

Appeal Number 2022-0003

Part C – Decision Under Appeal

The decision under appeal is the Ministry of Social Development and Poverty Reduction (ministry) reconsideration decision dated December 29, 2021, which determined the appellant was not eligible for a bus pass supplement as per section 66 of the Employment and Assistance Regulation.

Part D – Relevant Legislation

Employment and Assistance Act (EAA) sections 1 and 4

Employment and Assistance Regulation (EAR) section 66

see attached Schedule of Legislation

Part E – Summary of Facts

Relevant Evidence Before the Minister at Reconsideration

Ministry records show:

The appellant is 85 years old and not in receipt of assistance.

The appellant became a permanent resident in Canada on February 2, 2014.

A data match with Service Canada confirms the appellant is not in receipt of either Old Age Security (OAS) or Guaranteed Income Supplement (GIS).

The appellant is not eligible for OAS or GIS because he does not meet the 10-year residency requirement.

Eligibility for GIS is reviewed every year in July and based on the combined net income of a couple, which in 2020 included the appellant's Canada Emergency Response Benefit (CERB) and Canada Recovery Benefit (CRB) income.

Request for Reconsideration (December 16, 2021) - summary

The appellant states he and his wife are senior citizens with no income. He is a disabled senior (in his 80s) and his wife is in her 70s. In 2020, due to the pandemic, they lost their income and accepted federal benefits – CERB and CRB totaling \$42,000. These benefits have ended and they are struggling with their expenses.

They don't own a car or have any savings. They cannot drive and public transit is their only way to commute. Considering no government support, inflation and no savings, without the BC Bus Pass Program they cannot afford to buy public transit tickets. The appellant and his wife are in desperate need, especially for a BC bus pass.

Letter from the Ministry to the Appellant (October 26, 2021)

denying bus pass supplement

The ministry states the eligibility requirements for individuals over 65 years of age are based on income. The ministry determined that the appellant and his spouse's combined income totaled \$42,002. To qualify as a senior 65 years of age or over with a spouse 65 years of age or over, the yearly combined income must not exceed \$25,440.

Additional Information

Notice of Appeal (January 6, 2022) - summary

The appellant states he and his spouse received government support in 2020 (CERB and CRB – totaling \$42,000) which ended as of October 2021. He can't afford to buy transit tickets. He and his spouse have no income at this time.

The cost of living increased during the pandemic especially for vulnerable seniors like himself and his spouse who had to pay for delivery of groceries and food. And, as public transit was not performing to its full capacity, they had to pay for commuting. Neither the appellant nor his wife can drive. They don't own a car or any savings, and because of his disability, public transit is their only way to commute (e.g. going for medical appointments and treatments).

The appellant states it is not right to do this to Canada's poor seniors. Vulnerable seniors who received CERB shouldn't be penalized and impacted so negatively because of the government's help with special circumstances. Considering the government support programs have terminated, inflation and no savings, it is very hard for the appellant and his wife to pay for daily expenses including food, medical, bills, etc. They are asking to reconsider their eligibility and grant them the Bus Pass, considering this special situation and costly living expenses.

At the hearing, the appellant added that he is trying not to be a burden on the government and before the pandemic he was working. He is diabetic and has had open heart surgery, can hardly walk and the stress is creating mental issues. His 2020 income is also affecting his medication, as PharmaCare went up as well. For example, he purchased diabetic pills for \$277.00 and is not receiving any help with the cost. His last prescription was \$108.00. The appellant feels these are special circumstances and the laws before the pandemic shouldn't be applied now. He shouldn't be penalized because of the pandemic.

Ministry

At the hearing, the ministry relied on its record and added that it requested the 2020 Notices of Assessment from the appellant to calculate eligibility for the bus pass supplement. The ministry relies on information from the Government of Canada website (below), to determine eligibility.

"The Guaranteed Income Supplement (GIS) is a monthly payment you can get if:

you are 65 or older

you live in Canada

you get the Old Age Security (OAS) pension...

your income plus the income of your spouse/common-law partner is below:

\$25,728 if your spouse/common-law partner receives the full OAS pension"

(Guaranteed Income Supplement – Overview - Canada.ca, January 19, 2022)

The ministry added that the appellant had a bus pass until December 2021, as the ministry continues the eligibility to the end of the calendar year.

The panel determined the additional information is reasonably required for a full and fair disclosure of all matters related to the decision under appeal and therefore is admissible under section 22(4) of the *Employment and Assistance Act*.

