

SUBCHAPTER E. Client Eligibility Process Requirements

40 TAC §809.89

(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Texas Workforce Commission or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas Workforce Commission proposes repeal of §809.89 concerning Assessing Required Parent Fees and new §809.89 concerning Assessing Required Parent Fees. The repeal will be concurrent with a revised §809.89 being published.

The new rule proposed concurrently with the repeal will include much of the language from the existing §809.89, but will also include additional language which the Commission deems appropriate in order to better carry out the purpose of certain legislation, i.e., House Bill 1863, 74th Legislature, as well as the Personal Responsibility And Work Opportunities Reconciliation Act of 1996, Public Law 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 (see Texas Government Code, Chapter 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 and no more than 20% of gross monthly income. In areas where the Commission manages the program, the fees will remain as they were under the prior rule.

Randy Townsend, Director of Finance, has determined that for the first five-year period the rule is in effect there will be no fiscal impact for state or local government as a result of enforcing or administering the rule.

Charlotte Brantley, Director of Child Care/Work & Family Clearinghouse, has determined that for each year of the first five years the rule is in effect, the public benefit anticipated as a result of enforcing the rule will be that the purposes of the above cited legislation will be more meaningfully effectuated in that it will provide flexibility to the boards to accommodate any unique local conditions.

There will be no effect on small business.

Ms. Brantley has further determined that there will be an anticipated economic cost to persons who are required to comply with the rule as proposed in that fees will differ between program clients based on which entity will manage the program locally. The amounts are unknown and not ascertainable at this time. All official comments submitted to Charlotte Brantley will be considered before the final rule is adopted. Comments on the proposed rule may be submitted to Charlotte Brantley, Director of Child Care/Work & Family Clearinghouse, Texas Workforce Commission Building, 101 East 15th Street, Room 416T, Austin, Texas 78778, (512) 936-3227. Comments may also be submitted via fax to Ms. Brantley at (512) 936-3223 or e-mailed to: cbrantle@twc.state.tx.us. Comments must be received by the Commission by 5:00 p.m. on January 20, 1998 for consideration. The repeal is proposed 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.

The proposed repeal affects the Texas Labor Code, Title 4.

§809.89. Assessing Required Parent Fees.

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.

Issued in Austin, Texas, on December 8, 1997.

TRD-9716442

J. Randel (Jerry) Hill

General Counsel

Texas Workforce Commission

Earliest possible date of adoption: January 20, 1998

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

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The proposed new rule affects the Texas Labor Code, Title 4.

§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 9.0% 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, the parent fee must be no less than 9.0% and no more than 20% 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 proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

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