

Appeal Number2025-0088

Part C – Decision Under Appeal

The decision under appeal is the Ministry of Social Development and Poverty Reduction's (the "Ministry") Reconsideration Decision dated February 7, 2025, denying the Appellant's request for a bus pass supplement.

The Ministry found the Appellant was not eligible for a bus pass supplement as she did not meet one of the criteria set out in Section 66(1) of the Employment and Assistance Regulation. Specifically, for Section 66 (1) (a) of the Regulation, the Appellant did not meet the requirement of receiving the federal spouse's allowance or federal guaranteed income supplement. For Section 66 (1) (b) of the Regulation, the Ministry found the Appellant was 60 or more years of age, but she was not receiving income assistance. For Section 66 (1) (c) of the Regulation the Ministry accepts the Appellant meets the 10 years residency requirement therefore the Ministry concluded that Section 66 (1) (c) does not apply to the Appellant's situation.

Part D – Relevant Legislation

Employment and Assistance Act ("Act") Sections 1 and 4

Employment and Assistance Regulation ("Regulation") Section 66

Full text of the relevant legislation is attached at the end of the Reasons.

Part E – Summary of Facts

The hearing of this appeal took place April 7, 2025, in writing.

Background and Summary of Relevant Information

In the Ministry's Reconsideration Decision, the Ministry states the Appellant is 65 years old and is not in receipt of income assistance.

The following is a summary of the key dates and information related to this Appeal:

- On January 29, 2025, the Appellant was advised that she was not eligible for a bus pass supplement.
- On January 29, 2025, the Appellant submitted a Request for Reconsideration. In the Request for Reconsideration the Appellant included:
 - A copy of the Appellant's Old Age Security (OAS) and Guaranteed Income Supplement (GIS) Confirmation of Application.
 - A written statement explaining their reason why the Ministry was incorrect in their decision that the Appellant and their spouse were ineligible for a bus pass supplement. The Appellant stated:
 - That the Appellant and their spouse qualify for OAS and GIS and meet all the eligibility requirements for federal guaranteed income supplement except the 10 years residency requirement.
 - When the Appellant and their spouse turned 65 last year they applied for OAS and GIS. After it's approved, they will also meet section 66 (a) of the Regulation which states, "receives the federal spouse's allowance or federal guaranteed income supplement."
 - The Appellant made detailed arguments about section 66(1) (c) focussed on the question of the interpretation of "except the 10 years residency requirement".
- On February 7, 2025, the Ministry completed its reconsideration which determined the Appellant was not eligible for a bus pass supplement. In the Ministry's Reconsideration Decision, the Ministry concluded:
 - That upon review of the information provided to the Ministry by the federal government and the document from Service Canada the Appellant submitted, the Ministry was satisfied that the Appellant is currently in receipt of Old Age Security (OAS). However, the Ministry determined there was no evidence to indicate the Appellant is in receipt of the federal guaranteed supplement (GIS) or the federal spouse's allowance. Therefore, the Ministry found at this time, the Appellant's

request for the bus pass supplement does not meet the criteria set out in Section 66(1)(a) of the Regulation.

- The Ministry found the Appellant is at least 60 years old but is not in receipt of income assistance. Therefore, the Appellant's request for the bus pass supplement does not meet the criteria set out in Section 66(1)(b) of the Regulation.
- The Ministry found the Appellant's request for a bus pass supplement does not meet the criteria set out in Section 66(1)(c) of the Regulation as the ministry found the Appellant was not at least 65 years of age and met all the federal GIS eligibility requirements except for the 10 years residency requirement.
- As the Appellant does not meet any of the criteria set out in Section 66(1) of the Regulation to be eligible for a bus pass supplement, her request was denied.

Additional Evidence Submitted After Reconsideration

Notice of Appeal

- In the Notice of Appeal dated March 13, 2025, under "Reason for Appeal", the Appellant stated she does not agree with the Ministry's decision to deny her a bus pass as it was an unreasonable application of section 66 of the Regulation.
- The Appellant did not file a submission for this appeal.

Ministry Submission

- In the Ministry's submission dated March 31, 2025, the Ministry stated:
 - The Ministry confirms that according to the data match with Service Canada, Appellant is in receipt of OAS of \$218.30 monthly, as of February 2025.
 - The Appellant is not in receipt of the GIS.
 - The Ministry is satisfied the Appellant meets the 10 years residency requirement as she qualifies for OAS, and as such, the Ministry finds that Section 66(1)(c) of the Regulation does not apply to the situation of the Appellant.
 - The Appellant is ineligible for the bus pass supplement because she does not receive the GIS to be eligible as set out in Section 66(1)(a) of the Regulation.

Admissibility of New Evidence

The Panel admitted the additional evidence presented in the Ministry's submission as the explanation by the Ministry was required for a full and fair disclosure of all matters related to the decision under appeal. The Appellant did not object to the admission of the new evidence given. Therefore, the Panel finds the evidence is admissible under Section 22(4) of the *Employment and Assistance Act*.

Part F – Reasons for Panel Decision

The issue on this appeal is whether the Ministry's decision that the Appellant was not eligible to receive a bus pass supplement was reasonably supported by the evidence and, a reasonable application of section 66 of the Regulation in the circumstances of the Appellant.

