

### **Part C – Decision Under Appeal**

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the Ministry) Reconsideration Decision (RD) dated November 23, 2021, which determined that the Appellant was not eligible for a Bus Pass Supplement pursuant to Section 66(1) of the Employment and Assistance Regulation (EAR).

Specifically, the Ministry found that the Appellant was not eligible for a monthly Bus Pass Supplement because they did not meet at least one of the following eligibility criteria:

- The Appellant does not receive the federal spouse's allowance (SA) or federal guaranteed income supplement (GIS);
- While the Appellant is 60 or more years of age, they do not receive income assistance (IA) under Section 2, 4, 6 or 9 of Schedule A of the EAR; and,
- While the Appellant is 65 years of age or more, they do not meet all of the necessary GIS eligibility requirements.

### **Part D – Relevant Legislation**

EAR Section 66(1)

***The relevant legislation is provided in the Appendix***

**Part E – Summary of Facts**

In the RD, the Ministry indicated that the Appellant is 67 years old and is not receiving IA.

In the Appellant's Request for Reconsideration (RFR), dated November 2, 2021, the Appellant wrote that they were requesting an extension of their Bus Pass Supplement for at least another year because the last 4 years before their husband's passing - especially the last 2 months - were a struggle due to his "*multiple health issues*". As a result, their finances were affected, and the Appellant is still grieving and dealing with finances.

In the RD, the Ministry stated that its computer system receives a "*data match*" with Service Canada to confirm if an applicant is receiving GIS. In the Appellant's case, the data match shows that they are receiving Old Age Security (OAS) but they are not receiving GIS, and that the Appellant has not received GIS since June 2021.

***Additional Information Submitted after Reconsideration***

Section 22(4) of the *Employment and Assistance Act* (EAA) says that a panel may consider evidence that is not part of the record that the panel considers to be reasonably required for a full and fair disclosure of all matters related to the decision under appeal. Once a panel has determined which additional evidence, if any, is admitted under EAA Section 22(4), instead of asking whether the decision under appeal was reasonable at the time it was made, a panel must determine whether the decision under appeal was reasonable based on all admissible evidence.

The Appellant did not state their reasons for disagreeing with the Ministry's RD in the Notice of Appeal (NOA).

***Additional Evidence Presented at the Hearing***

At the hearing, the Appellant said that the Ministry needs to be fair to everyone, and that the Appellant had asked in a letter to the Ministry to be given a Bus Pass Supplement for another year because it would take that long to have their financial situation resolved. The Appellant explained that their husband, who had "*suffered from multiple issues*", including expensive alcohol and drug habits, adding that "*he took our money and spent it on drugs*". When he passed away in September 2020, he left the Appellant "*behind on payments*" and owing a lot of money.

The Appellant explained that their husband was on the title for their home when he passed away, that the Appellant was currently in the process of having the title transferred solely to the Appellant's name, and that that process would likely be completed within the next year, at which point they would be able to sell the home and settle their outstanding debts. This is why they are asking for the bus pass supplement for only one more year.

In response to a question from the Panel, the Appellant said that they did not qualify for the GIS in 2021 because their husband's municipal pension, for which they have survivor benefits and which totals \$2,400 per month, took the Appellant's income above the income threshold for the GIS. They had been receiving GIC in the amount of \$837.40 per month prior to June of 2021.

In response to a question from the Ministry, the Appellant confirmed that they had been living in Canada for more than 10 years. In response to another question from the Ministry the Appellant said that they

had looked at other bus ticket options, such as a book of prepaid tickets, but they were all more expensive than the monthly pass based on the Appellant's ridership frequency.

At the hearing, the Ministry relied on its RD, expressed sympathy for the Appellant's situation, and explained that the Ministry had no discretion in granting the bus pass supplement because an applicant for the supplement had to meet at least one of the criteria set out in EAR Section 66 in order to qualify.

In response to a question from the Panel, the Ministry confirmed that the data match process with the federal government for a senior receiving OAS will include information about whether that senior also receives the GIC but will not include information on whether the senior receives a Canada Pension Plan (CPP) pension, as receipt of CPP is not a criterion for Bus Pass Supplement eligibility for a low income senior who is not receiving IA.

In response to questions from the Panel, the Ministry confirmed that references in the RD to "*a bus pass*", "*a bus pass supplement*" and "*the BC Bus Pass Program*" all refer to the Bus Pass Supplement. Depending on the circumstances of the applicant (e.g. are they a senior receiving a federal public pension?, are they an IA recipient?, etc.) the Ministry applies the legislative criteria by looking at the income received by the applicant in any given calendar year and provides a Bus Pass Supplement to any applicant who qualifies on an annual basis over a different 12 month period (beginning in July and ending in June of each year). A recipient must re-qualify annually based on their income in the most recent calendar year. In the Appellant's case, a monthly bus pass costs approximately \$600 per year, and a qualifying applicant pays \$45 for the year and the Ministry would pay the recipient a supplement equal to the additional cost (in this case, approximately \$550 per year).

The Panel did not admit the verbal evidence provided by the Appellant at the hearing regarding their ownership of real property and receipt of a spousal municipal pension benefit because it was not considered by the Panel to be evidence that is reasonably required for a full and fair disclosure of all matters relating to the decision under appeal. The Panel notes that a senior's real property or other assets and/or additional income might be relevant in determining GIC eligibility (which is a federal government program), but the Ministry's eligibility requirements do not *directly* consider an applicant's assets or income in determining Bus Pass Supplement eligibility.

## **Part F – Reasons for Panel Decision**

The issue at appeal is whether the Ministry's RD which determined that the Appellant is not eligible for a Bus Pass Supplement pursuant to EAR Section 66(1) was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the circumstances of the Appellant.

### *The Ministry's Position*

The Ministry's position is that the Appellant is not entitled to a Bus Pass Supplement because they receive neither an SA, a GIS, nor IA and they do not meet all of the necessary GIS eligibility requirements.

### *The Appellant's Position*

The Appellant's position is that in fairness the Ministry should provide them with a Bus Pass Supplement for one additional year only as they are presently in financial difficulty and that their financial problems should be resolved within a year.

### *The Panel's Decision*

The EAA Section 4 says that the Ministry may provide a Bus Pass Supplement to someone who is eligible for it. EAR Section 66 gives the criteria for eligibility for a Bus Pass Supplement for different types of applicants. The Appellant, who is over 65 and has lived in Canada for more than 10 years, does not receive IA but might be considered eligible as a low income senior if the required criteria are met.

To be eligible for a Bus Pass Supplement, an applicant must receive a federal spouse's allowance, or be over 60 and receiving IA, or must be at least 65 years of age and meet the federal GIS requirements except for the 10-year residency requirement, [EAR Section 66(1) (a), (b) & (c)].

While the Panel sympathizes with the Appellant in their present financial circumstances, the Panel notes that the Appellant does not presently qualify for the GIS and is not receiving IA or a federal SA.

### **Conclusion**

The Panel finds that the Ministry's decision that the Appellant is not eligible for a Bus Pass Supplement was reasonably supported by the evidence and was a reasonable application of the applicable enactment in the circumstances of the Appellant. Therefore, the Ministry's decision is confirmed. The Appellant is not successful in their appeal.

**APPENDIX A – LEGISLATION**

**EMPLOYMENT AND ASSISTANCE REGULATION**

**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

Simon Clews

Signature of Chair

Date (Year/Month/Day)

2022/01/02

Print Name

Kenneth Smith

Signature of Member

Date (Year/Month/Day)

2022/01/02

Print Name

Carla Tibbo

Signature of Member

Date (Year/Month/Day)

2022/01/02