

## **DIRECTIVE #3.9 DEPENDENT CHILDREN**

### **LEGISLATIVE AUTHORITY**

Sections 2, 5, 7, 8 and 10 of the Act.

Sections 1(1), 2(3), 11 and 44(2) of Regulation 134/98.

### **AUDIT REQUIREMENTS**

School attendance for dependent children is verified at application and at least once every 12 months.

Documentation is on file to support exceptions to school attendance.

### **APPLICATION OF POLICY**

A parent includes a natural or adoptive parent, as well as a person who has demonstrated a settled intention to treat a child as a child of his or her family (see Directive #3.10: Temporary Care Assistance for more information).

A child who is under the age of 18 and who lives with a parent who receives or is eligible to receive the Canada Child Tax Benefit (CCTB) on behalf of the child, or (where the CCTB criterion does not apply) is responsible for the primary care and control of the child, or shares custody of the child as determined by the Administrator, is included in the benefit unit as a dependent child.

#### ***CCTB Criterion***

The child will be included as a dependent child in the benefit unit of the parent that receives the CCTB or is eligible to receive the CCTB on behalf of the child. If an applicant or participant is eligible for the CCTB, but has not applied for the benefit on behalf of his/her child who lives with them, he/she should be referred to the Canada Revenue Agency (CRA) to make an application at the earliest opportunity.

In some cases, the CRA may determine that a child's parents share custody of the child on a more or less equal basis. In these situations, the CRA will split the CCTB between the parents for a period of six months each. In situations where the CRA decides to split the CCTB and both parents are in receipt of assistance, the child will be included as a dependent child in the benefit unit of each parent.

***Where the CCTB Criterion Does Not Apply***

Delivery agents will only undertake their own assessment of primary care and control or shared custody where the CCTB does not apply, primarily in situations where a recipient is not eligible for the CCTB due to immigration status (e.g., refugee claimants). In these situations, the Administrator should consider the following factors to determine whether or not the parent is responsible for the primary care and control of his/her child:

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

Where applicable, custody arrangements for the child may also be set out in separation or divorce documentation.

Where the Administrator determines that a parent has primary care and control of a child, the child will be included as a dependent child in his/her benefit unit. Where the Administrator determines that a shared custody situation exists and both parents are in receipt of assistance, the child will be included as a dependent child in the benefit unit of each parent.

***Assistance Paid in Shared Custody Situations***

Where a recipient shares physical custody of a child on an approximately equal basis with the other parent, both parents may receive basic financial assistance for the child.

Where recipients share custody of a dependent child, each parent will receive basic financial assistance for the child consisting of:

- 50% of the single parent and age-related supplements (where applicable);
- 50% of the Northern Allowance attributed to that child;
- full shelter amount; and
- full drug, dental and other benefits.

In situations where there are two children in the family, and the parents share custody of only one child, the parent will receive the full (100%) single parent supplement. (Note: the age-related supplement will be provided at 50% for the child in shared custody).

Where the CCTB is alternated between the parents on a six-month basis, the Transition Child Benefit (TCB) will be paid only in the six-month period that the parent is in receipt of the CCTB and where he/she is receiving less than the maximum Ontario Child Benefit (OCB).

If recipients in a shared custody situation do not receive the CCTB and therefore the OCB because of their immigration status, each parent is eligible for 50% of the maximum TCB (i.e., 50% of the monthly TCB amount is provided monthly to each parent).

### ***Children in the Care of a Children's Aid Society***

Assistance is not reduced for the month in which a child is taken into the care of a Children's Aid Society (CAS). Thereafter, a reduction in assistance should only occur after a review has been undertaken to assess whether the child should continue to be included as a dependent child in the benefit unit.

A child who is a permanent ward of a CAS is not included as a dependent child in the parental benefit unit. The CAS is responsible for the care of the child and the parent is not eligible to receive assistance for this child.

Where a child under the age of 16 has been taken into temporary care by a CAS, the child may be included as dependent child in the applicant or participant's benefit unit, and he/she may receive assistance for this child. In these situations, it is recognized that maintaining the child in the benefit unit is necessary to allow the parent to retain suitable housing for the child's planned return (see Directive #7.7: Transition Child Benefit for more information).

All aspects of a situation should be considered when determining whether or not a child who is in the temporary care of a CAS should continue to be included as a

dependent child in the benefit unit. Aspects of the situation that must be considered include, but are not limited to:

- the plan of care for the child's return home;
- the actual costs of maintaining suitable accommodation for the child's return home and for home visits for the child where appropriate;
- parental expenses related to the child in CAS care (e.g. attendance at counselling sessions); and
- the in-kind and/or other contributions made by the parents for the child's care.

The file should be reviewed every 3 months or whenever the CAS plan of care is reviewed. The parent is expected to substantiate the arrangements for the child's return and his/her parental participation by producing supporting documentation or information from the CAS.

Activities related to the plan of care for the child may be a recognized part of the parent's participation agreement (e.g., attendance at counselling sessions.)

Ontario Works delivery agents should establish local protocols with the CAS to enhance collaboration and foster strong linkages between the two programs in order to better assist children and families.

