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## Chapter 2: Eligibility

### (iv) Other Circumstances Affecting Eligibility

#### (c) Children in Joint Custody, Shared Living Arrangements, or the Custody/Care of Child Protection Services

<b>Intent:</b>	The intent is to clarify how living arrangements for children may impact eligibility for Income Support benefits.
<b>Act:</b> (if applicable)	N/A
<b>Regulations:</b>	N/A
<b>Overview:</b> (if applicable)	<p>The intent is to clarify how living arrangements for children can affect eligibility for Income Support benefits.</p> <p><b>Parental Joint Custody</b></p> <p>Joint custody formalizes the rights of both parents to make decisions concerning the welfare of the child(ren) and does not necessarily reflect the living arrangements of the child(ren).</p> <p><b>Types of Parenting Arrangements</b></p> <p>There are three types of parenting arrangements:</p> <ol style="list-style-type: none"> <li><b>1. Primary Living Arrangement (Sole Custody)</b> <ul style="list-style-type: none"> <li>Under this arrangement the child resides with one parent who is considered the primary caregiver</li> <li>Access by the other parent may or may not be provided in this arrangement.</li> </ul> </li> <li><b>2. Shared Living Arrangement (Shared Custody)</b> <ul style="list-style-type: none"> <li>Under this arrangement, the parents or the court decide on a shared living arrangement for the child(ren).</li> <li>The percentage may vary depending upon the agreement reached. It may be 50/50, for example where the child(ren) lives with one parent for a week and then the other parent for a week; or several months with each parent, and/or weekends with one parent and weekdays with the other.</li> </ul> </li> <li><b>3. Split Custody</b> <ul style="list-style-type: none"> <li>Under this arrangement each parent has one or more child/ren residing with them in a primary living arrangement.</li> </ul> </li> </ol>

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### **Children in Care/Custody**

There are three programs that may impact living arrangements for children:

#### **1. Youth Corrections Program**

- The Youth Corrections Program provides services to youth (between their 12<sup>th</sup> and 18<sup>th</sup> birthdays) who come into conflict with the law. Under the Youth Corrections Program, a young person may receive a custodial sentence in either an open or secure custody facility away from their family home.

#### **2. In Care/Foster Care Program**

- Parents may voluntarily transfer the care of their child, or the Court may deem a child to be in need of protective intervention and place them in the care and custody of a manager on a temporary or permanent basis.

#### **3. Kinship Services Program**

- This program provides support and financial services to relatives or significant others (kin) who are willing and capable of providing care to a child who requires an out of home living arrangement.

#### **4. Youth Services**

- This program assists young people during their transition to adulthood. Youth who were not in care on their 16<sup>th</sup> birthday and are attending a high school/equivalency program are eligible to receive services up to age 19. Youth who were in care on their 16<sup>th</sup> birthday and are attending an educational program or rehabilitative program are eligible to receive services up to age 21.
- Supports are provided to ensure the safety, health and well-being of the young person; and may include residential placement outside of family home.

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### **Policy:**

#### **General Policies:**

- The Income Support Program assumes the child(ren), included as a dependent(s), reside with the applicant/recipient who is considered the ‘primary caregiver’ on a full-time basis.
- Furthermore, it assumes the other parent considered the “non-custodial parent” is providing support payments where that parent’s income source is other than Income Support benefits.
- In cases of a split custody arrangement, where one child lives with the mother and another child lives with the father; both

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parents are to be considered as families and are entitled to family benefits and the family rate of rent.

- In situations where both parents are in receipt of Income Support and custody is 'shared' as opposed to 'split,' the intent of the Income Support Program is to maintain only one household for the dependent children. In addition:
  - Only the "primary caregiver" will receive the "family rate" of Income Support benefits including shelter.
  - The non-custodial parent with no other dependents will be assisted as a single adult.
  - All entitlement to Income Support benefits (including special needs) on behalf of the child(ren) shall be provided through the "primary caregiver."
  - There will be no adjustment to the Income Support benefits of the "primary caregiver" or the "non-custodial parent" when children live with the "non-custodial parent" for temporary periods.
- The fact that a parent who is not considered a primary caregiver has a shared custody living arrangement for his/her children would not entitle that parent to family benefits or family shelter benefits as provided under Regulation 16(1)(a)(ii).
- Transportation for children to visit non-custodial parents and return to the "primary caregiver" is the responsibility of the parents. There is no provision under the Income Support Program to cover such costs.

**Determining the 'Primary Caregiver':**

- For the purposes of determining the amount of Income Support to be issued relating to family composition, the parent who has care of the child(ren) for more than 50% of the time in a 30-day period, regardless of their financial status, is considered the "primary caregiver." The child(ren) would then be included in that parent's allowance.
- The primary caregiver is entitled to Income Support benefits based on family need and will be required to seek child support from the non-custodial parent.
- If each parent provides an equal period of care, both parents must determine which one is the "primary caregiver" by completing the Statement of Primary Caregiver. Where there is more than one child, parents may each choose to be the primary caregiver of a specific child.
- If the parents providing an equal amount of care do not designate a primary caregiver, the parent receiving the Canada

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Child Benefit (CCB) and/or the Newfoundland and Labrador Child Benefit (NLCB) is to be considered the primary caregiver.

- In some cases, it may be still impossible to designate a primary caregiver as both parents may be in receipt of Income Support benefits, have equal custody of their only child and split the CCB. To address these extenuating circumstances, staff are able to issue the Child Custody Equally Split Rate Adjustment. This benefit is to accommodate exceptional situations where a primary caregiver cannot be assigned as per the policy directive found under this section. Providing this benefit allows both parents to be considered as family units and the addition of this adjustment ensures that both families are treated equitably from a financial perspective.
- The Income Support Program has no ability to have a child or any person become active on two cases in CAPS and therefore no ability to provide a single person with family benefits. The new benefit allows the ability to top up the assistance of the parent receiving the individual benefit to the appropriate family benefit level, and therefore ensure both parents receive equal Income Support amounts.

