

Appeal Number 2021-0212

Part C – Decision Under Appeal

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the “Ministry”) reconsideration decision made October 21, 2021 which held that the appellant was not eligible to receive the bus pass supplement by reason that the appellant did not meet any of the criteria in s.66 Employment and Assistance Regulation (“EAR”)

Part D – Relevant Legislation

s. 1 and s. 4 Employment and Assistance Act (“EAA”)
s. 66 Employment and Assistance Regulation (“EAR”)

Part E – Summary of Facts

The information before the Ministry at the time of reconsideration was:

The appellant is not in receipt of income assistance but has previously been in receipt of the bus pass supplement. On September 25, 2021 the Ministry informed the appellant that she was no longer eligible for the bus pass supplement. The appellant sought reconsideration of that decision.

The appellant's submission provided:

The appellant relies on the transit system to commute between communities to assist in looking after her grandchildren while her son works. She also assists her son and daughter-in-law with daily chores such as schooling, cooking, and house clean-up several times per week. The bus pass would help her in the savings of daily fares to and from the two communities. The Covid-19 pandemic over the last 18 months has had some impact on her earnings. She applied and received some government assistance including the Canada Emergency Response Benefit ("CERB") and the Canada Recovery Benefit ("CRB") which raised her 2020 income.

The appellant's 2021 income is less than her 2020 income, however because of the increase in 2020 she lost the Guaranteed Income Supplement ("GIS"). She is struggling to balance her monthly budget and her expenses includes her rental payment, living expenses and business expenses. Obtaining the bus pass would help her financially.

The appellant provided an October 25, 2021 letter from her son where her son stated that the appellant was helping look after his young children while he concentrates full time on his business. He states that the appellant needs to travel between two communities by bus to help him. The bus pass supplement will assist the appellant in saving on the cost of the commuting fare.

The appellant's notice of appeal states:

Even though I do not receive guaranteed income supplement ("GIS") for the current year, I appeal that the tribunal consider granting me the buss pass supplement to assist in the commuting costs.

With the consent of both parties and pursuant to s.22(3)(b) EAA this hearing was held as a written hearing.

Part F – Reasons for Panel Decision

The issue on appeal is if denying the appellant the bus pass supplement by reason that the appellant did not meet any of the criteria in s.66(1)(a) EAR was reasonably supported by the evidence or a reasonable application of the applicable enactment in the circumstances of the appellant.

Relevant legislation:

EAA

Definitions

1 "family unit" means an applicant or a recipient and his or her dependants;

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.

Panels of the tribunal to conduct appeals

s.22(3) A panel must conduct a hearing into the decision being appealed within the prescribed period either

(a) orally, or

(b) with the consent of the parties, in writing.

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.

Decision of the panel:

The appellant is a family unit pursuant to s.1 EAA because she is an applicant. Pursuant to s.4 EAA the Ministry may provide a bus pass supplement to the appellant if she is eligible for it. Eligibility for the buss pass supplement is determined under s.66(1) EAR.

The Ministry decision determined that because the appellant is not in receipt of GIS she does not qualify for a bus pass pursuant to s.66(1)(a) EAR. In making this determination the Ministry relies on the evidence of their computer system which receives a data match with Service Canada that confirms that the appellant was not in receipt of GIS. That data match was not included in the panel record. The appellant, however, confirms in her reconsideration submission and her notice of appeal that she is no longer receiving GIS for 2021. She states that she did receive GIS in 2020 but because her income for 2020 increased through collecting CERB and CRB she lost her eligibility to receive GIS in 2021. The panel relies on the appellant's evidence and finds that the appellant is not in receipt of GIS. Therefore the Ministry determination that the appellant did not meet the criteria in s.66(1)(a) EAR is reasonable.

There are two other opportunities for the appellant to qualify for the bus pass supplement pursuant to s.66(1) EAR. This is because of the word OR after each of s.66(1)(a) and s.66(1)(b). The Ministry did not determine if the appellant was eligible under s.66(1)(b) or s.66(1)(c) in their written reconsideration decision. The panel must do that to determine if the Ministry decision to deny the buss pass supplement was reasonable.

Pursuant so s.66(1)(b) EAR the appellant could receive the bus pass if she was over 60 years old and in receipt of income assistance set out in s.2 EAA. The evidence is that the appellant is 69 years old, so she meets the age requirement. The Ministry states that the appellant is not in receipt of income assistance and the appellant does not dispute that fact. As such, the panel finds that the appellant does not qualify under s.66(1)(b) EAR for the bus pass supplement.

Pursuant to s.66(1)(c) EAR the appellant could receive the bus pass supplement if she is at least 65 years old and meets all the federal GIS requirements except the 10-year residency requirement. The requirements to qualify for GIS are set out in the Old Age Security Act ("OASA"), Part II. The evidence is that the appellant is 69 years old, so she meets the age requirement. To determine if the appellant is eligible for GIS it would be necessary to know the appellant's income. We have evidence from the appellant that she does not currently qualify for GIS according to Service Canada. If the appellant wanted to argue that Service Canada was wrong and she did meet the federal GIS requirements, she would need to submit income information and the Ministry as well as the panel would need to do an analysis under the OASA to determine if the appellant met the requirement in s. 66(1)(c) for the purposes of obtaining a bus pass supplement. The appellant has not provided that information so that analysis cannot be done. As such, the panel finds that the appellant does not qualify for the bus pass supplement pursuant to s.66(1)(c) EAR.

Conclusion

The panel finds that because the appellant did not meet any of the criteria in s.66(1)(a), (b), or (c), the determination to deny this appellant a bus pass supplement was reasonably supported by the evidence and a reasonable application of the applicable enactment in the circumstances of the appellant. The appellant is not successful on this 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

Meghan Wallace

Signature of Chair

Date (Year/Month/Day)

2021/12/07

Print Name

Charlie Schellinck

Signature of Member

Date (Year/Month/Day)

2021/12/07

Print Name

Kent Ashby

Signature of Member

Date (Year/Month/Day)

2021/12/07