Any payments made by the CAS to a family to help prevent the admission of a dependent child to the care of a CAS are exempt as income (see Directive # 3.10: Temporary Care Assistance for more information).

### ***Summer Camp***

A child who is living away from the home while attending a summer camp is still included in the benefit unit as a dependent child.

### ***School Attendance***

The law requires that a child be attending school up to age 18 or until he/she has graduated. For the purposes of Ontario Works, all dependent children of school-age must be attending school or an approved program. Approved programs may include alternative secondary school programs, learning institutes or training programs.

Verification is required to ensure that dependent children are attending school or an approved training program. School attendance may be verified through completion of the *School Attendance* form (Form 2221), a letter on school letterhead, a current report card, the school attendance register or other official

documentation from the school or school board. School attendance should be verified at application and at least once every 12 months.

A dependent child may not be required to attend school or an approved program in certain circumstances, including:

- He/she is unable to attend school because of a physical or mental disability.
- He/she is unable to attend school for reasons outside of his/her control and the Administrator is satisfied he/she will attend school or an approved program at the earliest opportunity. For example:
  - the school board does not provide transportation to the school,
  - the dependent child is temporarily suspended from school and will be returning to school as soon as the suspension is lifted;
  - the dependent child is expelled from school and the Administrator is satisfied that efforts are being made to improve;
  - the school operates on a semester system and he/she cannot attend for a valid reason (e.g., the required course is not offered until the following semester); or
  - the dependent child is caring for his/her own dependent child and the Administrator is satisfied that adequate child care is not available to permit school attendance.
- He/she is receiving instruction at home or elsewhere as approved by the school board.
- He/she is on summer vacation and plans to resume school in the new academic year.
- He/she has completed high school prior to turning age 18 and meeting his/her participation requirements, as required by the Administrator.

If a child in a benefit unit is not attending school or a training program approved by the Administrator and no exception to the school attendance requirement applies, the child is removed from the calculation of the benefit unit's budgetary requirements. The child remains in the benefit unit and continues to be eligible for mandatory and discretionary benefits including drug, dental and vision care. Any non-exempt income of the child will continue to be included as income for the benefit unit. However, existing income exemptions, such as the full exemption of the dependent child's employment earnings, will continue to apply.

When a child returns to school or a program approved by the Administrator, the child is included as a dependent child in the calculation of assistance.

### ***Relocating from Remote Areas and Residential Schools***

In situations where a dependent child has relocated from a remote area to attend school or is attending a residential school where the child's needs are met by other government agencies (e.g., school for the deaf or child mental health facilities), he/she is not considered to be a dependent child in the benefit unit during the months away from home.

However, if the child regularly returns home (e.g., on weekends and/or holidays), he/she should continue to be included in the benefit unit. The budgetary requirements of the benefit unit must include a prorated amount for income assistance (i.e., the sole support parent supplement and the age-related supplement, where applicable) attributable to the dependent child based on his/her budgetary requirements during a return to the home, and a full amount for shelter. A TCB will be issued if the child is eligible, however, the TCB cannot be pro-rated.

A child who has left the family home in order to relocate from a remote area for the purpose of attending school is not eligible to receive assistance in his/her own right. However, the child may be included in an application as a child in temporary care if he/she is under the age of 18 (see Directive #3.10: Temporary Care Assistance for more information).

In situations of relocation for the purposes of attending school, the local school board will often provide the child with maintenance funds. These funds may nullify the need for assistance. The Administrator must also ensure that all other financial resources available to support the relocation of a student from a remote area, including funds from Indian and Northern Affairs Canada (INAC), are pursued. Payments for board and lodging from INAC or a band should be pursued for a student attending a secondary school that is not on the reserve. Such payments are exempt as income for a dependent child that is still included in the benefit unit, and for a child on whose behalf TCA is being paid.

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

All earnings or amounts paid under a training program to a dependent child are exempt as income.

Assets derived from a dependent child's earnings are also exempt (e.g., savings, bonds, stocks, other assets) when determining eligibility.

### ***Child Support and Maintenance***

Child support and/or child maintenance payments received by a parent on behalf of a dependent child are not considered to be exempt as income (see Directive #5.1: Income and Exemptions for more information).

***Dependent Child(ren) with Child(ren)***

A sole support parent under the age of 18 years who resides with his/her parent(s) is considered a dependent child and is not eligible for assistance in his/her own right. If the dependent child's parent(s) are in receipt of social assistance, the dependent child remains in the parental benefit unit.

However, a sole support parent under the age of 18 who lives with his/her parent(s) can apply for assistance on behalf of his/her own child. In these cases, assistance will be paid to a trustee on behalf of the dependent child's dependent child(ren) (see Directive #3.6: Trusteeship for more information). The amount of assistance will depend on the number of children the dependent child has, as well as other circumstances (see Directive #6.1: Calculating Assistance for more information).

A dependent child with dependent child(ren) is required to participate in the Learning Earning and Parenting (LEAP) program if he/she is 16 or 17 years old, has not completed high school, and is part of his/her parent's social assistance benefit unit (see Directive #8.2: Learning, Earning and Parenting (LEAP) for more information).