

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 November 2, 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 any of the criteria set out in section 66 of the *Employment and Assistance Regulation* (“EAR”), in that the Appellant:

- was not in receipt of the 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 following:

- Letter from the Appellant to the BC Bus Pass Program, dated September 27, 2021, in which the Appellant described having difficulty accessing the request for Reconsideration (“RFR”) forms and being dissatisfied with the Ministry’s initial decision;
- A data form from the BC Bus Pass Program with the Appellant’s information on it;
- The Appellant’s RFR, which included:
 - A letter from the Appellant to the Ministry, setting out the Appellant’s position on the Ministry’s decision including that:
 - The Appellant was a low income senior citizen over 70 in receipt of the Canada Pension Plan, Old Age Security (“OAS”) and the Guaranteed Income Supplement (“GIS”);
 - The Appellant had received the bus pass supplement for the previous four years; and
 - The Appellant had already paid the \$45.00 cost, provided for in the legislation, for the bus pass supplement; and
 - The Appellant’s 2020 Statement of Old Age Security, setting out that the Appellant had received \$7,364.19 in OAS and \$9,703.29 in GIS benefits in 2020.

In the Appellant’s Notice of Appeal, the Appellant included a typed statement which included the following information:

- The Appellant is 72 years old;
- The Appellant relies on the BC Bus Pass program and had applied and received a pass for the past five years;
- The Appellant had already paid the \$45.00 amount for the pass;
- The Appellant disagreed with the Ministry determination that the Appellant was not in receipt of income assistance;
- The Appellant had received \$18,000.00 in Canada Emergency Relief Benefit (CERB) in 2020;
- The CERB is federal income assistance;
- Service Canada reduced the Appellant’s GIS eligibility to zero in 2021 due to the amount the Appellant had received in CERB in 2020;
- The Ministry’s reliance on the data match from Service Canada as to GIS eligibility, instead of other information, was unfair and ignored common law principles and natural justice.

The panel admits, under section 22(4) of the *Employment and Assistance Act* (“EAA”), the information contained in the Notice of Appeal 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 any of 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 conceded in the Notice of Appeal that Service Canada has determined that the Appellant was not eligible for the GIS starting in 2021. The Appellant’s evidence in both the RFR and Notice of Appeal is that the Appellant *is* in receipt of income assistance. While the Appellant is correct that the CERB is, like the GIS, a form of income replacement or assistance, eligibility for the bus pass supplement is contingent on the receipt of specific *types* of income replacement and assistance, namely income assistance under the EAA or the two specific federal supplements referenced in section 66 of the EAR referenced in subsection (a) of section 66(1) of the EAR.

The criteria for eligibility for the bus pass supplement is clearly set out in section 66(1) of the EAR.

It is also clear that since July, 2021, the Appellant has not been in receipt of the GIS. There is no indication in the evidence that the Appellant has a spouse at all, let alone is in receipt of the federal spouse's allowance.

The Appellant is also not 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, the Appellant is at least 65 years of age but is not in receipt of the GIS and the reason for that is not only because the Appellant does not meet the requirement of having resided in Canada for at least 10 years.

For all of the foregoing reasons, the panel determines that the Ministry reasonably determined that the Appellant had not met the eligibility criteria, set out in section 66(1) of the EAR, for a bus pass supplement.

It is unfortunate for the Appellant and, presumably, others in the same position as the Appellant, that having applied for and received the CERB has resulted in them becoming ineligible, at least temporarily, for the GIS and, by extension, programs and supplements that are contingent on ongoing GIS eligibility, like the bus pass supplement. It is also unfortunate if the consequences of becoming ineligible for the GIS supplement were unknown to persons like the Appellant when they applied for the CERB. However, section 66(1) of the EAR 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.

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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

Adam Shee

Signature of Chair

Date (Year/Month/Day)

2021/December/18

Print Name

David Handelman

Signature of Member

Date (Year/Month/Day)

2021/December 18

Print Name

Vivienne Chin

Signature of Member

Date (Year/Month/Day)

2021/December 21