

Chapter 809. Child Care.

§809.89 Parent Fee Parent Fee – Co-Pay per child.

Subchapter E. Client Eligibility Process Requirements

**40 TAC §809.89**

The Texas Workforce Commission adopts the repeal of §809.89 and new §809.89, concerning Assessing Required Parent Fees, with a non-substantive change to the proposed text as published in the December 19, 1997, issue of the *Texas Register* (22 TexReg 12476). The change reduces the cap on fees to 15% of a family's gross monthly income. The repeal is concurrent with the adoption of new §809.89.

Adopted §809.89 includes much of the language from the repealed §809.89, but also includes additional language which the Commission deems appropriate to carry out the purpose of House Bill 1863, 74th Legislature, as well as the Personal Responsibility And Work Opportunities Reconciliation Act of 1996. P.L.104-193. The new portion of the rule applies to parents who are required to pay a parent fee and who reside in areas where the child care program will be under the direct management of a Local Workforce Development Board (board) (see Texas Government Code, Ch. 2308 Subchapters F and G). The new rule gives the boards flexibility to locally set the policy for the amount of the fee. The monthly parent or caretaker fee may be set by the boards at no less than nine percent (9%) and no more than fifteen percent (15%) of gross monthly income. In areas where the Commission manages the program, the fees will remain as they were under the prior rule.

The Commission received five comments on this rule; one from an individual, two from Child Care Management Services (CCMS) contractors (West Texas Opportunities, Inc. and Child Care Management Services, Dallas County), and two from members of the State Advisory Committee on Child Care Programs. One member of the State Advisory Committee on Child Care Programs stated agreement with the rule changes, but expressed concern that allowing boards to set fees locally will establish inequity in services across the state.

The other commenters did not specifically express support for this section but expressed the comments set out herein.

Four commenters stated that a maximum parent fee amount of 20% of gross monthly income is too high for low income parents. The individual commenter suggested a limit of 15% of gross monthly income while the State Advisory Committee member and one CCMS contractor suggested a limit of 10% of gross monthly income would be more appropriate. One of the commenters pointed out that the federal Department of Health and Human Services suggests a parent fee limit of 10% of income in the preamble to the recently published proposed rules for the Child Care and Development Fund (Public Law 104-193).

In consideration of these suggestions, the Commission has amended 809.89(c)(2) in order to set out the Commission's recommendation that the boards observe a fee cap of "15% of the family's gross monthly income" in areas where the local workforce boards manage the child care program. The actual fee is left to the discretion of the board within the range suggested in the rule.

The intent of the revisions to §809.89 is to allow boards to set parent fee policies that are responsive to local conditions. Section 809.89(d)(2) requires that the board set parent fee policy in accordance with §809.4 which requires the board to obtain local comment on proposed policies prior to adopting such policies. Therefore, the Commission chooses not to make the suggested changes to §809.89.

The repeal is adopted under Texas Labor Code, §301.061, which provides that the Commission has the authority to adopt, amend, or rescind such rules as it deems necessary for the effective administration of the Act.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on February 9, 1998.

TRD-9801781

J. Randel (Jerry) Hill

General Counsel

Texas Workforce Commission

Effective date: March 1, 1998

Proposal publication date: December 19, 1997

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

The new rule is adopted under Texas Labor Code, §301.061, which provides that the Commission has the authority to adopt, amend, or rescind such rules as it deems necessary for the effective administration of the Act.

*§809.89. Assessing Required Parent Fees.*

- (a) The Child Care Management Services (CCMS) contractor must assess parent fees to all parents or caretakers based on the family's gross monthly income, with the following exception.
- (1) Parents or caretakers who receive Temporary Assistance for Needy Families (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 (FSE&T) program are assessed no fee.
  - (4) Parents or caretakers who receive Child Protective Services (CPS) are assessed no fee unless the Texas Department of Protective and Regulatory Services (TDPRS) caseworker or the CPS Family Preservations contract provider authorizes the CCMS contractor to assess fees 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 must 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 directly manages child care services, the parent fee must 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 TWC paid child care.
  - (2) In areas where the Local Workforce Development Board (LWDB) directly manages child care services, 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 LWDB must set the actual fee policy within this range in accordance with §809.4 of this title (relating to Board Procedures for Developing Additional Requirements for Child Care Services).
- (e) Parent fees for children enrolled in Independent School District (ISD) pre-kindergarten extended day programs are reduced to reflect no charge to the parent for the portion of the day that is core pre-kindergarten. The parent fee is assessed at 65% of the usual fee if the core pre-kindergarten program is three hours per day. The fee is assessed at 33% of the usual fee if the core pre-kindergarten program is more than three hours per day.
- (f) The CCMS contractor is not permitted to assess a parent fee that exceeds the cost of care.
- (g) Parents who receive a child care subsidy from other state or federal programs such as the Job Training Partnership Act must pay that amount in addition to the assessed parent fee. The CCMS contractor must request documentation of child care subsidies from the parent.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on February 9, 1998.

TRD-9801780

J. Randel (Jerry) Hill

General Counsel

Texas Workforce Commission

Effective date: March 1, 1998

Proposal publication date: December 19, 1997

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