

**Part C – Decision Under Appeal**

The decision under appeal is the Ministry of Social Development and Poverty Reduction (ministry) reconsideration decision dated August 11, 2022, which determined the appellant was not eligible for a bus pass supplement, as per section 66(1)(a) of the Employment and Assistance Regulation because he is not in receipt of the federal Guaranteed Income Supplement.

**Part D – Relevant Legislation**

Employment and Assistance Regulation (EAR), section 66

**Part E – Summary of Facts****Relevant Evidence Before the Minister at Reconsideration****Ministry Records show:**

- The appellant is not in receipt of income assistance.
- The appellant had been receiving the bus pass supplement in the past. However, on July 13, 2022, he was notified that he did not meet the criteria for a bus pass and therefore was ineligible.

**Letter to Appellant from Service Canada (May 25, 2021)**

- advising the appellant Service Canada approved his Old Age Security (OAS) pension effective March 2022 (application dated May 4, 2021)

**Letter to Appellant from Service Canada (April 14, 2022)**

- advising the appellant Service Canada approved his Guaranteed Income Supplement (GIS) effective March 2022 based on the appellant and his spouse's income for 2020 (application dated May 4, 2021)

**Letter to Appellant from Ministry (June 28, 2022)**

The ministry stated that its records show the appellant landed in Canada on February 23, 2012 and will have completed the 10-year residency requirements for the GIS as of June 26, 2022. To continue to be eligible for the BC Bus Pass Program the appellant must be in receipt of the GIS.

The ministry advised the appellant to wait until he has received his first GIS payment, then contact the BC Bus Pass Program at the beginning of the following month to request a bus pass application.

**Email to Ministry from Appellant (July 11, 2022)**

The appellant advised the ministry that he is receiving the GIS effective March 2022 from Service Canada.

**Email to Appellant from Ministry (July 13, 2022)**

*- denying the bus pass supplement*

The ministry wrote that the appellant was not currently eligible to receive a BC Bus Pass supplement. In order to be eligible, the appellant must meet one of the following criteria:

- 18 years or older with the persons with disabilities (PWD) designation and receiving disability assistance from the province of British Columbia
- 18 years or older with the PWD designation living on a First Nations reserve and receiving assistance from the band office
- 60 years or older and the spouse of a person with the PWD designation and receiving disability assistance from the province of British Columbia
- 60 years or older and receiving income assistance from the province of British Columbia
- 60 years or older, living on a First Nations reserve and getting assistance from the band office
- 65 years or older and would qualify for the GIS but does not meet the Canadian 10-year residency rule
- receiving Old Age Security (OAS) and the GIS

- receiving the federal spousal allowance
- receiving the federal allowance for the survivor

**Letter from Appellant to Ministry (no date)**

- *in response to July 13, 2022 email from the ministry*

The appellant writes that the letter states that to be eligible for the BC Bus Pass Program, the applicant must meet one of the following criteria, which includes receiving OAS and GIS and the appellant is in receipt of OAS (letter dated May 25, 2021). As well, the appellant states he is receiving the GIS (letter dated April 14, 2022). Therefore, the appellant states it is clear he is entitled to the bus pass supplement.

**Request for Reconsideration (July 27, 2022)**

The appellant states he emigrated to Canada as a permanent resident on February 23, 2012. He was issued a bus pass, as he was older than 65 and would qualify for the GIS but did not meet the Canadian 10-year residency rule.

In a letter from the ministry (June 28, 2022), the appellant was advised to apply for the GIS by contacting Service Canada. Although the appellant had already been approved for the GIS, he reapplied. The ministry seems not to have considered that the appellant qualified for the GIS and denied the appellant a bus pass supplement.

The appellant stated that it is clear from the above that he is eligible for the BC Bus Pass Program and as such, is asking for reconsideration of the ministry decision as he believes he meets the necessary criteria.

**Additional Information**

Appellant

**Notice of Appeal (August 23, 2022)**

The appellant states that due to a delayed submission of his 2021 income tax return he is not considered as receiving the GIS.

**Submission (September 2, 2022)**

The appellant states that his bus pass supplement is being withdrawn unfairly. He was eligible from 2013 onwards and has been utilizing the bus pass since then.

He states he has fulfilled the eligibility criteria, under receiving the OAS and GIS. He is receiving OAS, is eligible for GIS, and has received these benefits for the months of March to June 2022. His GIS has been withheld from July onwards due to delayed submission of his 2021 income tax return.

