

Chapter 800. General Administration

Subchapter B. Allocations and Funding

40 TAC §800.58

The Texas Workforce Commission (Commission) proposes new §800.58, concerning allocation of child care funds to local workforce development areas (workforce areas).

The purpose of the rule is to allow local workforce development boards (Boards) to have more flexibility in the use of funds at the local level and to allocate the funds in the most effective manner based on the needs of the workforce areas. It is the Commission's intent to allocate funds to workforce areas for the purpose of meeting and exceeding statewide performance measures as set forth in the state's General Appropriations Act.

The new rule shall be applicable to all funds distributions for child care allocations beginning in fiscal year 2000.

The current child care allocation rule at Title 40, Texas Administrative Code §800.56, shall remain applicable to the funds allocated for fiscal year 1999.

The new rule sets forth the provisions for budgeting and expending funds for child care services to the extent permitted by statutory and regulatory provisions related to the funding sources.

The Commission is committed, when possible, to allocating an amount of funds available for workforce training and services greater than the minimum level set by law.

The specific amount of funds available for allocation to workforce areas will be determined during the Commission's budgetary process. The new rule is designed to be responsive to the needs of workforce areas, changes in state and federal laws and regulations, and issues that may arise in the further management of workforce training and services by the Commission through the Boards.

The proposed new rule specifies the method the Commission will employ in carrying out the allocation of funds to the workforce areas and the use of those funds for certain child care services. The 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 Title 40, Texas Administrative Code, Chapter 800, Subchapter E, Sanctions.

The Commission has scheduled a public hearing on the proposed rule for 1:30 p.m. on November 20, 1998, in Room 644 of the Texas Workforce Commission Building at 101 East 15th Street in Austin, Texas.

Randy Townsend, Director of Finance, has determined that for each year of the first five years the rule 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 rule;

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

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

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

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

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

Sandra Smith, Acting Director of Child Care/Work and 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 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 Sandra Smith, Acting Director of Child Care/Work and Family Clearinghouse, Texas Workforce Commission Building, 101 East 15th Street, Room 526BT, Austin, Texas 78778, (512) 463-2692. Comments may also be submitted via fax to (512) 305-9182 or e-mailed to:

Sandra.Smith@twc.state.tx.us. Comments must be received by the Commission within thirty days from the date of the publication in the *Texas Register*.

The new rule is proposed under Texas Labor Code, Title 4, which provides 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 programs.

The new rule affects Texas Labor Code, Chapter 302, particularly §302.002, and Texas Human Resources Code, Chapters 31 and 44.

§800.58. Child Care Allocations.

(a) Funds available to the Commission for child care services will be allocated to the workforce areas using need-based formulas, as set forth in this section.

(b) Child Care and Development Fund (CCDF) Mandatory Funds authorized under the Social Security Act §418(a)(1), as amended, together with state general revenue Maintenance of Effort (MOE) Funds, Social Services Block Grant funds, and TANF funds appropriated for child care (excluding any amounts withheld for state-level responsibilities) will be allocated on the following basis:

(1) fifty percent will be based on the relative proportion of the total number of children under the age of five years old residing within the workforce area to the statewide total number of children under the age of five years old, and
(2) fifty percent will be based on the relative proportion of the total number of people residing within the workforce area whose income does not exceed 100% of the poverty level to the statewide total number of people whose income does not exceed 100% of the poverty level.

(c) Child Care and Development Fund (CCDF) Matching Funds authorized under the Social Security Act §418(a)(2), as amended, together with state general revenue matching funds and estimated appropriated receipts of donated funds, will be allocated according to the relative proportion of children under the age of 13 years old residing within the workforce area to the statewide total number of children under the age of 13 years old.

(d) Child Care and Development Fund (CCDF) Discretionary Funds authorized under the Child Care and Development Block Grant Act of 1990 §658B, as amended, will be allocated according to the relative proportion of the total number of children under the age of 13 years old in families whose income does not exceed 150% of the poverty level residing within the workforce area to the statewide total number of children under the age of 13 years old in families whose income does not exceed 150% of the poverty level.

(e) For Food Stamp Employment and Training child care, funds will be allocated among workforce areas on the basis of the relative proportion of the total number of children aged 6-12 years in households of mandatory food stamp work registrants residing within the workforce area to the statewide total number of children aged 6-12 years in households of mandatory food stamp work registrants.

(f) The following provisions apply to the funds allocated in subsections (b) - (d) of this section:

(1) No more than 5% of the total expenditure of funds may be used for administrative costs as defined in federal regulations contained in 45 Code of Federal Regulations §98.52, as may be amended.

(2) At least 4.0% of the total expenditure of funds must be used for activities to improve the quality of child care as defined in federal regulations contained in 45 Code of Federal Regulations §98.51, as may be amended. At the local workforce development board's (Board) discretion, more than 4.0% of the expenditures may be used for these activities.

(3) Transitional clients who are eligible for child care for their children and Choices clients who are eligible for child care for their children shall be served on a priority basis to enable parents to participate in work, education, or training activities.

(4) The percentage of the total expenditure of the funds allocated for child care that is expended in direct child care services in fiscal year 2000 and all succeeding fiscal years, shall equal, or exceed, the percentage of the total expenditure of funds allocated for child care that was expended for direct child care services in fiscal year 1999.

(5) The Board shall comply with any additional requirements adopted by the Commission or contained in the Board contract.

(g) The provisions in this section shall be applicable to allocations for child care beginning in fiscal year 2000.

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 October 30, 1998.

TRD-9816891

J. Randel (Jerry) Hill

General Counsel

Texas Workforce Commission

Earliest possible date of adoption: December 13, 1998

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