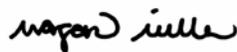


TEXAS WORKFORCE COMMISSION
Workforce Development Letter

ID/No:	WD 09-20, Change 2
Date:	May 22, 2020
Keyword:	Child Care; Natural Disaster
Effective:	Immediately

To: Local Workforce Development Board Executive Directors
Commission Executive Offices
Integrated Service Area Managers



From: Reagan Miller, Director, Child Care & Early Learning Division

Subject: **Emergency Child Care for TWC COVID-19 Essential Workers and Extension of Child Care Job Search Period During COVID-19 Emergency—*Update***

PURPOSE:

The purpose of this updated WD Letter is to provide Local Workforce Development Boards (Boards) with guidance on implementing emergency child care for essential workers and extending the job search period during the ongoing global pandemic of coronavirus disease 2019 (COVID-19).

RESCISSIONS:

WD 09-20, Change 1

BACKGROUND:

On March 24, 2020, Texas Workforce Commission's (TWC) three-member Commission (Commission) authorized TWC and Boards to implement emergency child care in response to the global pandemic of COVID-19 using its current Child Care and Development Block Grant (CCDBG) funding. The Commission's actions included the following:

- Expanding TWC's definition of children needing protective services to include children of COVID-19 Essential Workers
- Implementing a statewide modified income eligibility threshold for essential workers that require child care subsidies in order to work, pending approval of a federal waiver
- Implementing a supplemental distribution to Boards to fund direct care for workers deemed essential during the COVID-19 emergency
- Extending the three-month job search period for parents who are currently unemployed or become unemployed during the emergency

On March 27, 2020, House Resolution 748, the Coronavirus Aid, Relief, and Economic Security (CARES) Act was signed into law. This law provides an increase in CCDBG funds and authorizes states to use these funds to provide child care to COVID-19 Essential

Workers without regard to income eligibility requirements. The CARES CCDBG funds will allow Boards to begin using TWC’s modified income eligibility threshold for essential workers immediately.

On March 31, 2020, Governor Abbott issued [Executive Order GA 14](#), relating to statewide continuity of essential services and activities during the COVID-19 pandemic. This executive order limits in-person interactions and work activity outside of one’s household, except where necessary to provide or obtain essential services, and references the Cybersecurity and Infrastructure Security Agency’s (CISA) [Guidance on the Essential Critical Infrastructure Workforce: Ensuring Community and National Resilience in COVID-19](#) to identify essential workers. The guide deems that dependent care services that support workers in other essential products and services are considered essential.

On April 14, 2020, the Commission took further action to address the needs of essential workers, acknowledging child care as essential by waiving TWC Child Care Services rule §809.91(f)(1), which prohibits Boards from paying subsidies for care of a child of the owner and/or director at the owner/director’s facility.

Additionally, to provide greater clarity on eligibility for TWC COVID-19 Essential Worker child care, on May 5, 2020, the Commission approved a refined definition of “health care worker” to focus on first serving those providing services to COVID-19 patients. The Commission’s action also updated the prioritization of care for these essential workers and added other essential health care workers (based on CISA guidance) to priority 5.

PROCEDURES:

No Local Flexibility (NLF): This rating indicates that Boards must comply with the federal and state laws, rules, policies, and required procedures set forth in this WD Letter and have no local flexibility in determining whether and/or how to comply. All information with an NLF rating is indicated by “must” or “shall.”

Local Flexibility (LF): This rating indicates that Boards have local flexibility in determining whether and/or how to implement guidance or recommended practices set forth in this WD Letter. All information with an LF rating is indicated by “may” or “recommend.”

Discontinuation of TWC COVID-19 Essential Worker Child Care Program

NLF: Boards must be aware that effective May 21, 2020, new applications for TWC COVID-19 Essential Worker child care will no longer be accepted. Applications submitted by close of business May 20, 2020, will be processed, and children already in care will continue to receive services for the duration of their three-month eligibility period.

Eligibility for TWC COVID-19 Essential Worker Child Care

NLF: Boards must be aware that effective March 25, 2020, the state’s definition of “protective services” includes a new category: Children of COVID-19 Essential Workers. “Protective services” include the following categories and, due to limited funding, Boards must prioritize child care services for essential workers in the following order:

1. Workers in child care services that support workers in other essential functions

2. Pharmacy workers and COVID-19 health care workers (as defined below)
3. First responders
4. Critical infrastructure workers in grocery, utilities, and trucking
5. Other identified infrastructure workers, which include the following:
 - a. Critical state and local government staff
 - b. Mail/delivery services
 - c. Other essential health care workers (as defined under “Health Care/Public Health” in CISA’s [Guidance on the Essential Critical Infrastructure Workforce: Ensuring Community and National Resilience in COVID-19](#))
 - d. Banks
 - e. Gas stations
 - f. Military
 - g. Restaurants and other food delivery
6. Other critical occupations identified by the Board

NLF: Boards must be aware that for the purposes of prioritizing funds for essential workers, a COVID-19 health care worker is defined as follows:

One who delivers care and services to patients with confirmed, presumed, or suspected COVID-19 infections either directly as doctors and nurses or indirectly as aides, helpers, laboratory technicians, medical waste handlers, and other workers at health care facilities who have direct occupational exposure to COVID-19 resulting from the performance of their duties.