Part F – Reasons for Panel Decision

The issue on appeal is whether the ministry's reconsideration decision, which determined the appellant was not eligible for a bus pass supplement as per section 66 of the EAR was reasonably supported by the evidence or was a reasonable application of the legislation in the circumstances of the appellant.

Relevant sections of the legislation can be found in the Schedule of Legislation at the end of this decision.

Appellant Argument

The appellant argues he can't afford to buy transit tickets as he and his spouse have no income at this time. Neither the appellant nor his wife can drive. They don't own a car or any savings, and because of his disability, public transit is their only way to commute (e.g. for medical appointments and treatments).

The appellant also argues vulnerable seniors who received CERB shouldn't be penalized and impacted so negatively because of the government's help with special circumstances. Considering the government support programs have ended, inflation and no savings, it is very hard for the appellant and his wife to pay for daily expenses including food, medical, bills, etc. If the Bus Pass Program stops, they cannot afford to buy the public transit tickets and living would be very hard.

The appellant argues these are special circumstances and the laws before the pandemic shouldn't be applied now. He shouldn't be penalized because of the pandemic.

Ministry Argument

The ministry argues the appellant's request for the bus pass supplement does not meet any one of the criteria set out in Section 66(1).

The ministry also argues it is not satisfied that the appellant meets all of the federal GIS requirements except the 10-year residency requirement. Even if the appellant and his wife were both in receipt of full OAS, they would only be eligible for GIS if their combined income was less than \$25,440. As per their 2020 tax assessments, the appellant and his spouse's net income was \$42,002, which exceeds the \$25,440 threshold.

Analysis

Section 66(1), EAR, bus pass supplement

Section 66 states the minister may provide a supplement for a family 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 GIS,
- (b) is 60 or more years of age and receives income assistance, or
- (c) is 65 years of age or more and meets all of the eligibility requirements for the federal GIS, except the 10-year residency requirement.

The panel notes ministry records show a Service Canada data match confirms the appellant is not currently in receipt of GIS. Therefore, the panel finds the ministry reasonably concluded the appellant is not eligible for a bus pass supplement under section 66(1)(a) of the EAR.

The panel notes ministry records also show although the appellant is more than 60 years old, he is not in receipt of assistance. Therefore, the panel finds the ministry reasonably concluded the appellant is not eligible for a bus pass supplement under section 66(1)(b) of the EAR.

The panel notes ministry records show a Service Canada data match confirms the appellant is not currently in receipt of GIS. The panel also notes ministry records state the appellant and his wife would only be eligible for GIS if their combined income was less than \$25,440 and as per the appellant's 2020 tax assessments, their net income was \$42,002, which exceeds the \$25,440 threshold. The Government of Canada website (January 19, 2022) shows the threshold as \$25,728; however, both amounts are below their 2020 net income.

The appellant does not dispute his 2020 income. In his letter of appeal, the appellant stated his net income in 2020 was \$42,000.

The panel finds that although section 66(1)(c) does not require the 10-year residency to be met, it does require that the appellant meets all of the eligibility requirements for the federal GIS. As the panel finds the appellant's and his spouse's combined income (\$42,002) exceeded the allowable threshold for GIS eligibility (\$24,440), the panel finds the ministry reasonably concluded that the appellant is not entitled to a bus pass supplement under section 66(1)(c) of the EAR.

The panel acknowledges the appellant's difficult situation but is bound by the legislation.

Conclusion

In conclusion, the panel finds the ministry's reconsideration decision, which determined that the appellant was not eligible for a bus pass supplement under section 66 of the EAR, was a reasonable application of the legislation in the circumstances of the appellant. The appellant is not successful on appeal.

Schedule of Legislation

Employment and Assistance Act

Interpretation

1 (1) In this Act:

"applicant" means the person in a family unit who applies under this Act for income assistance, hardship assistance or a supplement on behalf of the family unit, and includes

(a) the person's spouse, if the spouse is a dependant, and

(b) the person's adult dependants;

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

"income assistance" means an amount for shelter and support provided under section 4 [income assistance and supplements];

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
Connie Simonsen

Signature of Chair

Date (Year/Month/Day)
2022/01/20

Print Name
Wendy Marten

Signature of Member

Date (Year/Month/Day)
2022/01/20

Print Name
Bill Haire

Signature of Member

Date (Year/Month/Day)
2022/01/20