

Part C – Decision Under Appeal

The decision under appeal is the Ministry of Social Development and Poverty Reduction (ministry) reconsideration decision dated February 24, 2023, which determined the appellant was not eligible for a bus pass supplement, as per section 66(1) of the Employment and Assistance Regulation.

Part D – Relevant Legislation

Employment and Assistance Act (EAA), section 4

Employment and Assistance Regulation (EAR), section 66

Old Age Security Act

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

Part E – Summary of Facts

The ministry was not in attendance at the hearing. After confirming the ministry was notified, the hearing proceeded under section 86(b) of the Employment and Assistance Regulation.

Relevant Evidence Before the Minister at Reconsideration

- Ministry records show the appellant is a sole applicant of the bus pass program.
- She is over 65 years of age.

Request for Reconsideration (February 10, 2023)

In her request for reconsideration the appellant stated that she is receiving a survivor's pension under the Canada Pension Plan (CPP).

The appellant stated she is retired and volunteers through numerous organizations, providing services for seniors in her community. She takes the bus a minimum of three days a week for volunteering. During gardening season this will increase.

The appellant stated that due to her employment income in 2021, her Old Age Security (OAS) was reduced and she was also not eligible for the Guaranteed Income Supplement (GIS). She added that this will change once the 2022 tax year is finalized.

BC Bus Pass Program Online Request (no date)

In the section that asks the appellant to select one of the following options:

- "I am over 65 years old and immigrated to Canada within the last 10 years or have a 10-year residency extension
- I am living on a First Nations reserve and receive assistance from the band office. (Indigenous Services Canada)";

the appellant checked, "Neither of the above apply to me."

Letter from the Ministry to the Appellant (January 10, 2023)

The letter states that based on the information the appellant provided, she is not eligible for a bus pass at this time.

Letter from Service Canada to the Appellant (January 25, 2023)

Confirmation of the benefit amounts paid for December 2022

Canada Pension Plan

Retirement Pension \$1,416.55

Survivor's Pension \$66.23

Gross monthly CPP sub-total \$1,482.79

Old Age Security

OAS pension \$804.78

Guaranteed Income Supplement – no amount is shown

Allowance -no amount is shown

Allowance for the Survivor – no amount is shown

Gross OAS \$804.78

Total monthly deductions \$735.03

Net monthly total \$1,552.54

Additional Information

Appellant

Notice of Appeal (April 14, 2023)

The appellant writes that on the eligibility for the bus pass program it states, "receiving the federal allowance for the survivor". It does not say anything about being in receipt of GIS, which is the reason the appellant was told she was declined. She states she does receive federal survivor's CPP benefits and has supplied the form from Service Canada showing the survivor's CPP she receives.

At the hearing the appellant stated that the criteria for eligibility for the bus pass program should be stated more clearly on the application. She added that she didn't receive any correspondence from the ministry and the only communication she's had with the ministry has been in-person at a ministry office. The appellant added that she is not receiving income assistance.

The panel determined the additional information to be argument.

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) of the EAR, was reasonably supported by the evidence or was a reasonable application of the legislation in the circumstances of the appellant.

Appellant Argument

The appellant argues that on the eligibility for the bus pass program it states, "receiving the federal allowance for the survivor". It does not say anything about being in receipt of GIS, which is the reason the appellant was told she was declined. She also argues she is receiving federal survivor's CPP benefits and has supplied the form from Service Canada showing the survivor's CPP she receives.

Ministry Argument*federal spouse's allowance or GIS*

The ministry argues there is no evidence to indicate that the appellant is in receipt of the federal GIS or the federal spouse's allowance, which in the appellant's case would be the Allowance for the Survivor. The ministry argues that the CPP survivor's pension the appellant receives is not the federal spouse's allowance. The federal spouse's allowance is a benefit under the *Old Age Security Act* and is payable only to a spouse (60 to 65 years old) of an OAS/GIS pensioner. Therefore, the ministry argues the appellant's request for the bus pass supplement does not meet the criteria set out in Section 66(1)(a) of the EAR.

60 years old and receives income assistance

The ministry argues that although the appellant is at least 60 years old, she is not in receipt of income assistance and therefore her request for the bus pass supplement does not meet the criteria set out in section 66(1)(b) of the EAR.

65 years old and meets all of the federal GIS eligibility requirements except 10-year residency

Also, the ministry argues that the appellant does not meet all the federal GIS eligibility requirements except for the 10-year residency requirement and therefore the appellant's request for a bus pass supplement does not meet the criteria set out in section 66(1)(c) of the EAR.

The ministry is satisfied the appellant is currently in receipt of OAS and lives in a transportation service region.

Panel Analysis

Section 4, EAA – income assistance and supplements

Section 4 of the EAA states, subject to the regulations, the minister may provide a supplement to a family that is eligible for it. Ministry records show the appellant is a sole applicant of the bus pass program.

Section 66, EAR – eligibility for bus pass supplement

Section 66(1) of the EAR states, the minister may provide a supplement for a family unit 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 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.

a) federal spouse's allowance or federal GIS

The appellant argues she is receiving federal survivor's CPP benefits. The ministry argues that the CPP survivor's pension the appellant receives is not the "federal spouse's allowance", which is payable under the *Old Age Security Act* and is payable only to a spouse (60 to 65 years old).

The panel notes, section 19 in the *Old Age Security Act* refers to spouses' allowance and stipulates that to receive the monthly allowance, the spouse must be between 60 and 65 years of age. Ministry records show the appellant is over 65 years of age.

The panel also notes in the letter from Service Canada (January 25, 2023), under the heading "OAS", no amount is shown for GIS or for Allowance or Allowance for the Survivor.

Therefore, the panel finds the ministry reasonably determined the appellant is not in receipt of the GIS and the federal benefits the appellant is receiving are not the "federal spouse's allowance", as is required under section 66(1)(a) of the EAR.

(b) is 60 or more years of age and receives income assistance

Information received from the appellant confirmed that she is not receiving income assistance. Therefore, the panel finds the ministry reasonably determined the appellant does not meet the criteria under section 66(1)(b) of the EAR.

(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 in the BC Bus Pass Program Online Request, the appellant indicated that the statement, "I am over 65 years old and immigrated to Canada within the last 10 years or have a 10-year residency extension" did not apply to her. Therefore, the panel finds the ministry reasonably determined the appellant does not meet the criteria under section 66(1)(c) of the of the EAR.

As the panel finds the appellant does not meet any of the criteria under section 66(1) of the EAR, the panel finds the ministry reasonably determined the appellant is not eligible for a bus pass supplement.

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(1) 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

Part 2 — Assistance

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*.

Old Age Security Act

PART III

Monthly Allowances

Allowance Payable

19 (1) Subject to this Act and the regulations, an allowance may be paid to the spouse...

(b) in the case of a spouse, common-law partner or former common-law partner, has attained sixty years of age but has not attained sixty-five years of age...

APPEAL NUMBER 2023-0105

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)

2023/04/27

Print Name

Diane O'Connor

Signature of Member

Date (Year/Month/Day)

2023/04/27

Print Name

Edward Wong

Signature of Member

Date (Year/Month/Day)

2023/04/27