

**Part C – Decision Under Appeal**

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the “ministry”) Reconsideration Decision dated July 26, 2024, which determined that the appellant was ineligible for a bus pass supplement.

Specifically, the ministry determined that the appellant was not eligible to receive a bus pass supplement because it determined that the appellant did not meet any of the criteria necessary to grant a bus pass.

**Part D – Relevant Legislation**

*Employment and Assistance for Persons Act* (“Act”) section 4.

Employment and Assistance Regulation (“Regulation”) section 66(1).

**Part E – Summary of Facts**

The hearing took place on September 9, 2024, as a written hearing.

**Evidence at the time of reconsideration**

As part of the Request for Reconsideration, the appellant submitted:

- 1) a "BC Bus Pass General Enquiry Form" dated May 22, 2024, to apply for an annual Senior's Bus pass.
- 2) An undated medical record from Revenue Canada which was apparently completed by a physician and had marks indicating the appellant had a permanently restricted mental disability as of 1991.
- 3) The appellant's 2023 CRA T4A(P) form which listed taxable CPP benefits of \$15,242.64, comprised of a \$9,985.80 "retirement benefit" and a \$5,160.72 "Survivor benefit".
- 4) The appellant's 2023 tax return summary, which listed net income of \$42,625.75
- 5) A letter from the ministry dated June 7, 2024 which stated that the appellant was "not eligible for a bus pass at this time", and included the list of criteria, none of which the ministry determined were met by the appellant.
- 6) A Request for Reconsideration which included handwritten notes which stated:
  - 1) she is 71 and receives a pension;
  - 2) she receives the "Federal Spouse's Survivor" benefit";
  - 3) her income is not enough to "sustain a motor vehicle" to get around and attend to her appointments, take her clothes to the laundry mat, and get groceries including dog food for her rescue dogs;
  - 4) she attends the Food Bank every month in order to survive; and
  - 5) she meets "Section 66 of the Assistance Regulations".

The Panel acknowledges that the record of the handwritten portion of the Request for Reconsideration is truncated and is missing some content. Both the appellant and the ministry were asked by the Tribunal to supply a more complete version of the Request for Reconsideration but a complete version was not made available to the panel.

According to the ministry's decision, which is not disputed by the appellant, the following is a chronology of events:

- 1) On June 7, 2024, the ministry advised the appellant that they did not meet any of the criteria to be eligible for the bus pass program;
- 2) On July 12, the appellant submitted a Request for Reconsideration;
- 3) The ministry completed a review of the reconsideration on July 26, 2024.

In the Reconsideration Decision, the ministry found that:

- 1) Section 66(1) of the Regulation outlines the criteria which must be met to receive a bus pass. They are as follows:
  - a. 66.1.a: you receive a federal spouse's allowance or federal GIS;
  - b. 66.1.b: you are at least 60 years old and receive income assistance; or
  - c. 66.1.c: you are at least 65 years old and meet all the GIS eligibility requirements except the 10 year residency requirement

The ministry was satisfied that the appellant received Old Age Security ("OAS") benefits. However, there was no evidence submitted that the appellant received Guaranteed Income Supplement ("GIS"). The ministry acknowledged that the appellant received CPP survivor's pension, but confirmed that this payment was "not the Allowance for the survivor", or federal spousal allowance. Based on these conclusions, the ministry determined the appellant did not meet the criteria in Section 66(1)(a) of the Regulation.

The ministry confirmed the appellant was over 60 years old, but was not in receipt of income assistance, and determined that the requirements of Section 66(1)(b) of the Regulation were not met.

The ministry confirmed that the appellant did not meet the GIS eligibility requirements and therefore did not meet the criteria outlined in Section 66(1)(c) of the Regulation.

The ministry concluded that the appellant "did not meet any of the criteria set out in Section 66(1) ... to be eligible for a bus pass supplement" and denied the appellant's request.

The appellant submitted a Notice of Appeal to the Tribunal on August 6, 2024, stating "I receive the 'CPP Survivor's Pension'. This should be equivalent to an "Allowance for the Survivor". The appellant stated that she was "struggling at this time and needs help with transportation"... "consider changing your Regulations".

