

**PART C – DECISION UNDER APPEAL**

The decision under appeal is the reconsideration decision of the Ministry of Social Development and Poverty Reduction (the “Ministry”), dated October 21, 2021 (the “Reconsideration Decision”). In the Reconsideration Decision, the Ministry determined that the Appellant was not eligible to receive a supplement for a bus pass, by virtue of the fact that the Appellant did not meet the criteria set out in section 66 of the *Employment and Assistance Regulation* (“EAR”), in that the Appellant:

- was not in receipt of the federal spouse’s allowance or guaranteed income supplement (“GIS”);
- was not in receipt of income assistance, pursuant to sections 2, 4, 6, or 9 of Schedule A to the EAR; and

was not at least 65 years of age and met all of the eligibility requirements for the GIS except the requirement of having resided in Canada for at least ten years.

**PART D – RELEVANT LEGISLATION**

*Employment and Assistance Act* (“EAA”)- sections 1 and 4  
EAR- section 66

**PART E – SUMMARY OF FACTS**

The information before the Ministry at the time of the Reconsideration Decision included:

- The Appellant's Request for Reconsideration, dated October 6, 2021 (the "RFR"), which included a handwritten statement (the "Statement") describing:
  - monthly income received by the Appellant and the Appellant's spouse, indicating a total of \$2,479.00 monthly, comprised of an employment pension, Canada Pension Plan benefits, and Old Age Security;
  - having a mortgage in the amount of \$1,000.00 per month and strata fees in the amount of \$260.00 per month;
  - being advised by Service Canada, in July, 2021, that the Appellant and the Appellant's spouse were not eligible for the Guaranteed Income Supplement ("GIS"); and
  - having gross income in 2020 of \$52,587.00, of which \$10,568.00 was a vacation pay out.

In the Notice of Appeal, filed November 1, 2021, the Appellant described being a senior with monthly income of \$2,633.00. The Appellant also included the Statement which had been submitted with the RFR.

At the hearing of the appeal, the Appellant described having been turned down for a bus pass supplement because of income that exceeded the eligibility amount for the GIS. The Appellant noted that higher earnings in 2020 were a function of having retired and being paid out accrued vacation time but that currently the combined monthly income of the Appellant and the Appellant's spouse was about \$2,600.00 per month. The Appellant believed that, at this level, the Appellant would be eligible for the GIS next year but that the Ministry's decision was based on last year's income. The Appellant described public transit as being very expensive and indicated that that it could cost up to \$10.00 for the Appellant and the Appellant's spouse to take a trip together.

The Appellant described understanding the regulations regarding the bus pass supplement but stated that there should be exceptions to the regulations. The Appellant confirmed that GIS eligibility has not been reviewed recently.

The Ministry relied on the Reconsideration and described how data matching works such that the Ministry was aware that the Appellant was not eligible for the GIS. The Ministry advised that its data matches were updated monthly but that a determination that the Appellant was eligible for the GIS would not automatically result in the Appellant being approved for a bus pass. The Ministry confirmed that it does not have the discretion to grant exceptions to the regulations that govern eligibility for supplements.

The panel admits, under section 22(4) of the EAA the oral evidence given at the hearing as evidence that is not part of the record but which is reasonably required for a full and fair disclosure of all matters related to the decision under appeal.

**PART F – REASONS FOR PANEL DECISION**

The issue in this appeal is whether the Ministry was reasonable in its determination that the Appellant was not eligible to receive a supplement for a bus pass, by virtue of the fact that the Appellant did not meet the criteria set out in section 66 of EAR in that the Appellant:

- was not in receipt of the federal spouse's allowance or guaranteed income supplement ("GIS");
- was not in receipt of income assistance, pursuant to sections 2, 4, 6, or 9 of Schedule A to the EAR; and
- was not at least 65 years of age and met all of the eligibility requirements for the GIS except the requirement of having resided in Canada for at least ten years.

*Relevant Legislation*

Section 66(1) of the EAR governs eligibility in respect of a bus pass supplement:

**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.

The Appellant does not dispute that Service Canada has found that the Appellant has been ineligible for the GIS since 2021. The Appellant's evidence in both the RFR and at the hearing of the appeal is that the reason for this was that the income of the Appellant and the Appellant's spouse exceeded the amount required to be eligible for GIS. The federal spouse's allowance is available to persons who reside in Canada, are aged 60 to 64, have a spouse who is eligible for the GIS, and whose income, combined with their spouse's is less than \$35,616.00. The combined income of the Appellant and the Appellant's spouse in 2020 was at least \$52,587.00 as that was the amount of the Appellant's 2020 income alone. As such, the Appellant does not meet the criteria set out in section 61(1)(a) of the EAR in order to be eligible for a bus pass supplement.

Likewise, neither the Appellant nor the Appellant's spouse is receiving any monthly support

allowance under section 2 of Schedule A to the EAR, a shelter allowance under section 4 of Schedule A to the EAR, money for room and board under section 6 of Schedule A to the EAR, or any assistance to cover the cost of accommodation in an emergency shelter or transition house under section 9 of the EAR.

Finally, although the Appellant is not receiving the GIS, the reason for that is that the 2020 income of the Appellant and the Appellant's spouse exceeded the eligibility threshold for the GIS. As such, the only reason for the Appellant's ineligibility for the GIS is not that the Appellant has not met the requirement of having resided in Canada of at least 10 years.

Section 66(1) does not grant the Ministry any discretion to issue a supplement for a bus pass where none of the criteria in subsections (a), (b), and (c) are met. In the result, the panel finds that the Ministry reasonably determined that the Appellant did not qualify for a bus pass supplement under section 66 of the EAR.

The Appellant is not successful in this appeal.

2021-0211

**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

Adam Shee

Signature of Chair

Date (Year/Month/Day)

2021/November/.24

Print Name

Connie Simonsen

Signature of Member

Date (Year/Month/Day)

2021/November/24

Print Name

Nancy Eidsvik

Signature of Member

Date (Year/Month/Day)

2021/November/24