

Part C – Decision Under Appeal

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the ministry) reconsideration decision dated November 7, 2023, which denied the appellant their request for a bus pass supplement as his request does not meet the criteria under Section 66 of the Employment and Assistance Regulation (“the Regulation”).

Specifically, the ministry determined Section 66(1)(a) and 66(1)(b) of the Regulation do not apply to the appellant because the appellant is not in receipt of the federal spouse’s allowance, federal guaranteed income supplement (GIS) or income assistance; nor did the appellant meet all federal GIS eligibility requirements except the 10-year residency requirement.

Part D - Relevant Legislation

Employment and Assistance Act (the Act), Section Sections 1, 4 and 24
Employment and Assistance Regulation, Section 66

Part E – Summary of Facts**Summary of key dates:**

- September 7, 2023- the appellant was advised they were not eligible for a bus pass supplement.
- October 17, 2023- the appellant submitted a Request for Reconsideration.
- November 7, 2023- the ministry completed the review of the appellant's Request for Reconsideration, the appellant was denied a bus pass supplement.

Evidence before the ministry at the time of reconsideration:

- Request for Reconsideration dated October 17, 2023, the appellant's son stated in Section 3, Reason for Request for Reconsideration:
 - The appellant does not receive the federal GIS any more.
 - The appellant will be 81 years of age 2023-12 which comes with health issues.
 - The appellant will have to use transit or the bus as walking in wintery conditions is too dangerous and taxis are too expensive.
 - They are hopeful on compassionate grounds the appellant may be given a bus pass renewal.
 - The reconsideration decision refers to a data match with Service Canada that shows the appellant receives OAS but not GIS, which the appellant has not received since June 2023.

Additional Documentation

- Appellant submission dated December 6, 2023, contained several emails between the appellant's son and the EAAT Appeal Coordinator.
- The ministry submission in response to the appellant's submission was they would rely on the summary of the Request for Reconsideration decision. In the Notice of Appeal dated November 18, 2023, the appellant stated:
- As the Employment and Assistance Appeal Tribunal (EAAT) is independent of the Ministry and pertaining laws, the EAAT should not be required to look at eligibility requirements such as provincial income assistance and/or federal guaranteed income supplement (GIS), and thus, instead, the EAAT should consider the appeal on compassionate grounds.

Admissibility of new information

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

In this case the appellant's submission was email correspondence to the Appeal Coordinator. As the information shared by the appellant did not include evidence for the appellant's appeal, the panel did not accept the information provided.

Part F – Reasons for Panel Decision

The issue under appeal is whether the ministry's determination that the appellant was ineligible for a bus pass supplement was reasonably supported by the evidence or was a reasonable application of the legislation in the circumstances of the appellant. That is, was the ministry reasonable when determining that the requirements of section 66 (1) (a) (b) or (c) of the Regulation, were not met.

Appellant's Position

The appellant and their advocate believe although the appellant does not meet the criteria of Section 66 of the Regulation, that for compassionate reasons, the independent body of the EAAT should decide in favour of granting the bus supplement.

Ministry Position

The ministry indicates the appellant is not receiving income assistance and through a data match with Service Canada has determined the appellant is not in receipt of GIS and therefore is not eligible for a bus supplement.

Panel Decision

For a person to be eligible to receive a bus pass supplement they must meet one of the three criteria set out in Section 66 (1) of the Regulation. As the appellant is not receiving the federal spouse's allowance or federal GIS as required in Section 66 (1) (a) and is not receiving income assistance as required in Section 66(1) (b), the appellant is not eligible for the bus supplement on these bases. Nor do they meet all federal eligibility requirements except the 10-year residency requirement in Section 66 (1) (c). The appellant did not dispute that he does not receive any of the benefits in Section 66 (1) (a) and (b). As well in terms of Section 66 (1) (c), apart from the 10-year requirement, the other federal requirements for receiving GIS were not met as the data match with Service Canada shows the appellant is in receipt of OAS but it does not indicate they receive GIS and they have not received GIS since June 30, 2023. Therefore, the panel finds that the ministry's determination the appellant was not eligible for a bus supplement was a reasonable application of the legislation in the circumstances of the appellant.

The panel is sympathetic to the appellant's circumstances and acknowledge that they would benefit from a bus pass supplement. Although the appellant in seeking a decision from the EAAT based on compassion, Section 24(2) (a) of the Employment and Assistance Act states the panel must confirm the decision if the panel finds that the decision being appealed is reasonably supported by the evidence or is a reasonable application of the applicable enactment in the circumstances of the person appealing the decision. As the appellant does not meet the legislation requirement of Section 66 (1) the panel

determined the ministry was reasonable in their decision.

Conclusion

The panel finds the ministry's reconsideration decision was reasonably supported by the evidence and confirms the ministry's reconsideration decision. The appellant is not successful in their appeal.

Relevant 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 the applicant's or the recipient's 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.

Decision of panel

24 (1) After holding the hearing required under section 22 (3) [*panels of the tribunal to conduct appeals*], the panel must determine whether the decision being appealed is, as applicable,

(a) reasonably supported by the evidence, or

(b) a reasonable application of the applicable enactment in the circumstances of the person appealing the decision.

(2) For a decision referred to in subsection (1), the panel must

(a) confirm the decision if the panel finds that the decision being appealed is reasonably supported by the evidence or is a reasonable application of the applicable enactment in the circumstances of the person appealing the decision, and

(b) otherwise, rescind the decision, and if the decision of the tribunal cannot be implemented without a further decision as to amount, refer the further decision back to the minister.

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*.

[am. B.C. Regs. 175/2016, App. 2; 85/2022, App. 1, s. 3.]

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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
Charles Schellinck

Signature of Chair

Date (Year/Month/Day)
2023/12/22

Print Name
Joseph Rodgers

Signature of Member

Date (Year/Month/Day)
2023/12/22

Print Name
Mary Chell

Signature of Member

Date (Year/Month/Day)
2023/12/22