

Part C - Decision Under Appeal

The decision under appeal is the reconsideration decision of the Ministry of Social Development and Poverty Reduction (“Ministry”) dated May 3, 2023, in which the Ministry denied the Appellant’s request for a bus pass supplement.

Part D - Relevant Legislation

Employment and Assistance Act (“Act”), sections 4 and 22(4)
Employment and Assistance Regulation (“Regulation”), section 66

Full text of the legislation is provided in the Schedule of Legislation at the end of the Reasons.

Part E – Summary of Facts

The hearing took place in person. The Appellant attended with an Advocate who also gave evidence.

Evidence Before the Ministry at Reconsideration:

The Appellant is under 60 years old and receives income assistance under the Act as a person with persistent multiple barriers to employment (“PPMB”).

In a written statement, the Appellant said:

- He suffers from severe mobility issues that require him to use a cane at all times, and sometimes immobilize him.
- A bus pass would let him travel safely and efficiently to appointments.
- He is an extremely vulnerable individual living in a dangerous area, which makes it difficult to navigate safely in his community.
- Worrying about transit adds to his financial and mental strain.

The Appellant provided a copy of a letter his Doctor had sent to the Ministry at the reconsideration of the Appellant’s application for PPMB designation, in which the Doctor stated:

- Following a back injury, the Appellant became more dependent on alcohol for pain management, and as a result of significant ongoing use of alcohol, the Appellant has developed:
 - Severe neuralgia
 - Difficulties with balance
 - Daily numbness
 - Dysesthesia
 - Loss of sensation in his hands, legs, and feet.
- The Appellant uses a cane to mobilize safely.

The Appellant also provided a Self Report that repeats excerpts from the Doctor’s letter and provides additional details of the disabling conditions and treatment he has received since 2014. The Self Report also lists mental disabilities of Complex Post Traumatic Stress Disorder, Social and Generalized Anxiety, and Major Depression, with description of symptoms and restrictions in walking, climbing stairs and lifting.

Additional Evidence:

The Appellant provided a letter from an Advocate from a substance use recovery community centre, dated June 6, 2023, which states:

- Being able to access community activities is essential to recovery.
- If the Appellant had a bus pass, he would be able to access community activities for networking, recovery education, mental health improvement and continued recovery from substance use.

Evidence at the Hearing:

The Advocate stated:

- His organization needs its clients to be able to access services, and transportation is one of the biggest barriers to recovery, if clients cannot get to the location to access the services.
- His organization has very limited resources to help with transportation.
- Part of addiction is lack of connection, and it is hard to form connections without transportation.
- Without access to transportation, their clients lose a vital opportunity to make changes in their lives.

The Appellant stated:

- He has chronic pain that sometimes leaves him bedridden, and he must use a cane at all times.
- Working out the correct bus routes and trying to keep his trips under 90 minutes so he does not need to pay an additional fare is very stressful.
- There are about 2,800 people in the province who have PPMB designation, who all face similar challenges and need the bus pass supplement to be able to access transportation.

Admissibility of Additional Evidence:

The Ministry did not object to the admissibility of the additional evidence.

The additional written and oral evidence from the Advocate, and the additional oral evidence of the Appellant, provide further information about the reasons the Appellant says he needs the bus pass. The Panel finds that the additional evidence is reasonably necessary to determine the issues in the appeal, and therefore it 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 decision to deny the Appellant's request for a bus pass supplement is reasonably supported by the evidence or is a reasonable application of the legislation in the Appellant's circumstances.

Appellant's Position:

The Appellant says that he understands that he does not meet the criteria in the legislation to be eligible for the bus pass supplement. However, he wants to present the issue and explain what he sees as a needless difficulty in accessing transportation for a vulnerable segment of society. He maintains that, as a PPMB recipient, he, and other PPMB recipients, should be given the bus pass supplement. His reasons are:

- It can be difficult to understand the transit system, especially for people on income assistance; it is particularly difficult for him, as a relatively recent arrival in the community. With a bus pass, he would be able to navigate the transit system without worrying about incurring additional fares if he gets on the wrong bus or takes longer at an appointment.
- His medical condition affects his mobility as well as his ability to work, which makes use of transit necessary; PPMB recipients are affected by similarly restrictive medical conditions.
- It is difficult to understand and access social and medical benefit systems, for people to even know that there is a bus pass supplement, or how to apply for it.
- He has no reliable means of transportation, which is a situation common to most people.

The Appellant says that PPMB recipients need the bus pass supplement as much as those who are designated as Persons with Disabilities ("PWD"), or perhaps even more, because they receive less money for income assistance. He points out that PPMB and PWD recipients have similar needs for social connection. Therefore, the Appellant says that the Ministry should provide a bus pass supplement for PPMB recipients, as they do for PWD recipients and seniors.

Ministry's Position:

The Ministry maintains that, as the Appellant does not meet the criteria in section 66(1) of the Regulation, he is not eligible to receive the bus pass supplement. While the Ministry acknowledges the Appellant's struggles and challenges around accessing transportation, the Ministry says that eligibility for the bus pass supplement is not discretionary, and the Ministry is bound by the legislation.

Panel Decision:

Under the legislation, the Ministry is only authorized to provide the bus pass supplement to recipients of income assistance who meet one of the criteria under section 66 of the Regulation. Those criteria are:

- Receives the federal spouse's allowance or federal guaranteed income supplement;
- Is 60 or more years of age and receives income assistance under the Act;
- Is 65 years of age or more and meets all the eligibility requirements for the federal guaranteed income supplement except the 10 year residency requirement.

The Panel finds that the Appellant does not meet any of the criteria under section 66, and therefore he is not eligible to receive the bus pass supplement. The Ministry does not have discretion under the legislation to provide a supplement to a recipient who is not eligible to receive it.

The Panel understands that the Appellant would benefit from a bus pass, and that he, and others, rely on public transit to access recovery services, medical appointments, and other necessary supports. The Panel has also heard the evidence and arguments presented by the Advocate, that access to community activities is vital to addiction recovery, and his organization has very limited ability to help clients with transportation costs. While the Panel is sympathetic to the Appellant's arguments, the Panel's role is limited to determining whether the Ministry was reasonable in its determination that the Appellant is not eligible to receive the bus pass supplement.

The Panel finds that the Ministry's reconsideration decision was a reasonable application of the legislation in the Appellant's circumstances.

Conclusion:

The Panel confirms the Ministry's reconsideration decision denying the Appellant's request for a bus pass supplement. The Appellant is not successful in the appeal.

Schedule of Legislation

Employment and Assistance Act

Income assistance and supplements

s. 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.

Panels of the tribunal to conduct appeals

s. 22 (4) A panel may consider evidence that is not part of the record as the panel considers is reasonably required for a full and fair disclosure of all matters related to the decision under appeal.

Employment and Assistance Regulation

Bus pass supplement

s. 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
Susan Ferguson

Signature of Chair

Date (Year/Month/Day)
2023/06/09

Print Name
Susanne Dahlin

Signature of Member

Date (Year/Month/Day)
2023/06/09

Print Name
Katherine Wellburn

Signature of Member

Date (Year/Month/Day)
2023/06/09