

1 **CHAPTER 809. CHILD CARE SERVICES**

2
3 **ADOPTED RULES TO BE PUBLISHED IN THE *TEXAS REGISTER*. THIS**
4 **DOCUMENT WILL HAVE NO SUBSTANTIVE CHANGES BUT IS SUBJECT TO**
5 **FORMATTING CHANGES AS REQUIRED BY THE OFFICE OF THE SECRETARY**
6 **OF STATE.**
7

8 The Texas Workforce Commission (TWC) adopts amendments to the following sections of
9 Chapter 809, relating to Child Care Services:

10
11 Subchapter A. General Provisions, §809.1 and §809.2

12 Subchapter C. Eligibility for Child Care Services, §809.43
13

14 Amended §§809.1 and 809.43 are adopted *without changes* to the proposal, as published in the
15 September 5, 2025, issue of the *Texas Register* (50 TexReg 5888), and, therefore, the adopted
16 rule text will not be published.
17

18 Amended §809.2 is adopted *with changes* to the proposed text as published, and therefore the
19 adopted rule text will be published.
20

21 **PART I. PURPOSE, BACKGROUND, AND AUTHORITY**

22 The purpose of the amendments to Chapter 809 is to improve the efficiency and delivery of child
23 care services and allow TWC's three-member Commission (Commission) flexibility to
24 implement new service delivery concepts or Commission-approved statewide initiatives or
25 special projects within Commission-defined parameters. The proposed amendments also clarify
26 that the provisions of Chapter 809 apply to any entity receiving Commission funds or benefits
27 related to child care services.
28

29 Additionally, the amendments include child care waiting list priority for children of child care
30 workers. Senate Bill (SB) 462, passed by the 89th Legislature, Regular Session, 2025, and signed
31 by the governor, amended Texas Labor Code, Chapter 302, by adding §302.0064, which requires
32 the Commission to establish a waiting list priority group for children of child care workers. The
33 proposed amendments include the definition of a child care worker as provided in Texas Labor
34 Code, §302.0064(a).
35

36 **PART II. EXPLANATION OF INDIVIDUAL PROVISIONS**

37 (Note: Minor editorial changes are made that do not change the meaning of the rules and,
38 therefore, are not discussed in the Explanation of Individual Provisions.)
39

40 **SUBCHAPTER A. GENERAL PROVISIONS**

41 TWC adopts the following amendments to Subchapter A:
42

43 **§809.1. Short Title and Purpose**

44 Section 809.1(b) is amended to conform with TWC style practices.
45

1 Section 809.1(d) is amended to clarify that the provisions of Chapter 809 apply to all entities
2 receiving Commission funds related to child care services. This amendment will ensure that all
3 entities participating in and receiving benefits or funds from any Commission child care
4 initiative will be subject to applicable rules, including rules related to fraud and improper
5 payments, governing child care services and quality initiatives.

6
7 New §809.1(e) is added to allow the Commission to suspend a provision of Chapter 809 for a
8 specified time, on either a statewide or other basis, if the Commission determines that
9 suspending the provision does not violate federal or state statutes or regulations and will improve
10 the efficiency and delivery of child care services, or is necessary to implement new service
11 delivery concepts or Commission-approved statewide initiatives or special projects within
12 Commission-defined parameters.

13
14 This new subsection is designed to provide the Commission the flexibility to improve the
15 delivery of child care services on a timely basis and to implement statewide initiatives or other
16 special projects. In exercising this flexibility, the Commission intends to specify the provisions
17 to be suspended and any applicable time limits on the suspension during public Commission
18 meetings, and when the initiative or special project is approved by the Commission. The
19 amended rule requires that the Commission must determine that the suspension does not violate
20 federal or state statutes or regulations.

21 22 **§809.2. Definitions**

23 Section 809.2 is amended to add a definition of a child care worker for purposes of the waiting
24 list priority in §809.43. The definition is identical to the definition provided in Texas Labor
25 Code, §302.0064(a), and states that a child care worker is an individual employed by and
26 working in a child care facility licensed under Texas Human Resources Code, Chapter 42, for a
27 minimum of 25 hours per week. The term does not include the owner or director of a child care
28 facility unless the owner's or director's child is served in a program other than a program directly
29 supervised by the owner or director. The addition of the child care worker definition will be
30 effective on January 5, 2026, to align with the implementation of changes to TWC's child care
31 case management system.

32 33 **SUBCHAPTER C. ELIGIBILITY FOR CHILD CARE SERVICES**

34 TWC adopts the following amendments to Subchapter C:

35 36 **§809.43. Priority for Child Care Services**

37 Section 809.43 is amended to add a waiting list priority group for children of child care workers
38 as required by Texas Labor Code, §302.0064.

39
40 The Commission notes that Texas Labor Code, §302.0064(c), states that a child care worker
41 whose child receives child care services under this priority group is subject to redetermination of
42 the individual's eligibility for services in accordance with Commission rule each year. Therefore,
43 once a child of a child care worker is initially authorized for child care under this priority, the
44 child and child's family will be subject to eligibility redetermination as described in §809.42.

