

Appeal Number 2021-0201

Part C – Decision Under Appeal

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the “ministry”) reconsideration decision dated October 22, 2021 wherein the ministry determined that the appellant was not eligible for a bus pass supplement because her income of \$20,001 exceeds the legislated income threshold of \$19,248.

Part D – Relevant Legislation

Employment and Assistance Regulation (EAR) section 66

Part E – Summary of Facts

From ministry files:

- The appellant is 68 years of age and single.
- She moved to Canada on November 21, 2012.
- She does not receive the federal guaranteed income supplement (GIS) or income assistance.

The appellant's 2020 Tax Assessment Notice provided reports the appellant's total net income as \$20,580 and the total taxable income as \$20,001.

In her request for reconsideration dated September 22, 2021, the appellant wrote that

- her 2020 income is temporarily over the limit because, due to covid;
- she applied for support payments from CRA;
- the bus pass is very important to her daily living.

In her Notice of Appeal the appellant writes: "current and previous income is lower than it was assessed at in 2020 due to the temporary covid recovery benefit."

At the hearing the appellant, supported by her daughter and an interpreter, explained that she needs the bus pass to attend her English lessons every day, as well as social and community events and medical appointments. Life will be difficult without a bus pass as it will affect her studies, work and daily living. The appellant confirmed that currently she is neither has PWD designation nor does she receive income assistance.

The appellant's daughter reported that her mother's income increased temporarily to approximately \$2000 per month due to the Covid Recovery Benefit. Once this benefit is finished and life is back to normal her mother's income is going to change back to where it was before, so why can the ministry not just give her the bus pass. She cannot wait until next July; this wait is too long.

The appellant's daughter stated that she was helping her mother by calling the BC Bus Pass Program and explaining to them that her mother needs the bus pass.

She explained that her mother could not apply for the GIS because she doesn't meet the 10-year residency requirement. She has no additional documents for the Canada Revenue Agency and did not request a re-assessment from them because there is no point to it if a person is not eligible for GIS. [The panel notes that federal legislation as found on the Government of Canada website sets out that "If you are a sponsored immigrant and have lived in Canada for less than 10 years after age 18, you cannot receive the Guaranteed Income Supplement while you are sponsored..."]

The ministry explained that the only document it relies on to determine eligibility is the CRA Income Assessment. The ministry looks at the taxable income and uses the federal GIS threshold from the federal government of Canada website for its eligibility determination. Many people's incomes have been affected by the covid benefits but within their process and regulations they only have this one way to proceed. The ministry indicated that they start their reviews in July 2022, 3 months after taxes are due. However, the appellant should reapply as soon as she completes her taxes and receives her Notice of Assessment.

The ministry referred to its suggestion in its reconsideration decision that the appellant may want to connect with the GIS program to determine if there is any ability for the appellant to be reassessed for GIS if her income has recently been reduced: the ministry stated it only gets minimal information from the

federal government [in this case the GIS program] and it can only accept changes that are confirmed by the federal government. A tax-reassessment may contain, for example, a change of income, marital status, citizenship status ...

The ministry confirmed that the GIS eligibility threshold for 2021 is \$19,248; for 2020 it was \$18,984.

Admissibility of New Information

The panel finds that the information provided by the appellant and the ministry in the Notice of Appeal and at the hearing is reasonably required for a full and fair disclosure of all matters related to the decision under appeal, as it contributes to the panel's understanding of the circumstances surrounding the appellant's income. The panel therefore admits this information as evidence pursuant to section 22(4) of the Employment and Assistance Act.

Part F – Reasons for Panel Decision

The issue in this appeal is whether the ministry decision that found the appellant not eligible for a bus pass supplement because her income of \$20,001 exceeds the legislated income threshold was reasonably supported by the evidence or a reasonable application of the relevant legislation in the appellant's circumstances.

Appellant's Position

The appellant argues that she should be eligible for the bus pass supplement because the bus pass is very important for her studies, medical appointments and daily living activities. Her income increased only temporarily because she received covid related benefits. Life without the bus pass will be very difficult, and it is not fair that she has to wait until July to reapply.

Ministry Position

As the appellant does not receive a GIS or income assistance, she must meet all of the eligibility requirements for the GIC except the 10-year residency requirement in order to qualify for the bus pass supplement. The ministry determined that the appellant does not meet all GIC eligibility requirements because, based on her 2020 Notice of Assessment, her total taxable income is \$20,001 which exceeds the \$19,248 GIS income threshold set out by federal legislation to be found on the Service Canada GIS website.

The ministry noted that the appellant moved to Canada on November 21, 2012 and does not yet meet the 10-year residency requirement.

Panel Decision

The ministry may provide an appellant who is over 65 years old with a bus pass supplement if the appellant either receives the federal spouse's allowance or GIS, or receives income assistance, or meets all eligibility criteria for the GIS with the exception of the 10-year residency requirement.

The panel finds that while the appellant is over 65 years old she does not receive the GIS or income assistance, nor does she meet all the federal eligibility requirements for the GIS apart from the 10-year residency requirement. According to print-out from the Government of Canada website, the appellant appears to qualify for the GIS except for the income threshold: income must be below \$19,248. While the appellant argues that her income is only temporarily above the legislated income threshold, and while she submits that the bus pass is essential for her daily living activities, the panel finds that the ministry reasonably determined that the appellant is not eligible for the bus pass supplement because her taxable income of \$20,001 exceeds the GIS threshold of \$19,248 which is set by federal legislation.

The panel acknowledges that the covid related Recovery Benefits are only temporary benefits that affect the appellant's income temporarily. The panel notes that changes were made to the EAR to exempt covid benefits from net income in some situations. However, the changes do not apply to the relevant section (section 66), which relies on the federal GIS eligibility criteria. The panel must base its decision on the relevant legislation and therefore confirms the ministry's reconsideration decision. The appellant is not successful on appeal.

Relevant Legislation

EAR

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....

From the Service Canada GIS website:

Do you qualify for the Guaranteed Income Supplement

You may be able to get this benefit if:

- you are 65 or older
- you live in Canada
- you receive the [Old Age Security \(OAS\) pension](#)
- your income is below \$19,248 if you are single, widowed, or divorced
- your income plus the income of your spouse/common-law partner is below:
 - \$25,440 if your spouse/common-law partner receives the full OAS pension
 - \$46,128 if your spouse/common-law partner does not receive an OAS pension
 - \$46,128 if your spouse/common-law partner receives the Allowance

APPEAL NUMBER 2021-0201

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

Inge Morrissey

Signature of Chair

Date (Year/Month/Day)

2021/11/19

Print Name

Wesley Nelson

Signature of Member

Date (Year/Month/Day)

2021/11/21

Print Name

Donald Storch

Signature of Member

Date (Year

2021/11/19