

Appeal Number 2021-0250

Part C – Decision Under Appeal

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the “Ministry”) reconsideration decision (“RD”) made December 15, 2021 which held that the appellant was not eligible to receive the Bus Pass Supplement by reason that the appellant did not meet the criteria in section 66 of the Employment and Assistance Regulation (“EAR”).

Part D – Relevant Legislation

EAR Section 66(1)

The relevant legislation is provided in the Appendix

Part E – Summary of Facts**Information before the Ministry at the time of reconsideration was:**

- The appellant is not in receipt of income assistance but previously received the bus pass supplement. On September 21, 2021 the Ministry informed the appellant that he was no longer eligible for the bus pass supplement and would not be receiving a renewal application. The appellant sought a reconsideration of that decision.
- The appellant's reconsideration request included the following information:
 - He receives Old Age Security (OAS) but no longer receives the Guaranteed Income Supplement (GIS).
 - He travels a long distance to his full-time job.
 - He is an important breadwinner for his family and struggles with covering his expenses.
- A copy of a letter dated May 28, 2021 from the Canadian Immigration Office that confirms the appellant has met the requirements for eligibility as a sponsor.
- A copy of the appellant's annual mortgage statement showing mortgage information as of December 30, 2020.
- A copy of the appellant's life insurance monthly payment amount.
- A letter from Service Canada dated July 2021 indicating the appellant is no longer entitled to the GIS for the period of July 2021 to June 2022 because his income was too high, and effective July 2021 the appellant will receive only the basic OAS in the amount of \$187.95.
- Additional information provided by the appellant's advocate prior to the RD included the following (summarized):
 - Confirmation of the appellant's job and that he does excellent work.
 - The appellant is in receipt of OAS but no longer receives GIS and he works full time to support his family.
 - The appellant received the bus pass in the past and continues to require one to travel on public transportation.

With the Notice of Appeal form (NOA) dated January 13, 2022 the appellant provided a supporting letter from his employer which highlighted the same information as provided in their letter submitted at reconsideration.

The appellant attended the hearing with an advocate. The panel will refer to them as "the appellant".

At the hearing, the appellant was described as a remarkable worker who provides security and helps visitors with compassion and kindness. He is working full time, and in the past year he started getting paid for overtime work and his hours increased such that his income was too high to qualify for the GIS. He uses all his income to support his family, some of whom live outside the country. He finds it a hardship to have to use some of his income to pay for a bus pass now that he is no longer eligible for the ministry's bus pass program.

When asked by the ministry if he knew when his spouse was arriving in Canada, he indicated they did not yet have an arrival date. The ministry informed the appellant that he had the right to

apply for assistance for himself, and when his spouse arrived he had the right to apply for income assistance (IA) as a couple. The ministry explained that eligibility is based on his monthly income.

When asked if he had made an appeal to Service Canada about no longer being eligible for the GIS, the appellant indicated that he had and was informed that once his spouse arrived his eligibility for GIS would be reviewed, and it would also be reviewed based on his 2021 income tax filing.

At the hearing, the ministry relied on its reconsideration decision and emphasized that the legislation is clear regarding the need to meet certain criteria, including the requirement to be eligible for the GIS. The ministry reviewed the eligibility requirements for a bus pass listed in their denial letter of September 21, 2021 which found that the appellant did not meet any of the criteria.

Admissibility of Additional Information

The panel admits the appellant's NOA and the oral evidence given at the hearing under section 22(4) of the Employment and Assistance Act, which allows for the admission of evidence 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 on appeal is whether denying the appellant the Bus Pass Supplement because he did not meet the criteria in s.66 of the EAR was reasonably supported by the evidence or is a reasonable application of the legislation in the appellant's circumstances.

The appellant's position is he is working full time to support his family and cannot afford to pay the full cost of a bus pass now that his eligibility for the ministry's bus pass program has been taken away.

The Ministry's position is that the appellant is not entitled to a Bus Pass Supplement because he does not receive the federal Spouse's Allowance or GIS, does not receive IA and although he is over 65 years of age and has lived in Canada for more than ten years he does not meet the eligibility criteria for GIS because of his income.

Panel Decision

Section 66 of the EAR sets out the eligibility criteria 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 may be eligible as a low-income senior if the required criteria are met.

The Bus Pass Program policy also authorizes the ministry to provide the supplement to people who have Persons With Disabilities designation or receive assistance while living on reserve. None of these situations are relevant in the appellant's circumstances.

To be eligible for a Bus Pass Supplement, an applicant must receive a federal spouse's allowance, be over 60 and receiving IA, or 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)].

The appellant is over 65 years of age, has lived in Canada for over 10 years and previously qualified for the GIS, however his 2020 income made him ineligible for the GIS for the current year, which ends in June 2022. The appellant is not in receipt of IA. At least one of the criteria of section 66(1) must be met for an applicant to be eligible for the Bus Pass Supplement and the Ministry has no discretion under the legislation to provide a Bus Pass Supplement on the basis of financial need. Therefore, the panel finds the ministry was reasonable to determine the appellant is not eligible for a Bus Pass Supplement.

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 legislation. Therefore, the Ministry's decision is confirmed. The appellant is not successful in his appeal.

APPENDIX

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.

APPEAL NUMBER 2021-0250

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

Janet Ward

Signature of Chair

Date (Year/Month/Day)

2022 February 3

Print Name

Margaret Koren

Signature of Member

Date (Year/Month/Day)

2022 February 3

Print Name

Adam Shee

Signature of Member

Date (Year

2022 February 3