

## Section 800.56. Child Care Services

Part XX. Texas Workforce Commission  
Chapter 800. General Administration  
Subchapter B. Allocations and Funding  
40 TAC §800.56

The Texas Workforce Commission (Commission) adopts amendments to §800.56, concerning allocation of child care funds to local workforce development areas (workforce areas) without changes to proposed text as published in the October 23, 1998, issue of the Texas Register (23 TexReg 10862). The adopted text will not be republished here.

The child care services are provided under Texas Human Resources Code Chapter 44. The adopted rule amendments specify the method the Commission will employ in carrying out the allocation of funds to the workforce areas and the use of those funds provided for in Texas Labor Code, §302.062, for certain child care. The amendments set forth the provisions for budgeting and expending funds for the different types of child care clients to the extent permitted by statutory and regulatory provisions related to the funding sources.

The purpose of the amendments is to allow local workforce development boards (Boards) to have more flexibility in the use of funds at the local level. 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 General Appropriations Act.

The purpose of the change of the language from "75% of the state median income" to "150% of the federal poverty guidelines" is to utilize the federal poverty level indicators instead of the state median income levels as the mechanism for targeting At-Risk children for child care services in areas of desperate need. The use of the 75% of the state median income level instead of 150% of the federal poverty guidelines to determine allocations to local workforce development areas results in a shifting of funds away from areas of the state that have substantial numbers of children living below or near the poverty level. Use of the state median income level instead of the federal poverty guidelines could result in parents leaving employment to care for children or having to leave their children in unsafe situations, such as unsupervised care, in order to maintain employment.

The "federal poverty guidelines" are formally referenced as "the poverty guidelines updated annually in the Federal Register by the U.S. Department of Health and Human Services under authority of §673(2) of the Omnibus Budget Reconciliation Act of 1981" or as may be amended.

The "state median income" is published in the 1990 US Census Data, which contains the 1989 median family income data.

The specific amount of funds available for allocation to workforce areas will be determined during the Commission's budgetary process. The amendments are 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 Commission held a public hearing on the proposed rule on November 20, 1998, in Room 644 of the TWC Building at 101 East 15th Street in Austin, Texas.

The Commission received one comment on the rule from the North Central Texas Workforce Board, which was in support of the amendments.

The commenter supported the usage of 150% of the federal poverty level as well as the caveat that funds allocated for Food Stamps Employment and Training may not be used for any other purpose. Further, the commenter supported giving flexibility to the Boards for the prioritization of funding areas as well as the ability to move care dollars to operations in proportion to the increase in the number of children served. Finally, the commenter supported the Board being

given the responsibility of assuring that no more than 5% of the total expenditure of funds are used for operations/administration expenses as per federal regulations contained in 45 Federal Register 39989, §98.52.

The Commission appreciates the comment and agrees.

The amendments are adopted 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's programs.

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 December 3, 1998.

TRD-9818123

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Effective date: December 23, 1998

Proposal publication date: October 23, 1998

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