The appellant states he has submitted his Statement of Income to Service Canada in addition to his 2021 income tax return to the Canada Revenue Agency (CRA). CRA has confirmed receipt of his income tax return for 2021.

The appellant states that since he meets the criteria for the GIS, Service Canada is being asked to restart the payments and he is also asking that the Bus Pass Program update their records to recheck his eligibility for the GIS from the Service Canada/CRA records.

The appellant adds that he is not utilizing his bus pass for any commercial purposes. He uses it solely for voluntary work. In fact, the delay in filing his 2021 income tax return was caused by his involvement in voluntary work, the main cause of the termination of his GIS. In view of the above the appellant requests a lenient view of this lapse and is appealing to rescind the ministry decision.

**Notice of Assessment from the Canada Revenue Agency – tax year 2021 (September 6, 2022)**

**Second Submission (September 9, 2022)**

The appellant states there has been a change in his status after submitting his 2021 income tax return. Service Canada has resumed his GIS effective July 2022.

*Letter to Appellant from Service Canada (August 31, 2022)*

The letter states Service Canada has now determined the appellant's entitlement to the GIS benefit for the period of July 2022 to June 2023. The monthly amount of the appellant's entitlement is based on the appellant's marital status and combined 2021 income.

Date of benefit change – August 2022

New Monthly amount - \$970.33

Retroactive payment- \$1,573.90

Ministry

**Submission (September 14, 2022)**

The ministry's submission was the reconsideration summary provided in the record of ministry decision.

The panel notes the second submission (September 9, 2022) was submitted after the deadline (September 2, 2022). However, the panel determined that the late submission contains additional evidence that is relevant to the issue. As well, refusal of the late submission would not permit an adequate hearing to be held and accepting the submission would not cause unreasonable delay. Therefore, the panel accepts the late submission.

The panel determined all 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 that determined the appellant was not eligible for a bus pass supplement, as per section 66(1)(a) of the EAR because he is not in receipt of the federal GIS, 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 is eligible for the BC bus pass supplement under section 66 of the EAR, which includes receiving OAS and GIS.

He received these benefits for the months of March to June 2022. His GIS was withheld from July onwards due to delayed submission of his 2021 income tax return. However, he submitted his 2021 income tax return to CRA and subsequently there was a change in his status. Service Canada has resumed his GIS effective July 2022.

### Ministry Argument

The ministry states it receives a computer data match from Service Canada to confirm if an applicant is in receipt of GIS and argues that in the appellant's case, the data match shows he is in receipt of OAS but does not indicate he receives GIS, and hasn't received GIS since May. The information required for current GIS eligibility would be based on the appellant (and his spouse's) income for 2021, which was not submitted.

The ministry argues further that it has no discretion in this matter and is unable to approve the request for a bus pass supplement at this time because there is no evidence to support that the appellant currently is receiving GIS in accordance with Section 66(1)(a) of the EAR.

The ministry adds that the appellant is welcome to reapply if he receives GIS. The information required for current GIS eligibility would be based on the appellant (and his spouse's) income for 2021, which the ministry stated was not submitted.

### Panel Analysis

#### Section 1 and 4, EAA - definitions of applicant and family

In section 1, applicant means the person in a family unit who applies for a supplement on behalf of the family and includes the person's spouse. Section 4 states, subject to the regulations, the minister may provide a supplement to a family that is eligible for it.

#### Section 66(1)(a), EAR – eligibility for bus pass supplement

Section 66(1) states the minister may provide a supplement to a family that contributes \$45 to the cost, to provide an annual pass for the personal use of a person in the family who receives the federal GIS.

The panel notes, in his first submission, the appellant states he received the GIS for the months of March to June 2022, but his GIS had been withheld from July onwards due to delayed submission of his 2021 income tax return. In the appellant's second submission, he states there had been a change in his status after submitting his 2021 income tax return. Service Canada has resumed his GIS effective July 2022.

The panel notes evidence in the form of a letter from Service Canada (August 31, 2022) states Service Canada has now determined the appellant's entitlement to the GIS benefit for the period of July 2022 to June 2023. The date of benefit change is August 2022.

Therefore, the panel finds with this new evidence, section 66(1)(a) of the EAR has now been met.

### **Conclusion**

In conclusion, the panel finds the ministry 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 available at the time. With the new evidence, the appellant is 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*];

#### **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.

### 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*] or 6 [*people receiving room and board*] 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*.

**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)

2022/09/30

Print Name

Bob Fenske

Signature of Member

Date (Year/Month/Day)

2022/09/30

Print Name

Janet Ward

Signature of Member

Date (Year/Month/Day)

2022/09/30