeal

The Notice of Appeal (NOA), dated October 22, 2021, was submitted by the appellant but did not present an argument or evidence.

Evidence at the Hearing

At the hearing the appellant reiterated the information from the RFR which included, in part, the following:

- At age 65 he stopped getting government assistance and does not know why.
- Since last year, due to Covid-19, his income increased but it is still low, but the ministry does not agree.
- He appreciates the support but cannot accept the ministry's decision.
- In response to a question, the appellant stated that he is aware that his income for 2020 was over \$20,000.00 but does not know the exact figure. The appellant does not dispute the figures presented by CRA and the 2020 tax assessment.
- In 2019, he did not have covid related benefits (CERB) and therefore his income was lower.
- Any increase in his income is temporary.
- He would like for the ministry to treat CERB separate from income.
- He has medical problems and relies on his bus pass.

At the hearing the ministry relied on its reconsideration decision.

Finding of Fact

- The appellant is 70 years old and is not a recipient of income assistance.
- Eligibility for a bus pass supplement is based on income and to qualify the annual income of the recipient who is over 65 years of age must not exceed \$18,984.00.
- The appellant is not in receipt of the federal spouse's allowance or federal guaranteed income supplement (GIS).

Part F – Reasons for Panel Decision

The issue at appeal is whether the Ministry's reconsideration decision which held that the appellant was not eligible for a bus pass supplement pursuant to Section 66 of the EAR was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the circumstances of the appellant.

The Applicant's Position

The appellant argued that the change in his income is temporary. He had applied for CERB because, due to Covid-19, his income was affected. Therefore, his 2020 income was higher than the eligibility amount for the annual bus pass. The appellant feels that ministry should treat CERB separate from income.

The Ministry's Position

In order to determine GIS eligibility, the ministry must first establish the appellant's eligibility for Old Age Security (OAS). Based on the appellant's income, he would be eligible for full OAS. If the appellant was in receipt of OAS, he would only be eligible for GIS if his income was less than \$19,248.00. The appellant's income in 2020 was \$20,564.00. The ministry argued that since the appellant does not meet the eligibility for GIS except the 10-year residency requirement, he does not meet the requirements of section 66(1)(c) of the EAR and therefore is not eligible for a bus pass supplement.

The Panel's Decision

Section 66(1) prescribes that in order to be eligible for a bus pass supplement, the recipient must meet one of 3 requirements. It has been established, as indicated in the finding of facts, that the appellant does not receive federal spouse's allowance or GIS. Therefore, he does not meet the requirements of section 66(1)(a). It has also been established that the appellant is not in receipt of income assistance and therefore does not meet the requirements of section 66(1)(b).

Section 66(1)(c) prescribes that in order to be eligible for a bus pass supplement the recipient must meet the requirements of GIS except the 10-year residency requirement. As outlined in the ministry's argument, the appellant's 2020 income of \$20,564.00 exceeds the threshold to meet the eligibility requirements for GIS except 10-year residency (\$19,248.00). The appellant does not dispute the facts and figures as they are presented by the ministry or CRA. Since the appellant does not meet any of the eligibility requirements for section 66(1), the panel finds that the ministry was reasonable in its decision to deny the appellant a bus pass supplement.

Conclusion

The panel finds that the ministry reasonably concluded that the evidence establishes the criteria set out in Section 66(1) of the EAR have not been met. The panel therefore finds that the ministry's decision to deny the appellant's request for a bus pass supplement was a reasonable application of the legislation and was supported by the evidence. The panel confirms the ministry's reconsideration decision. The appellant is not successful at appeal.

The Relevant Legislation

Section 4 of the EAA sets out the following:

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.

Section 66 of the EAR sets out the following:

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 service region, as defined in the *South Coast British Columbia Transportation Authority Act*.

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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)

2021/11/18

Print Name

Kevin Ash

Signature of Member

Date (Year/Month/Day)

2021/11/18

Print Name

Sameer Kajani

Signature of Member

Date (Year/Month/Day)

2021/11/18