NLF: Boards must ensure that TWC COVID-19 Essential Workers meet the Commission’s approved modified state income eligibility threshold—approximately 150 percent of the state’s median income (SMI), either monthly or annually, as follows:

Family Size	TWC Threshold of Approximately 150% SMI (Monthly)	TWC Threshold of Approximately 150% SMI (Annually)
2	\$6,700	\$80,000
3	\$8,200	\$99,000
4	\$9,800	\$118,000
5	\$11,300	\$136,000
6	\$13,000	\$155,000
7	\$13,200	\$159,000
8	\$13,500	\$162,000
9	\$13,800	\$166,000
10	\$14,100	\$169,000

NOTE: TWC’s COVID-19 Essential Workers income thresholds are based on [SMI estimates published by the Administration for Children and Families](#) and are rounded to the

nearest hundred or thousand to help parents easily identify where they fall. Parents may use the monthly or annual amount to determine if they are eligible.

NLF: Boards must be aware that in accordance with provisions for children who need protective services, as defined in TWC's Child Care Services rule §809.19(a)(2)(D), TWC COVID-19 Essential Workers are exempt from parent share of cost (PSOC) requirements.

NLF: Boards must implement an expedited process to determine eligibility and enroll children of COVID-19 Essential Workers, using TWC's COVID-19 Essential Worker Child Care Enrollment Form or a locally adapted application (including simplified online applications). TWC provided each Board with a customized version of the COVID-19 Essential Worker Child Care Enrollment Form in English and Spanish.

NLF: Boards must be aware that a child is eligible for COVID-19 Essential Worker child care if the parent is currently employed as an essential worker as defined above and:

- the parent requires child care services in order to work;
- the family income is at or below 150 percent of the SMI; and
- the child:
 - is under age 13 (or under age 19 if disabled);
 - has legal citizenship or immigration status; and
 - resides with a family (including with an individual standing in loco parentis) within the Board's local workforce development area.

NLF: Boards must accept a parent's self-attestation for all eligibility criteria except for a child's legal immigration status. TWC COVID-19 Essential Workers are not required to submit documentation to verify any other aspects of eligibility.

NLF: Boards must be aware that an essential worker in a two-parent household in which the other parent is not an essential worker and is capable of caring for the child in the home does not meet the eligibility criteria of needing child care in order to work, and the parent must not be determined eligible for child care services as a TWC COVID-19 Essential Worker.

NLF: To reduce social contact and the spread of COVID-19, Boards must accept:

- electronic signatures (including forms submitted electronically with a typed name and date in the signature line and digital photographs of the enrollment form); and
- electronic documentation of a child's immigration status if applicable (for example, digital photographs of documents).

NLF: Pending approval of a federal waiver, Boards must be aware that TWC COVID-19 Essential Workers are exempt from the 12-month eligibility requirement. Boards must set up care for three months of eligibility only.

NLF: Boards must be aware that TWC COVID-19 Essential Workers are not subject to the Continuity of Care requirements described in §809.54, as follows:

- At the end of three months of TWC COVID-19 Essential Worker child care, authorization for subsidized care shall be terminated.

- Boards are not required to send eligibility redetermination packets to TWC COVID-19 Essential Workers.
- TWC COVID-19 Essential Workers whose eligibility period is ending may be added to the waiting list in accordance with the Board’s local procedures.
- If a parent no longer meets eligibility for TWC COVID-19 Essential Worker child care because the parent is no longer working, authorization for subsidized care shall be terminated. If the parent returns to work, care may be reinstated for the duration of the family’s three-month eligibility period.
- Prior to terminating care, Boards must ensure that parents receive 15-day notice of termination.

NLF: Boards must be aware that if the federal waiver is not approved, TWC will direct Boards to adjust eligibility periods for TWC COVID-19 Essential Workers to 12 months.

Child Care Program Payments

NLF: Boards must reimburse child care programs for TWC COVID-19 Essential Worker child care regardless of whether the program receives reimbursements for children who are temporarily not attending due to COVID-19. As described in WD Letter 07-20, issued on March 26, 2020, and titled “COVID-19 Child Care Services Guidance,” TWC will monitor absences monthly and will issue guidance on when this requirement must end.

LF: Boards may end reimbursement payments for closed seasonal child care providers effective on the date that the provider would normally close, according to the local school calendar.

