

## **DIRECTIVE 2.2 WHO IS ELIGIBLE: DEPENDENT CHILDREN**

### **SUMMARY OF LEGISLATION**

A child is a dependent child if:

- he/she is under 18;
- he/she resides in the same home with his/her parent(s);
- the parent(s) is an ODSP applicant/recipient or his/her spouse; and
- the applicant/recipient receives the Canada Child Tax Benefit on behalf of the child or if that does not apply, has been determined by the Director to be the child's primary caregiver.

In addition, if the child is of school age, the child must be attending school. The child is exempt from the school requirement if the child is unable to attend school due to a physical or mental disability or for reasons outside his/her control.

The earnings of a dependent child are exempt as income and assets

### **LEGISLATIVE AUTHORITY**

[Sections 1\(1\); 2\(3\); 38\(3\), \(4\); and 39\(2\) of the ODSP Regulation](#)

### **SUMMARY OF DIRECTIVE**

This directive explains how to determine if a child under 18 living with his/her parents is a dependent child.

### **INTENT OF POLICY**

To ensure that the individual circumstances of a dependent child are considered when determining eligibility for ODSP and the amount of income support.

## APPLICATION OF POLICY

Children under 18 who live with their parents, and meet the definition of dependent child, are included as part of the ODSP benefit unit.

A dependent child's assets are considered when determining income support for the benefit unit. However, a dependent child's earnings are exempt as income and assets.

### Definition of a Dependent Child

A child is considered a dependent child if:

- he/she is under the age of 18;
- he/she resides with a parent who is an applicant/recipient or the applicant/recipient's spouse;
- the parent in the benefit unit:
  - receives the Canada Child Tax Benefit on behalf of the child or is eligible to receive it; or
  - is responsible for the primary care and control or shares custody of the child as determined by the Director; and
- the child is of school age:
  - attends school or a program approved by the Director; or
  - is unable to attend school because of a physical or mental disability or is too young to attend a publicly-funded educational institution; or
  - is unable to attend for reasons outside his or her control **and** the child will be attending school at the next earliest opportunity; or
  - is excused from full-time attendance under subsection 11(8) of the *Education Act* (the "early school leaving provision" allows students over age 14 to be excused from school); or
  - he/she has completed high school.

### Dependent Children in Shared Custody

Where an applicant/recipient shares physical custody of a child on an approximately equal basis, he/she may receive income support for the child only if he/she is eligible to receive the Canada Child Tax Benefit (CCTB) for that child. The applicant/recipient must provide a letter from the Canada Revenue Agency (CRA) verifying that he/she is eligible to receive the CCTB and will be receiving the CCTB on a six-month alternating basis.

In some cases CRA continues to issue the CCTB to one parent when care is equally divided. In such situations, the applicant/recipient should be advised to update CRA regarding the current custody arrangements and request that the CCTB to be split.

Where an applicant/recipient shares custody with the other parent and CRA has agreed to rotate the CCTB, income support provided on behalf of the dependent child will consist of 50% of the sole-support and age-related supplements and a full shelter amount. In addition, the child is entitled to full drug and dental coverage and other benefits.

A child will not be considered a dependent child under ODSP where the applicant/recipient is ineligible for the CCTB because CRA has determined that shared custody arrangements are not in place.

Where an applicant/recipient is ineligible for the CCTB due to immigration status (i.e. refugee claimants who have not met residency requirements), staff will undertake an assessment to determine if shared custody arrangements are in place.

The assessment should take into consideration the following:

- who the child usually resides with and where;
- to what extent if any, the applicant/recipient supervises the daily activities and needs of the child;
- whose responsibility it is to ensure that the child lives in a secure environment;
- to what degree the applicant/recipient is involved in the decision-making and arrangements for transportation to medical appointments for the child;
- to what degree the applicant/recipient is involved in the decision-making regarding participation in and transportation to, the educational, athletic or similar activities of the child;
- what the applicant/recipient does to take care of the child's needs when ill or when alternative care is required (i.e. babysitter);
- who ensures that the hygienic needs of the child are met on a regular basis; and
- to what extent does the applicant/recipient provide guidance and companionship to the child.

ODSP staff should also review current separation or divorce documents, if available, for custody provisions.

