

Appeal Number2025-0089

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 he did not meet 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 he was not receiving income assistance. For Section 66 (1) (c) of the Regulation the Ministry considered two perspectives. First in the Reconsideration Decision the Ministry determined that the if the Appellant had not been a resident for 10 years, his combined income with that of his spouse meant he would not be eligible for GIS. Second, in the Ministry's submission, the Ministry determined if the Appellant had been resident for 10 years, 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 information related to this Appeal:

- On January 29, 2025, the Appellant was advised that he 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.
 - The Appellant's 2023 Tax Assessment showing a Net Income of \$16,048.
 - The Appellant's spouse's 2023 Tax Assessment showing a Net Income of \$15,781.
 - 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 arguments put forward by 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 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) which 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 decision the Ministry concluded:
 - The Ministry determined there was no evidence to indicate the Appellant is in receipt of 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 one of the criteria set out in Section 66(1) of the Regulation to be eligible for a bus pass supplement, his 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 he does not agree with the Ministry's decision to deny him a bus pass as it was an unreasonable application of section 66 of the Regulation.

Ministry Submission

- In the Ministry's submission dated March 31, 2025, the Ministry noted:
 - The Appellant advised that they meet the 10 years residency requirement, however the Appellant did not provide evidence from Service Canada to support that they meet the 10 years residency requirement.
 - If the Appellant does meet the 10 years residency requirement, then Section 66 (1) (c) of the Regulation does not apply.
 - A review of the Appellant's bus pass file indicates that the data match with Service Canada that the Ministry receives indicates the Appellant is not in receipt of the OAS or the GIS.
 - The Appellant is ineligible for the bus pass supplement in accordance with 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.

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

Appellant's position

The Appellant submits he 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 he has applied for OAS and GIS but that his application has not been completed. He believes the Ministry must engage in a hypothetical determination of his eligibility for GIS.
- For Section 66 (1) (c) of the Regulation he says he meets the age and GIS eligibility requirements and that the "except the 10 years residency requirement" lacks clarity and should be disregarded. The Appellant also made submissions to support his position that he met the 10 years residency requirement.

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, there is no evidence the Appellant receives GIS.

- For Section 66 (1) (c) of the Regulation, the decision that the Appellant is ineligible for a bus pass supplement as he is ineligible for GIS due to his income. As well, if the Ministry accepts the Appellant's claim that he meets the 10 years residency requirement, Section 66 (1) (c) of the Regulation does not apply to his 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 through a data match with Service Canada that the Appellant is not currently in receipt of the OAS or the GIS. The Appellant has stated they have applied for 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 GIS, 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 finds that the plain reading of the language of subsection 66(1) (c) in the context of section 66 of the Regulation 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 other eligibility requirements for the GIS.

The Ministry considered eligibility for Section 66(1) (c) of the Regulation in two ways, if the appellant has not been resident for 10 years and if he has. The Panel finds the latter is straightforward, if the Appellant has been a resident for 10 years as he claims the subsection does not apply. As evidence from the Ministry notes that the CRA shows residency began in 2020, the Ministry considered whether the subsection applies if the appellant has not been resident for 10 years. The Panel finds the Ministry's determination that the Appellant would not be eligible for GIS was reasonable as the Appellant would be eligible for full OAS and as a result the Appellant's combined income with his spouse would be too high to be eligible for GIS. 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 interpretation of the evidence and 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 the eligibility requirements for the federal guaranteed income supplement except the 10 years residency requirement.

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(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.

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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)

2025/04/23

Print Name

Cecilia Low

Signature of Member

Date (Year/Month/Day)

2025/04/23

Print Name

Carla Tibbo

Signature of Member

Date (Year/Month/Day)

2025/04/23