Section 66 (1) of the Regulation states 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 or
- (c) is 65 years of age or more and meets all the eligibility requirements for the federal guaranteed income supplement except the 10 years residency requirement.

As Section 66 (1) (b) is not at issue, the Panel will not address this part of the legislation

Appellant's position

The Appellant believes she qualifies for a bus pass supplement and meets the criteria of section 66 (1) (a) and (c) of the Regulation. Specifically, the Appellant notes:

- For Section 66 (1) (a) of the Regulation she is receiving OAS but that her GIS application has not been completed. She believes the Ministry must engage in a hypothetical determination of eligibility for GIS.
- For Section 66 (1) (c) of the Regulation she meets the age and GIS eligibility requirements and that the "except the 10 years residency requirement" lacks clarity and should be disregarded.

Ministry's position

The Ministry found the Appellant did not meet the eligibility criteria for a bus pass supplement as required by section 66 (1) (a) (b) or (c) of the Regulation. Specifically, the Ministry notes the Appellant is ineligible for a bus pass supplement as:

- For Section 66 (1) (a) of the Regulation, evidence shows the Appellant does receive OAS but that there is no evidence the Appellant receives GIS.
- For Section 66 (1) (c) of the Regulation, as the Appellant meets the 10 years residency requirement, Section 66 (1) (c) of the Regulation does not apply to her situation.

Panel Decision

The Panel must decide whether the Ministry's Reconsideration Decision was reasonably supported by the evidence or whether it was a reasonable application of the relevant sections of the Regulation in the circumstances of the Appellant.

Section 66 (1) (a) of the Regulation "Receives the federal spouse's allowance or federal guaranteed income supplement"

The Ministry confirmed the Appellant does qualify for and is collecting OAS but, the Appellant is not in receipt of the federal GIS. The Appellant has stated they have applied for the federal GIS but that the application has not yet been approved. The Appellant believes the Ministry should do a hypothetical determination of eligibility for GIS. Section 66(1) (a) of the Regulation uses the term "receives" when referring to the federal GIS. It uses the term "eligible for" in section 66(1) (c) of the Regulation. The Oxford Advanced Learner's Dictionary defines "receive" as getting or accepting something that is sent or given to you. It can also mean coming into possession of something. There is no evidence the Appellant is getting, accepting or has come into possession of the federal GIS. If the intention was that an applicant need only be eligible for the federal GIC then it is reasonable to expect the drafters would have used that term in section 66 (1) (a) of the Regulation. They did not and there are no provisions for a hypothetical determination of GIS eligibility. Consequently, the Panel finds that the Ministry's decision that the Appellant did not meet the criteria of section 66 (1) (a) of the Regulation to receive a bus pass supplement was a reasonable application of the legislation in the circumstances of this case.

Section 66 (1) (c) of the Regulation "Is 65 years of age or more and meets all the eligibility requirements for the federal guaranteed income supplement except the 10 years residency requirement"

The Panel found the Ministry's justification in the Reconsideration Decision for determining the Appellant did not meet the criteria of Section 66 (1) (c) of the Regulation confusing as their statement notes the Appellant is not 65 years of age, which earlier the Ministry states the Appellant is 65 years of age, and that the Appellant meets all the GIS eligibility requirements except for the 10 years residency requirement. The Ministry submission adds some clarity to the reconsideration decision as the Ministry states they are satisfied the Appellant meets the 10 years residency requirement and as such, the Ministry found that Section 66 (1) (c) of the Regulation did not apply to the Appellant's situation. The Panel found that the plain reading of the language of subsection 66(1) (c) in the context of section 66 of the Regulation as a whole clearly creates a third set of circumstances where the Minister may exercise the discretion to provide a bus pass. Unlike subsections (1) (a) and (b), which require an applicant to have been a resident of Canada for 10 years, Section 66 (1) (c) of the Regulation provides an exception. A person who has not been a resident of Canada for 10 years may be provided a bus pass if i) they are at least 65 years old and ii) they meet all the eligibility requirements for the GIS. As the Ministry and Appellant agree that the Appellant meets the 10 years residency requirement, the

Panel finds that this section does not apply to the Appellant as she is not a person who has not been a resident of Canada for 10 years. Accordingly, the Panel finds the Ministry's decision that section 66 (1) (c) of the Regulation does not apply to the Appellant's situation was a reasonable application of the legislation in the circumstances of this case.

As the Appellant's request for the bus pass supplement does not meet the criteria set out in Section 66(1) (a) of the Regulation and does not meet all the criteria set out in section 66 (1) (c) of the Regulation the Panel finds the Ministry's decision to deny the Appellant a bus pass supplement was a reasonable application of the legislation in the circumstances of this case.

Concluding Decision

The Panel confirms the Ministry's Reconsideration Decision, the Appellant is not successful on appeal.

Applicable Legislation

Employment and Assistance Act

Interpretation

Section 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

Section 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

Section 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], 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.

(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.

APPEAL NUMBER 2025-0088

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)

2025/04/14

Print Name

Cecilia Low

Signature of Member

Date (Year/Month/Day)

2025/04/14

Print Name

Carla Tibbo

Signature of Member

Date (Year/Month/Day)

2025/04/14