### **Dependent Children Where CCTB is not Received**

Where applicants/recipients are not in receipt of the CCTB but declare to have primary caregiver obligations, ODSP staff should advise these applicants/recipients to apply for the CCTB (with the exception of refugee claimants who are not eligible for the CCTB due to their immigration status). Applicants/recipients who may not be in receipt of the CCTB include those who:

- have a newborn child (for up to 4 months pending the processing of a CCTB application);
- are late filing their income tax and as a result have not re-qualified for CCTB; and
- have the requirement to apply for the CCTB waived where they are at risk due to family violence.

For these cases, a determination of primary care and control should be made taking into consideration the following:

- does the child reside with the applicant/recipient;
- is the applicant/recipient responsible to ensure that the child lives in a secure environment;
- is the applicant/recipient responsible for decision-making and arrangements for transportation to medical appointments for the child;
- is the applicant/recipient responsible for decision-making regarding participation in and transportation to, the educational, athletic or similar activities of the child;
- is the applicant/recipient responsible for the child's needs when ill or when alternative care is required (i.e. babysitter);
- is the applicant/recipient responsible to ensure that the hygienic needs of the child are met on a regular basis; and
- does the applicant/recipient provide guidance and companionship to the child.

The assessment criteria should be applied to the applicant/recipient and, where applicable, his or her spouse in the benefit unit.

### **School Requirements for Inclusion in Benefit Unit**

All dependent children who are of school age are included in the benefit unit if they are attending school or an approved program, or have completed high school. Attendance at school means that the child is continuing to attend school. Up to the age of 18, the

school is required by law to ensure that children are attending and making progress to the school's satisfaction.

### **Verification of School Attendance**

Effective December 20, 2006, the Ministry of Education introduced legislation which requires all students, less than 18 years of age, to be in attendance at school unless they have already graduated.

As it is the school boards' responsibility, under the *Education Act* to monitor a student's school attendance, no verification of school attendance is required. However, where information received by the ODSP office indicates that a child is not attending school (e.g. a fraud allegation, information from the school, a declaration by the parent or child), school verification may be requested.

Report cards may be used to verify attendance as determined by the school. Generally report cards are available in December, March and June of each year. If verification of attendance is required immediately to confirm eligibility, the recipient may be requested to have the School Attendance (Form 2221) completed or submit a letter from the school/program on letterhead.

### **Dependent Children Not Required to Attend School**

The school attendance requirement does not apply to children who are:

- high school graduates;
- too young to attend a publicly-funded educational institution;
- unable to attend due to severity of disability;
- unable to attend for reasons outside his or her control **and** who will be attending school at the next earliest opportunity; or
- excused from full-time attendance under subsection 11(8) of the *Education Act*. The "early school leaving provision" allows students over age 14 to be excused from school (Supervised Alternative Learning for Excused Pupils Program).
- permission to leave school early is given by a school board committee, after a review of the circumstances and an alternative plan made for the student. These plans may involve part-time attendance, attendance at night classes or participation in a correspondence course, as well as full or part-time employment.

- excused from full time attendance because he/she is caring for a dependent child and the Director is satisfied that no adequate child care is available that would permit the child to attend school.

Appropriate verification is required that a child is a person with a disability and unable to attend school (a letter from the child's doctor) or has been excused under the early school leaving provision (a letter from the last principal of the school that the child attended).

ODSP staff must determine whether the student is attending school as required, or taking at least one correspondence credit course from an institution under the *Education Act*. Details regarding a child entering the Supervised Alternative Learning for Excused Pupils Program must be assessed by ODSP staff to determine if the child is included in the benefit unit.

### **Dependent Children who have Completed High School**

Dependent children who have completed high school are considered to have met the school attendance requirements under the ODSP Regulation, and should continue to be included in the benefit unit.

After completing high school, a dependent child who does not plan to attend post-secondary school should be encouraged to access employment assistance through their local Ontario Works office. Dependent children who access employment assistance through Ontario Works, do so on a voluntary basis. There is no authority under the ODSP Regulation to compel dependent children to comply with participation requirements.

When a dependent child turns 18, he/she becomes a dependent adult with Ontario Works participation requirements. (See [Directive 2.1 Who is Eligible: Dependent Adults](#))

Dependent children with a disability, who are no longer attending secondary school, are eligible to apply for ODSP Employment Supports if they require employment assistance in order to obtain or maintain employment. Applicants must be at least 16 years of age.