NLF: Boards that end reimbursement payments for closed seasonal child care providers must contact the provider to verify closure and the date to end reimbursement payments.

Supplemental Funds for TWC COVID-19 Essential Workers

NLF: Boards must be aware that TWC distributed funds to Boards, as described in WD Letter 08-20, Change 1, issued on April 10, 2020, and titled “COVID-19 and Child Care Parent Share of Cost—Update” and its attachment, titled “Fiscal Year 2020 COVID-19 Child Care Supplemental Distribution.” The distribution included \$20 million for Fiscal Year 2020 Essential Child Care to fund direct care for eligible TWC COVID-19 Essential Workers.

NLF: Boards must report direct care expenditures against this \$20 million distribution for TWC COVID-19 Essential Workers in the Cash Draw and Expenditure Reporting (CDER) system under the new COVID-19 supplemental cost category, Essential Care Workers.

NLF: Boards must be aware that TWC will transfer Boards’ balance of PSOC Supplemental Payments funds to the Essential Care Workers budget line item after the Expenditures Report due May 20, 2020. Transfers will be based on the Board’s reported expenditure of funds as of the May 20, 2020, Expenditures Report. Boards must ensure that the amount reported on their PSOC Supplemental Payments expenditure line and the amount drawn from their PSOC Supplemental Payments purchase order line are the same before TWC will transfer funds.

TWIST Changes

- NLF**: Boards must be aware that TWIST has been updated to include a new Special Projects code value for COVID-19 Essential Workers (9-COVIDTX). Boards must ensure that staff uses the new Special Projects code when setting up child care services for COVID-19 Essential Workers.
- NLF**: Boards must be aware that a new Funding Contract type (COVIDTX) has been added to TWIST and associated with the new Special Projects code (9-COVIDTX), enabling Boards to track provider payments for COVID-19 Essential Workers.

Extension of Job Search Period for All Families and Disregard of Recoupments

- NLF**: Boards must be aware that in response to the COVID-19 emergency, TWC approved an extension of the job search period, as described in §809.51, for non-temporary changes in a parent's ongoing status in work that exceeds three months.
- NLF**: If a parent's job search period is scheduled to end before June 1, 2020, Boards must extend the job search period and/or activity interruption through August 2020.
- NLF**: Boards must continue to provide child care services for families experiencing non-temporary changes in a parent's ongoing status in work that exceeds three months until further guidance is issued by TWC.
- NLF**: Boards must be aware that with the exception of substantiated fraud, TWC has temporarily suspended requirements to recoup funds from parents for improper child care payments. Recoupment that is not due to substantiated fraud must not prevent a child from being eligible for TWC COVID-19 Essential Worker child care.

TWC will continue to evaluate labor market conditions and the status of the COVID-19 emergency on a monthly basis and will provide further guidance on job search periods and recoupment policies as conditions change.

Child Care Income Report and Unemployment Insurance Early Warning Report

- NLF**: Boards must suspend procedures to use the Child Care Income Report and the Unemployment Insurance (UI) Early Warning Report to identify eligibility or program violations while the policy to extend job search periods is in effect. TWC will advise Boards of when to resume using these reports.
- LF**: Boards may leverage the UI Early Warning Report to help employers that are hiring identify possible workers.

INQUIRIES:

Send inquiries regarding this WD Letter to childcare.programassistance@twc.state.tx.us.

ATTACHMENT:

Attachment 1: Revisions to WD 09-20, Change 1, Shown in Track Changes

REFERENCES:

House Resolution 748, Coronavirus Aid, Relief, and Economic Security Act

“Advisory Memorandum on Identification of Essential Critical Infrastructure Workers During COVID-19 Response.” US Department of Homeland Security Cybersecurity & Infrastructure Security Agency. Accessed April 10, 2020.

<https://www.cisa.gov/publication/guidance-essential-critical-infrastructure-workforce>

“Executive Order No. GA-14 Relating to Statewide Continuity of Essential Services and Activities During the COVID-19 Disaster.” Texas Office of the Governor | Greg Abbott.

[https://gov.texas.gov/uploads/files/press/EO-GA-](https://gov.texas.gov/uploads/files/press/EO-GA-14_Statewide_Essential_Service_and_Activity_COVID-19_IMAGE_03-31-2020.pdf)

[14_Statewide_Essential_Service_and_Activity_COVID-19_IMAGE_03-31-2020.pdf](https://gov.texas.gov/uploads/files/press/EO-GA-14_Statewide_Essential_Service_and_Activity_COVID-19_IMAGE_03-31-2020.pdf).

TWC Chapter 809 Child Care Services Rules

TWC Child Care Services Guide

[WD Letter 07-20, issued March 26, 2020, and titled “COVID-19 Child Care Services Guidance”](#)

[WD Letter 08-20, Change 2, issued April 29, 2020, and titled “COVID-19 and Child Care Parent Share of Cost—Update”](#)