**Recipients with Children who are in Open/Secure Custody, Youth Services Arrangements, Kinship Arrangements, In-Care or Custody:**

- As with any change in client circumstances, it is the client's responsibility to advise the Department of a change in family status (i.e. if their child is placed in open/secure custody, in a Kinship Arrangement, care or custody). This is important as:
  - an overpayment will be incurred if:
    - the child is not removed from the file to reflect a change in Income Support rates/family status (i.e. change from single parent to single person or couple with dependents to couple without dependents)
    - there are Income Support benefits attached specifically to the child (i.e. a special diet) that will need to be removed from the file.
  - There may be issues for the Newfoundland and Labrador Prescription Drug Program and MCP if the child is not removed from the drug/ambulance/dental cards.
- When a child is in care and returns to the parent's (recipient's) residence for a visit, Income Support benefits are not adjusted for the period of the visit( i.e. the family/individual and shelter

	<p>benefits). In addition, there is no eligibility for a Child Benefit Adjustment.</p> <ul style="list-style-type: none"><li>• All transportation needs, vision care, dentures, other health related matters, requests for burials etc. are the responsibility of the in-care program, not Income Support.</li><li>• Requests for household furniture (e.g. beds) may be considered in relation to the needs of the family, considering the length and frequency of visits by the child(ren) as part of a plan for the child(ren) to return home.</li><li>• Once the child (ren) is returned home permanently, a Child Benefit Adjustment can be provided immediately. Rates are to be adjusted effective from the date the child is returned home even if actual court order has yet to be rescinded.</li></ul> <p><b>Recipients who Provide Residential Care to Children who are in Open/Secure Custody, Youth Services Arrangements, Kinship Arrangements or Care and/or Custody:</b></p> <ul style="list-style-type: none"><li>• These residential programs provide financial benefits to children and youth who reside in these arrangements.</li><li>• As the Income Support Program is not responsible for the provision of financial benefits to children in the noted arrangements, children and youth should not be added to their caregiver's Income Support files.</li><li>• Payments provided to Income Support recipients for children residing in these residential arrangements are considered exempt income, as noted in the Income and Employment Support Regulation 8(a).</li></ul> <p><b>Procedure:</b></p> <p><b>The Client Services Officer should:</b></p> <ul style="list-style-type: none"><li>• Where custody is shared, obtain a signed Statement of Primary Caregiver.</li><li>• Verify which applicant/recipient is in receipt of the CCB/NLCB. <b>Note:</b> In shared custody arrangements, recipients may have their monthly CCB benefits split 50/50.</li><li>• Check Social Insurance Numbers of both parents to ensure that, if the parents are current Income Support recipients, the children are not included as dependents on both cases.</li><li>• Ensure non-custodial parents applying for Income Support are assessed as single adults based on the reason for assistance and the living arrangements as a single adult. There is no entitlement to the rate specified in Regulation 16(1)(a)(ii) or 16(1)(b)(ii) to be included in the basic Income Support benefits for the non-custodial parent.</li></ul>
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- Reassess Income Support benefits for the non-custodial parent and the primary care giver when the child is with the non-custodial parent for more than 30 days and this parent is requesting a reassessment.
  - A new Statement of Primary Caregiver is required.
  - The new primary caregiver must apply for the Newfoundland and Labrador Child Benefit and the Canada Child Benefit in order to be eligible to receive the Child Benefit Adjustment.
- Provide a Child Benefit Adjustment, if requested, as the amount issued will have to be repaid upon receipt of the lump sum payment of CCB/NLCB.
- For cases which are identified as being eligible for the **Child Custody Equally Split-Rate Adjustment**, the following procedure applies:
  - Both clients & the child(ren) must be identified and the rationale to provide the new benefit must be well documented and approval obtained by the Client Services Officer from the Client Services Manager.
  - The child must have an active role as a child and be the only child on an active Income Support case in order to be selected in this process. A reassessment must be started on the case receiving individual benefits and the Child Custody Equally Split-Rate Adjustment Benefit is selected from the special needs/other benefits list in order to top up the individual rate to the corresponding family rate by adding the new benefit.
  - The CSO must select the new benefit from the requirement screen and must determine the appropriate and correct rate for the benefit as the daily rate and semi-monthly rate are "up to" amounts (maximums).
  - The actual rate would be determined by deducting the individual rate from the family rate. For example if the client receiving the new benefit is board and lodging (B/L) with relatives, the daily rate is the difference between the current daily rate for a family of 1+1 who are B/L with relatives and the individual rate.
  - **Please note that the child will not be added to the case as a beneficiary.**
  - The client screens of both cases associated with this child will display the words "child custody case" to denote that the benefit is in use.

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- These requests must be sent to client service manager/regional manager for approval.
- Supplementary benefits requests may be completed using the new benefit when required for replacement cheques or adjustments. Each request requires that the child be selected when making the benefit eligible.
- A new report will be created to provide information on this benefit as the criteria will need to be reviewed on an ongoing basis.
- In the case of children in custody or care:
  - Ensure that family benefits (including the removal of any benefits provided specific to the young person such as special diet) are adjusted accordingly effective the date that the child went into custody/care. Likewise, benefits must be re-established/adjusted for the child effective the date of their return home.
  - Set up an overpayment on the client file in cases when the family continued to receive benefits while their child/youth was in custody/care.

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**Authority Level:** Client Services Officer

Client Service Manager/Regional Manager – Approvals for the Child Custody Equally Split-Rate Adjustment.

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