

Manitoulin-Sudbury District Services Board POLICY & PROCEDURES MANUAL	
Section: H. Ontario Works	Effective Date: July 2009
Topic: 3. Financial Assistance Eligibility	Replaces: November 2004
Subject: 3.4. Custody	
Policy No. H.3.4.	Page 1 of 3

POLICY

Authority **OW Act Sec. 2, 5, 7, 8 and 10**
OW Directives: Dir. 3.9

Ministry Directives state the definition of a dependent child for the calculation of financial assistance is:

- a child who lives with the applicant or participant or the spouse included in the applicant's or participant's benefit unit and is the child's parent
- the child resides in the same dwelling place as the applicant or participant
- the applicant, participant or spouse receives the Child Tax Benefit on behalf of the children, or is eligible to receive it, **or**
- is the parent with primary care and control of the child

SOLE CUSTODY

One parent has custody and the other parent has access. The parent with custody is responsible for comprehensive day to day care for the child. The parent with access only has a degree of control exercised on periodic or occasional visits.

JOINT CUSTODY

Joint custody occurs when both parents share the decision-making responsibilities of raising the child/ren but the primary residence remains with one of the parents and the child tax benefit goes to that parent.

SHARED OR DIVIDED CUSTODY

This is a common variation of Joint Custody which involves both parents having custody rights at certain times and access rights when the child is living with the other party.

Physical care and control alternates between the parties on a fixed schedule which may be measured in days, months or even school years.

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Section: H. Ontario Works	Effective Date: July 2009
Topic: 3. Financial Assistance Eligibility	Replaces: November 2004
Subject: 3.4. Custody	
Policy No. H.3.4.	Page 2 of 3

This particular situation depends upon the circumstances and factors such as distance, school location and what is in the best interest of the child.

In cases of split custody or shared custody confer with the FSW.

SPLIT CUSTODY

Split custody occurs when one or more child lives with each parent, i.e. in a family with two children one child lives with the father and the other child lives with the mother. Each parent usually has access rights and support is calculated on each parent's ability to pay. Case managers should confer with the FSW to have the calculations done to determine what support arrangements should be arrived at.

SITUATIONS OF SHARED OR JOINT CUSTODY WHERE ONLY ONE PARENT APPLIES FOR ASSISTANCE

The guidelines and procedures provided in the examples below apply in situations where only one parent in a Shared Custody Arrangement applies for assistance.

In all applications involving children, the Applicant must be asked if the Child Tax Benefit is received.

OWA should not be granted with the dependent child(ren) in a Joint Custody Arrangement if the participant does not receive the Child Tax Benefit for the child(ren) or cannot prove that they have primary care and control of the child(ren).

Care and control entails parental involvement in items such as:

- religious and moral instructions
- emotional responsibility
- financial responsibility
- other aspects to ensure the safety and care of the child

Example:

Mother and father have joint custody and are separately applying for Ontario Works Assistance at the same time. Are they both eligible for OWA? Is only one eligible for OWA?

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Section: H. Ontario Works	Effective Date: July 2009
Topic: 3. Financial Assistance Eligibility	Replaces: November 2004
Subject: 3.4. Custody	
Policy No. H.3.4.	Page 3 of 3

Answer:

Only one parent is eligible for OWA with the child included as a dependent - the parent who receives the Child Tax Benefit. The other parent may be eligible as a single, separated etc. without the dependent child being included on the budget.

The parent who receives the Child Tax Benefit or has primary care and control of the child is the only parent who is eligible to receive "The Back To School" and "Winter Clothing" allowances for the child. In cases of split custody or shared custody confer with the FSW.

PROCEDURE

The parent in receipt of the federal **Child Tax Benefit** will be determined to be the primary care giver. The other parent would then be considered to be a single person when calculating his/her assistance.

Where the applicant or participant is not in receipt of the Child Tax Benefit, but declares to have primary care of the child, the Case Manager should advise him/her to apply for the Child Tax Credit. If the Case Manager is reasonably sure that parent is the primary care giver, the child can be included in the family unit as a dependent child.

There are instances where **Canada Customs & Revenue Agency (Revenue Canada)** has determined that **both parents are equal primary care givers**. The Child Tax Benefit may be **split between them** and subsequently each parent receives it for six months of the year. In this case, the parent receiving the Child Tax Benefit in any given month is eligible to have the dependent child added to his/her budget.

Note: Case Managers should ensure clients have made every effort to obtain financial resources such as income tax refunds, child tax benefit and OCCSWF to warrant ongoing eligibility.

The following questionnaire must be completed to determine if the person is eligible to have the dependents added to their OW budget.

CROSS REFERENCE: SECTION 5.6. – CHILD TAX BENEFITS