### **Home Instruction**

Home Instruction can be provided by a School Board when a child is temporarily absent for medical reasons. When instruction at home is approved by the principal, the Board may provide both a teacher and an educational program as required. A dependent child receiving home instruction is included in the benefit unit.

## **Home Schooling**

Home schooling occurs when a parent educates his or her child in the home.

In order for a home schooled child to be included in the parent's benefit unit, the recipient will be required to provide a copy of the Board letter acknowledging the parent's intent to home school his/her child who is under 16. In the case of 16 and 17 year olds, a letter from the parent to the local office advising that their child is being home-schooled will suffice for the 16 and 17 year olds to meet the definition of dependent child and be included in the parent's benefit unit.

Recipients will be required to submit the Board acknowledgment letter on an annual basis as long as the dependent child under 16 is being home schooled.

## **Suspension from School**

Principals can suspend a student for a maximum of 20 days. The principal determines the length of a suspension. A student may be suspended several times in a school year. Students who are suspended are still identified on the attendance register. Where it appears that the dependent child is attempting to comply with the expectation of attendance and is on the attendance register, the child shall remain as a dependent in the benefit unit.

## **Expulsion from School and Dependent Children who Withdraw from School**

A child who has been *expelled* (i.e. may not attend any Board Program) or who has formally quit school does not qualify as a dependent child. The child should be removed from the benefit unit. No boarder charges apply in the case of children under 18.

ODSP staff must verify the date of cessation with the school authorities and calculate any overpayment that may have been incurred.

## **Summer Vacations and Semester System Schools**

A child who is on vacation but intends to continue his/her studies in September is included in the benefit unit during July and August. This policy extends to children in schools on semester systems.

A dependent child enrolled in a school on a semester system, who is unable to attend a semester for a valid reason (e.g. the required course is not offered until the following semester), but intends to enrol in the following semester, may be included in the calculation of income support. The reason for missing a semester should be confirmed with the school and documented on file along with the intention to return. Confirmation that the child did return in the semester as planned should be made at the beginning of

the semester. If a child does not return to school, he/she is removed as a member of the benefit unit.

### **Dependent Child Attending a Residential School Where Child's Needs Are Met by a Government Agency or School Away from Home**

When a dependent child is attending a residential school, where the child's needs are met by other government agencies (e.g. school for the deaf), the child is no longer considered a dependant under ODSP. The child should be removed from the recipient's benefit unit during the months that he/she is away from the family home.

However, if a child regularly returns home on weekends and holidays, the child should be included in the benefit unit. The budgetary requirements of the benefit unit may include an amount consisting 50% of the sole-support parent and age-related supplements, where applicable, and a full shelter allowance, on behalf of the dependent child. A transition child benefit is provided if eligibility criteria are met.

If the child returns home during the summer months, the income support amount may be increased to the full level. This policy also applies to cases in northern and remote communities where a child may be required to attend school in a community remote from his/her own.

### **Summer Camp**

Children who are away at summer camp should continue to be included in the benefit unit.

### **Wards of the Children's Aid Society or Crown and Children Under Temporary Care Orders**

Permanent wards of the Children's Aid Society (CAS) or of the Crown under the *Child and Family Services Act* are not eligible for social assistance. The CAS is responsible for their care.

A child under 16 who normally resides with the applicant/recipient as a dependent child, but who is taken into the temporary care of the Children's Aid Society, may continue to be included in the benefit unit provided:

- the length of stay with the Children's Aid Society is short-term;
- the plan of care is for the child's return home, and the parent is continuing to make a contribution to the child's care; and,
- the applicant/recipient can substantiate the arrangements, for example by producing a copy of the plan of care, or other confirmation from CAS.

The budgetary requirements of the benefit unit may include an amount consisting of 50% of the sole-support and age-related supplements, where applicable, and a full shelter allowance on behalf of the dependent child. A transition child benefit is provided if eligibility criteria are met. However, in cases where the Canada Child Tax Benefit (CCTB) is reassigned to the CAS, a maximum Transition Child Benefit may be issued for the period that the child is in the temporary care of CAS. When the child returns home, the recipient must re-apply for the CCTB in order to re-gain OCB eligibility.

### **Income and Assets of a Dependent Child**

All earnings or the amount paid under a training program to a dependent child are exempt as income and assets.

