

## Section 809.46 Assessing Parent Fees

*The following rule amendments will be effective February 16, 2000.*

The Texas Workforce Commission (Commission) adopts an amendment to §809.46, concerning assessing parent fees for child care, with changes to the proposed text as published in the December 10, 1999, issue of the *Texas Register* (24 TexReg 11097).

The purpose of the amendment is to provide conformity with federal child care regulations requiring that a sliding fee scale used to assess parent fees for child care be based on family size as well as family income and that it also allows other applicable factors to be included. The amendment revises the method of determining the parent fee for child care services. The amount of the parent fee for child care is often a determining factor in a parent's ability to obtain and retain employment. By including family size in the methodology for assessing parent fees, the amendment will help ensure that a low-income working parent can become and remain self-sufficient. The amendment also helps ensure that low-income families have equal access to child care. This amendment does not relieve the local workforce development boards (Boards) from meeting Commission-approved performance targets.

The preamble to the federal regulations makes it clear that state agencies have the flexibility to take elements other than family size and gross monthly income, such as the number of children in care, into consideration when designing their fee scales. The Commission has passed this flexibility on to the Boards. The amendment requires that Boards vary the parent fee based on the number of family members and family gross monthly income, and also allows the Boards to consider the number of children in care. Specifically, the amendment provides that in areas where the Commission administers the program, the parent fee is 9% of the family's gross monthly income if there is one child receiving care, and 11% of the family's gross monthly income if there are two or more children receiving care. For families with seven or more members, the fee is 65% of the amount calculated at either 9% or 11%. Where Boards directly manage the program, they are required to vary the parent fee based on the number of members in the family and the family's gross monthly income, and they are allowed to also consider the number of children the family has in care.

One technical correction was made to the rule, the period was changed to a colon in subsection (a).

Comments were received from the North Central Texas Workforce Development Board and the Permian Basin Workforce Development Board. Both comments were favorable.

Comment: One commenter supported the amendment because it brings the Commission's child care and development rule into compliance with the federal Child Care and Development Fund (CCDF) Final Rule. The commenter indicated that the Board had already established a parent fee policy that was in compliance with the federal CCDF Final Rule.

Response: The Commission appreciates the commenter's support, both of the amendment and the purpose behind it. The Commission agrees that the amendment will bring its rule into compliance with the federal CCDF Final Rule. The Commission also recognizes and appreciates the fact that most Boards have already established parent fee policies that comply with the federal CCDF Final Rule.

Comment: Another commenter supported the amendment because it allows Boards to establish their own parent fee policies. The amendment also takes into consideration that parent fees can be a deterrent if a sizable portion of a family's net income is needed to pay the parent fee for child care. The commenter stated that assessing parent fees based on family size and the number of children in care increases the parent's ability to participate in employment-related activities.

Response: The Commission appreciates the commenter's support of the amendment and agrees that it is critical that sliding fee scales used to assess parent fees consider family size and the number of children in care as well as income in order to avoid costs that are prohibitive to low-income families.

Background: The current rule requires Boards to ensure that parent fees are assessed to all parents or caretakers based on the family's gross monthly income with a few exceptions. A family is required by federal law to share in the cost of subsidized child care unless the lead agency waives the fee pursuant to the federal regulations. The federal regulations give the states flexibility in deciding the amount of fee to charge parents and whether to waive the fee. The preamble to the federal regulations also suggests that a parent fee of 10% of family gross monthly income would ensure parent access. The preamble makes it clear that the 10% is offered as a benchmark and not a limit on the state's flexibility in deciding the amount of fees to charge parents.

The Commission intends that the amendment will recognize that high parent fees limit parental choice by encouraging parents to choose less expensive and lower quality child care or not accept the subsidy. It is the intent of the Commission to ensure that any co-payment or fee paid by the parent is affordable for the family and that the sliding fee scale not limit parental choice. The Commission intends that this amendment will help prevent disruptions of a child's care that may adversely affect the child's development.

Child care services are provided under Texas Human Resources Code, Chapter 44.

If a Board fails to comply with the provisions contained in the rule, the Board shall be subject to the sanctions as detailed in Chapter 800, Subchapter E of this title, relating to Sanctions.

The amendment to the rule is adopted under Texas Labor Code §§301.061 and 302.002, which provide the Texas Workforce Commission with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of the Commission's programs.

#### **§809.46. Assessing Parent Fees.**

(a) A Board shall assess parent fees to all parents or caretakers based on the family's size and gross monthly income, with the following exceptions:

- (1) Parents or caretakers who receive TANF are assessed no fee.
- (2) Parents or caretakers who receive Supplemental Security Income (SSI) are assessed no fee.
- (3) Parents who participate in the Food Stamp Employment and Training program are assessed no fee. Children of parents or caretakers who receive protective services are assessed no fee unless the Texas Department of Protective and Regulatory Services assesses a fee to a parent.

(b) In families where the child is the only TANF or SSI recipient, the parent fee is assessed according to subsection (d) of this section.

(c) Teen parents who live with their parents and who are not covered under exceptions outlined under subsection (a) of this section shall be assessed a parent fee. The parent fee is based solely on the teen parent's income.

(d) Parent fees for all parents not covered under exceptions outlined under subsection (a) of this section are assessed using the following formulas:

(1) In areas where the Commission manages child care service delivery contracts, the parent fee shall be 9% of the family's gross monthly income if there is one child receiving Commission paid child care and 11% of the family's gross monthly income if there are two or more children receiving Commission paid child care. For families with 7 or more members, the fee is 65% of the 9% or 11%.

(2) In areas where the Board directly manages child care service delivery contracts, it is recommended that the parent fee should be no less than 9% and no more than 15% of the family's gross monthly income. The Board shall vary the parent fee based on

the number of members in the family and the family's gross monthly income and may also vary the fee based on the number of children the family has in care. The Board shall set the actual fee policy in accordance with the requirements set forth in §809.12 of this chapter (relating to Board Policies and Plans for Child Care Services).

(e) The Board's contractor is not permitted to assess a parent fee that exceeds the cost of care.

(f) Parents who receive a child care subsidy from other state or federal programs such as the Workforce Investment Act shall pay that amount in addition to the assessed parent fee. The Board's contractor shall request documentation of child care subsidies from the parent.