

Subject: Policy Clarifications - Food Stamps PFS14465510

Submitted:10/29/08

Agency:CAOs

Citations:

Subject: Shared Custody Issues

Would you please clarify "shared custody" as it is used in the exception listed under "Parents and a child...." in FSH 510.22. We have a father who only has his children for 2 months in the summer. Since he does share custody and the meals, parental control, etc. do not count, can he get the FS for the children throughout the year if he is the first parent to apply?

Response By: Barbara Hummel

Date:10/29/08

“Shared Custody” as used in the EXCEPTION listed under PARENTS AND A CHILD at FSH 510.22 is defined as “An order awarding shared legal or shared physical custody, or both, of a child in such a way as to assure the child of frequent and continuing contact with and physical access to both parent.” [Pennsylvania Child Custody Act of 1970 23 Pa. C.S.A. §5302] Neither Federal regulations in 7 CFR or the Food Stamp Act of 1977 defines “shared custody.” However, we could find no evidence that the intent was to require a 50/50 situation. [[PFS13936510](#), [OPS071003](#) incorporated into FSH effective 10/29/07 with last handbook revision].

A shared custody agreement established through the courts should not be confused with legal custody, partial custody, physical custody or visitation.

Shared custody situations require the child(ren) to be included in the applicant household regardless of where the majority of meals are taken in any given month.

In your case situation, the child stayed with his father in June and July. The father applied for FS benefits in October. If the child is not already part of a food stamp household, eats meals with the applicant household (even if only a few) and is in a shared custody situation, the child must be included as a mandatory member of the father’s FS household.

NOTE: The authorized parent must be informed of their responsibility to use the benefits to meet the child(ren)’s needs throughout the month, not just when the child is in the parent’s physical custody.

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