Assets derived from a dependent child's earnings are also exempt (e.g., savings bonds, stocks, other assets). When determining whether a benefit unit's assets are within allowable levels, assets resulting from the earnings of dependent children are not to be considered. **Note:** Other income and asset exemptions also apply to dependent children.

Dependent children 16 years of age and older, who have a disability, are eligible for ODSP Employment Supports. Employment Supports can provide employment related goods and services to assist the client to obtain and maintain employment.

Dependent children who have received an Ontario Secondary School Diploma or its equivalent are eligible to receive an Employment Start-up Benefit of up to \$500 to assist with the costs associated with preparing for employment and beginning or changing employment. (See Directive 9.1)

### **Child Support and Maintenance**

Child support and maintenance are deducted dollar for dollar from the income support for the benefit unit.

### **Dependent Child with His/Her Own Dependent Child(ren)**

Dependent children who have their own dependent children can apply for financial assistance for their dependent children through Ontario Works.

**Examples of Case Scenarios and Impact on ODSP Income Support**

	<b>Case Scenario</b>	<b>Eligibility</b>
1.	<ul style="list-style-type: none"> <li>Parents on ODSP</li> <li>17 year old</li> <li>living in parental home</li> <li>quit school</li> <li>not working</li> </ul>	<ul style="list-style-type: none"> <li>not included as part of ODSP benefit unit, because he/she quit school</li> <li>not eligible for OW financial assistance because he/she lives in parental home</li> <li>no boarder/roomer charge</li> </ul>
2.	<ul style="list-style-type: none"> <li>Parents on ODSP</li> <li>17 year old</li> <li>living in parental home</li> <li>quit school</li> <li>working full time, earns \$580 per month</li> </ul>	<ul style="list-style-type: none"> <li>not included as part of ODSP benefit unit, because he/she quit school</li> <li>no boarder/roomer charge</li> <li>accumulating time towards financial independence (to be applied when over 18 years) because income is greater than the maximum rate for a single recipient of OW in a calendar month</li> </ul>
3.	<ul style="list-style-type: none"> <li>Parents on ODSP</li> <li>17 year old</li> <li>living in a parental home</li> <li>attending school full time</li> <li>working on a casual basis after school</li> </ul>	<ul style="list-style-type: none"> <li>included as part of ODSP benefit unit, because he/she is attending secondary school</li> <li>earnings are exempt as income</li> </ul>
4.	<ul style="list-style-type: none"> <li>Parents on ODSP</li> <li>17 year old sole support mother and 2 year old child</li> <li>sole support mother not attending school because child care is not available</li> <li>living in parental home</li> </ul>	<ul style="list-style-type: none"> <li>sole support mother included as part of ODSP benefit unit</li> <li>sole support mother may apply to OW for her dependent child</li> </ul>
5.	<ul style="list-style-type: none"> <li>Parents on ODSP</li> <li>17 year old separated from common law spouse</li> <li>living in parental home</li> <li>not working</li> </ul>	<ul style="list-style-type: none"> <li>not eligible in own right for OW because individual is under 18</li> <li>must meet dependent child criteria including school requirements in order to be included in the ODSP benefit unit – if not included in the benefit unit, no boarder/roomer charge</li> <li>will qualify in own right for OW at age 18 because of spousal relationship but may elect to remain a dependent adult and be included in parent’s benefit unit; OW participation requirements apply</li> </ul>
6.	<ul style="list-style-type: none"> <li>Parents on ODSP</li> <li>17 year old single</li> <li>living in parental home</li> <li>quit school</li> <li>earning \$400 monthly</li> <li>has been working for six months</li> </ul>	<ul style="list-style-type: none"> <li>not included as part of ODSP benefit unit because quit school</li> <li>income earned is not taken into account when calculating parent’s entitlement</li> <li>no boarder/roomer charge</li> </ul>
7.	<ul style="list-style-type: none"> <li>Parents on ODSP</li> <li>17 year old single</li> <li>living in parental home</li> <li>high school graduate</li> <li>earning \$500 weekly</li> </ul>	<ul style="list-style-type: none"> <li>included in ODSP benefit unit</li> <li>earnings are exempt as income</li> <li>no boarder/roomer charge</li> </ul>

## HYPERLINKS ASSOCIATED WITH THIS POLICY DIRECTIVE

### Related Directives:

[5.14 Treatment of Canada Child Tax Benefit](#)

[5.15 Spousal and Child Support](#)

[6.1 Basic Needs Calculation](#)