

Chapter 809. CHILD CARE AND DEVELOPMENT

The Texas Workforce Commission (Commission) proposes amendments to §§809.12, 809.46, and 809.124 relating to Child Care services.

Purpose: The purpose of the amendments is to remove references to the categorical Child Care Plans that local workforce development boards (Boards) have previously submitted to the Commission, because the Commission is designing an integrated planning process to consolidate the separate plans relating to child care and workforce training and services into one integrated plan for each local workforce development area (workforce area). The Commission anticipates that the benefits of a more integrated planning process will assist Boards in coordinating and utilizing local funds in a more efficient manner.

Goals: Child Care services are provided to low-income families to create and promote long-term self-sufficiency by enabling parents to work or attend education or training activities. Such services offer affordable, accessible, and quality child care that promotes the physical, social, emotional, and intellectual development and safety of children. Recognizing that parents best understand the needs of their children, these services empower parents to make informed choices regarding child care that best suit the family's needs. The Commission also advocates improvements in the availability, affordability, and quality of child care while supporting health, safety, licensing, and regulatory standards for child care providers. The goal is to coordinate workforce services, to leverage private and public funds at the local level, and to fully integrate child care for low-income families with the network of workforce training and services under the administration of the Boards.

Integrated Plans: To assist the Boards in more fully incorporating and coordinating child care services into a comprehensive one-stop network of services provided to help low-income families as they move toward self-sufficiency by providing child care subsidies to parents to support work, training, or education, the Commission is developing an integrated planning process for Boards that would remove the need for a separate child care plan and replace that separate plan with an integrated workforce training and services plan.

Background: The purpose of the child care rules is to fully integrate child care services for low-income families with the network of workforce training and services under the administration of the Boards. Child care services are subsidized for families seeking to become independent from or who are at risk of becoming dependent on public assistance, while parents are either working or in educational or training activities.

In January 1999, the Commission adopted changes to the former child care rules for implementation by the Boards by September 1, 1999, which allowed the Boards more flexibility in tailoring the design and management of the delivery of child care services to best meet the needs of the residents and employers in the workforce areas. In preparation for implementing the changes set forth in the rules applicable on September 1, 1999, the Boards submitted specific child care plans to the Commission by July 1, 1999. In the child care plans the Boards assessed the need for child care in their individual local workforce development areas, tailored a unique plan for child care service delivery, and described a method for overseeing the delivery of this vital service to ensure families' steady transition to self-sufficiency.

The revisions to the rules in January 1999 incorporated changes necessitated by federal regulations set forth in 45 CFR Parts 98 and 99. The rules provided flexibility for the Boards to fulfill their responsibilities in meeting the needs of parents and children residing in the workforce areas. Prior to the revisions of the rules, the Commission previously set prescribed methods for compliance with federal and state statutes. The changes to the rules enhanced the ability of the Boards to develop policies and procedures for administering child care services that best fit the local needs. For example, the level of state median income for eligibility was changed to match the criteria contained in the federal regulations at 45 CFR Parts 98 and 99, which is an income limit that does not exceed 85% of the state median income for a family of the same size. Boards were able to establish local policies that set an eligible income level as equal to or lower than the 85% level. The Commission encouraged the Boards to set local policies that would use the funds in the most effective manner to assist people who are transitioning off of public assistance or who are at risk of becoming dependent on public assistance.

The enhanced flexibility afforded to the Boards ensures that Board policies maximize the use of funds by tailoring the design and management of the delivery of child care services to meet the specific needs of each workforce area. To assist the Boards in adapting to the increased flexibility provided under state law and rules, the Commission offers continued training and technical assistance to the Board members and staff regarding child care services.

Continuing Board Responsibilities: The Boards will continue to develop and maintain policies and procedures for the design and management of the delivery of child care services that address matters including, but not limited to: parent co-payments, attendance policies, eligibility procedures, service priorities, provider reimbursement rates, and other methods to utilize the funds in a manner that addresses the needs of the workforce area efficiently and

effectively. Some methods of developing these policies have included Boards examining the past practices of the Commission, examining recommended best practices, or independently tailoring policies to meet local needs. Coordinating Planning and Policies. In developing and modifying an integrated plan and local policies for the design and management of the delivery of child care services, the Boards shall seek input from the local entities as indicated in 45 CFR Parts 98 and 99, and particularly §98.14, to coordinate with state, federal, and local child care and early childhood development programs, entities responsible for public health and public education, representatives of local government, and members of the public, such as parents, employers, and providers. In addition, the Boards are required to design and manage the delivery of child care services subject to the provisions of Texas Government Code, Chapter 2308, as implemented by the Commission through 40 TAC Chapter 801 relating to Local Workforce Development Boards. Boards will continue to ensure access to child care services in their networks of one-stop centers. The Boards may continue to choose to integrate intake and eligibility with the services handled by career center operators or to obtain other contractors. Telephone access at the career centers to intake and eligibility contractors will continue to meet the requirements of Texas Government Code, Chapter 2308.251 et seq. Similarly, child care training may continue to be incorporated within other contractors' activities or separated to be performed by a different contracting entity.

The Commission continues to provide the Boards with maximum flexibility, in accordance with state and federal law and regulations, to design and manage a service mechanism that will assist the greatest number of families in accessing the most affordable, quality child care in each workforce area. In their role as policymakers, the Boards are subject to all the requirements of the Texas Open Meetings Act, thus ensuring that parents, providers, contractors and potential contractors, employers, and the public in general will have the opportunity to participate and comment on proposed child care administrative policies.