### **Submissions at the hearing**

The ministry relied on the record of the ministry's Reconsideration Decision as their submission to the hearing. The appellant did not make a submission to the hearing.

Admissibility of Additional Information

The panel admitted the appellant's statements provided with the Notice of Appeal as evidence 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. No further submissions were made by the Ministry.

**Part F – Reasons for Panel Decision**

The issue on appeal is whether the ministry's Reconsideration Decision that determined 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.

Specifically, did the ministry reasonably determine that the appellant was ineligible for a supplement because she did not meet the legislated criteria?

**Ministry position**

In the decision, the ministry found that the criteria necessary to receive the bus pass supplement were not met. Specifically, the ministry determined that the appellant was not currently receiving GIS or the federal spouse's allowance, which in the appellant's case is the "Allowance of the Survivor".

**Appellant's position**

The appellant is in receipt of OAS and the "CPP Survivor's Pension", which is the equivalent to the "Allowance for the Survivor". She is struggling financially and needs help with transportation.

**Panel's reasons**

Section 4 of the *Act* states "Subject to the regulations, the minister may provide ... a supplement to ... a family unit that is eligible for it".

Section 66(1) of the Regulation provides more detailed eligibility criteria for a bus pass supplement. These include that the recipient either:

- 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.

In the Reconsideration Decision dated July 26, 2024, the ministry concluded that the appellant was not eligible for a bus pass supplement because they determined that the appellant was not currently receiving income assistance, GIS payments, or the federal spouse's allowance.

Section 66(1)(b) of the Regulation states that a bus pass supplement may only be provided to a family unit receiving various forms of income assistance. In this case, based on the evidence submitted, the appellant does not receive any kind of income assistance from the ministry.

Accordingly, the panel finds that the ministry acted reasonably in determining that the appellant does not meet this criterion.

Section 66(1)(a) and (c) of the Regulation states that a bus pass supplement can be provided to an applicant who receives GIS payments or would otherwise be eligible for GIS except they do not meet the 10 year residency requirement. In this case, based on the evidence submitted, the appellant does not receive GIS payments. The panel finds that the ministry acted reasonably in determining that the appellant does not meet these criteria based on the fact that she is not a recipient of GIS.

Section 66(1)(a) of the Regulation also includes an additional criterion: that an applicant "receive the federal spouse's allowance". The appellant states that the CPP "Survivor Benefit" should be the equivalent; the ministry states that the equivalent benefit would be called the "Allowance for the Survivor", which the appellant does not receive.

According to the Canada Revenue Agency website, the "Allowance for the Survivor" is a payment made under OAS to recipients from age 60 to 64 whose spouse has died and whose income is below the maximum threshold. The panel finds that the ministry acted reasonably in determining that the CPP survivor's benefit payment made to the appellant was not the equivalent of the OAS "Allowance for the Survivor" benefit and therefore did not meet the "federal spouse's allowance" criterium as outlined in the Regulation.

In summary, the panel finds that the appellant had not met any of the requirements provided under Section 66(1) of the Regulation. The panel finds that the ministry reasonably determined, based on the evidence provided at reconsideration, that the appellant is not eligible for the bus pass supplement according to the Regulation.

## **Conclusion**

The Regulation provides that a bus pass supplement may be provided to an applicant should all eligibility criteria be met. In this case, the appellant does not receive GIS payments of the federal spousal allowance, or any other benefits as stated under Section 66(1) . The panel finds that the ministry's Reconsideration Decision is reasonably supported by the evidence and is a reasonable application of the legislation.

The panel confirms the ministry's decision. The appellant is not successful in the appeal.

## **Schedule of Legislation**

### **Employment and Assistance Act**

#### **Section 4**

##### **Income assistance and supplements**

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**

#### **Section 66**

##### **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

Robert McDowell

Signature of Chair

Date (Year/Month/Day)

2024/09/12

Print Name

Kulwant Bal

Signature of Member

Date (Year/Month/Day)

2024/09/12

Print Name

David Handelman

Signature of Member

Date (Year/Month/Day)

2024/09/12