Boards will also continue to be required to follow the procedures for making changes to each Board's integrated workforce training and services plan, including the strategic and operational portions consistent with Texas Government Code, Chapter 2308 and 40 TAC Chapter 801 relating to Local Workforce Development Boards. Randy Townsend, Director of Finance, has determined that for each year of the first five years the amendments will be in effect, the following statements will apply:

There are no additional estimated costs to the state and to local governments expected as a result of enforcing or administering the amendments;

There are no estimated reductions in costs to the state and to local governments as a result of enforcing or administering the amendments;

There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the amendments;

There are no foreseeable implications relating to costs or revenue of the state or local governments as a result of enforcing or administering the amendments; and

There are no anticipated economic costs to persons required to comply with the amendments.

Mr. Townsend has also determined that there is no anticipated adverse impact on small businesses as a result of enforcing or administering the rules because small businesses are not regulated by or required to do anything by the amendments.

Mark Hughes, Director of Labor Market Information, has determined that there is no significant negative impact upon employment conditions in this state as a result of the proposed amendments.

Jean Mitchell, Director of Workforce and Development, has determined that for each year of the first five years the amendments are in effect, the public benefit anticipated as a result of enforcing the amendments will be to help ensure a more effective use of child care funds to assist Boards in supporting employment, training, and education.

Comments on the proposal may be submitted to Gary Frederick, Texas Workforce Commission Building, 101 East 15th Street, Room 440T, Austin, Texas 78778, (512) 305-9672. Comments may also be submitted via fax to (512) 463-7379 or e-mailed to: Gary.Frederick@twc.state.tx.us. Comments must be received by the Commission within thirty days from the date of the publication in the Texas Register .

Subchapter B. GENERAL MANAGEMENT REQUIREMENTS

40 TAC §809.12

The amendments to the rules are proposed 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 responsibilities.

The amendments to the rules affect Texas Labor Code, Chapter 302, and Texas Human Resources Code, Chapters 31 and 44.

§809.12. Board Planning and Policies [~~and Plans~~] for Child Care Services.

(a) Planning. A Board shall, as part of its integrated workforce training and services plan, develop, amend and modify the plan to incorporate and coordinate the design and management of the delivery of child care services with the delivery of other workforce employment, training and education services identified in Texas Government Code §2308.251 et seq., as well as other training and services included in the One-Stop Service Delivery Network. The goal is to coordinate workforce training and services, to leverage private and public funds at the local level, and to fully integrate child care for low-income families with the network of workforce training and services under the administration of the Boards. Boards shall design and manage the integrated workforce training and services plan that maximizes the delivery and availability of quality child care services to assist families seeking to become independent from or who are at risk of becoming dependent on public assistance, while parents are either working or participating in educational or training activities in accordance with state and federal statutes and regulations. ~~[A Board shall develop policies and prepare, as part of its workforce training and services plan (plan) and budget, a plan for the delivery of child care in accordance with Commission rules and guidelines. The child care delivery plan shall include evidence of coordination with federal, state, and local child care and early childhood development programs and representatives of local governments.-]~~

(b) Policies. A Board shall develop, adopt, and modify its policies for the design and management of the delivery of child care services in a public process consistent with the methods required for compliance with the Texas Open Meetings Act, Texas Government Code, Chapter 551 et seq. A Board shall maintain written copies of the policies and make such policies available to the Commission and the public upon request. A Board shall also submit any modifications, amendments, or new policies to the Commission no later than two weeks after adoption of the policy by the Board. ~~[A Board shall develop policies for child care consistent with the procedures for board plan amendments contained in §801.3 of this title (relating to Requirements for Submission of Local Workforce Training and Services Plans, Modifications and Amendments) and state and federal statutes and regulations.-]~~

(c) Coordinating Planning and Policies. A Board shall coordinate with federal, state and local child care and early development programs and representatives of local governments in developing its integrated plan and its policies for the design and management of the delivery of child care services, and shall maintain written documentation of that coordination. ~~[A board shall submit additional requirements, which would require amending the Board's plan, as amendments to the Board's plan.-]~~

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State, on March 17, 2000.

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Earliest possible date of adoption: April 30, 2000

For further information, please call: (512) 463-8812

Subchapter C. REQUIREMENTS TO PROVIDE CHILD CARE

40 TAC §809.46

The amendments to the rules are proposed 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 responsibilities.

The amendments to the rules affect Texas Labor Code, Chapter 302, and Texas Human Resources Code, Chapters 31 and 44.

§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 Planning and 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.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

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Subchapter H. CHILDREN OF PARENTS AT RISK OF BECOMING DEPENDENT ON PUBLIC ASSISTANCE
40 TAC §809.124

The amendments to the rules are proposed 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 responsibilities.

The amendments to the rules affect Texas Labor Code, Chapter 302, and Texas Human Resources Code, Chapters 31 and 44.

§809.124. Children Served by Special Projects.

(a) Special projects developed in federal and state statutes or regulations may add groups of children eligible to receive child care.

(b) The eligibility criteria as stated in the statutes or regulations shall control for the special project, unless otherwise indicated by the Commission [~~in the Board Planning Guidelines~~].

(c) Special Projects may include child care provided through match initiatives as described in 45 Code of Federal Regulations Part 98.

(d) The time limit for receiving child care for children served by special projects may be:

(1) specifically prescribed by federal or state statutes or regulations according to the particular project;

(2) otherwise set by the Commission depending on the purpose and goals of the special project; and

(3) limited to the availability of funds.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

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