1 TWC hereby certifies that the rules have been reviewed by legal counsel and found to be within
2 TWC's legal authority to adopt.
3

4 **PART III. PUBLIC COMMENTS**

5 The comment period ended on October 6, 2025. No comments were received.
6

7 **PART IV. STATUTORY AUTHORITY**

8 The rules are adopted under Texas Labor Code, §301.0015 and §302.002(d), which provide
9 TWC with the authority to adopt, amend, or repeal such rules as it deems necessary for the
10 effective administration of TWC services and activities.
11

12 The rules relate to Title 4, Texas Labor Code, particularly Chapters 301 and 302.
13

CHAPTER 809. CHILD CARE SERVICES

SUBCHAPTER A. GENERAL PROVISIONS

§809.1. Short Title and Purpose.

- (a) The rules contained in this chapter may be cited as the Child Care Services rules.
- (b) The purpose of the rules contained in this chapter is to interpret and implement the requirements of state and federal statutes and regulations governing child care and quality improvement activities funded through the ~~Texas Workforce Commission~~ (Commission), to include the Child Care and Development Fund (CCDF), which includes:
 - (1) funds allocated to local workforce development areas (workforce areas) as provided in §800.58 of this title;
 - (2) private donated funds described in §809.17 of this chapter;
 - (3) public transferred funds described in §809.17 of this chapter;
 - (4) public certified expenditures described in §809.17 of this chapter; and
 - (5) funds used for children receiving protective services described in §809.49 of this chapter.
- (c) The rules contained in this chapter apply to other funds that are used for child care services allocated to workforce areas under Chapter 800 of this title, except for the following:
 - (1) Funds used for quality improvement activities described in §809.16 of this chapter;
 - (2) Assessing the parent share of cost described in §809.19 of this chapter; and
 - (3) Subchapter C of this chapter ~~(relating to Eligibility for Child Care Services)~~.
- (d) The rules contained in this chapter shall apply to the ~~Agency Commission~~, Local Workforce Development Boards (Boards), their child care contractors, child care providers, ~~and~~ parents applying for or eligible to receive child care services, and other entities participating in any Agency child care program or initiative.
- (e) The Commission may suspend a provision in this chapter for a specified time, on either a statewide or other basis, if the Commission determines that suspending the provision does not violate federal or state statutes or regulations, and:

- (1) will improve the efficiency and delivery of child care services; or
- (2) is necessary to implement new service delivery concepts or Commission-approved statewide initiatives or special projects within Commission-defined parameters.

§809.2. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

- (1) Attending a job training or educational program--An individual is attending a job training or educational program if the individual:
 - (A) is considered by the program to be officially enrolled;
 - (B) meets all attendance requirements established by the program; and
 - (C) is making progress toward successful completion of the program as demonstrated through continued enrollment in the program upon eligibility redetermination as described in §809.42 of this chapter.
- (2) Child--An individual who meets the general eligibility requirements contained in this chapter for receiving child care services.
- (3) Child care contractor--The entity or entities under contract with the Board to manage child care services. This includes contractors involved in determining eligibility for child care services, contractors involved in the billing and provider payment process related to child care, as well as contractors involved in the funding of quality improvement activities as described in §809.16 of this chapter.
- (4) Child ~~Care~~ ~~desert~~ ~~Desert~~--An area described in Texas Labor Code, §302.0461 in which the number of children under age six with working parents is at least three times greater than the capacity of licensed child care providers in the area, based on data published annually by the Commission.
- (5) Child Care Regulation (CCR)--Division in the Texas Health and Human Services Commission responsible for protecting the health, safety, and well-being of children who attend or reside in regulated child care facilities and homes.
- (6) Child care services--Child care subsidies and quality improvement activities funded by the Commission.
- (7) Child care subsidies--Commission-funded child care payments to an eligible

child care provider for the direct care of an eligible child.

(8) Child care worker--for purposes of the waiting list priority described in §809.43 of this chapter, and pursuant to Texas Labor Code, §302.0064, a child care worker is an individual employed by and working in a child care facility licensed under Texas Human Resources Code, Chapter 42 for a minimum of 25 hours per week. The term does not include the owner or director of a child care facility unless the owner's or director's child is served in a program other than a program directly supervised by the owner or director. The child care worker definition is effective January 5, 2026.

(9)(8) Child experiencing homelessness--A child who is homeless, as defined in the McKinney-Vento Act (42 USC 11434(a)), Subtitle VII-B, §725.

(10)(9) Child with disabilities--A child who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment. Major life activities include, but are not limited to, caring for oneself; performing manual tasks; walking; hearing; seeing, speaking, or breathing; learning; and working.

(11)(10) Educational program--A program that leads to:

- (A) a high school diploma;
- (B) a Certificate of High School Equivalency; or
- (C) an undergraduate degree from an institution of higher education.

(12)(11) Excessive unexplained absences--More than 40 unexplained absences within a 12-month eligibility period as described in §809.78 of this chapter.

(13)(12) Family--Two or more individuals related by blood, marriage, or decree of court, who are living in a single residence and are included in one or more of the following categories:

- (A) Two individuals, married--including by common-law, and household dependents; or
- (B) A parent and household dependents.

(14)(13) Household dependent--An individual living in the household who is:

- (A) an adult considered a dependent of the parent for income tax purposes;
- (B) a child of a teen parent; or

(C) a child or other minor living in the household who is the responsibility of the parent.

~~(14)~~ (15) Improper payments--Any payment of Child Care Development Fund (CCDF) funds that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements governing the administration of CCDF grant funds and includes payments:

(A) to an ineligible recipient;

(B) for an ineligible service;

(C) for any duplicate payment; and

(D) for services not received.

~~(15)~~ (16) Job training program--A program that provides training or instruction leading to:

(A) basic literacy;

(B) English proficiency;

(C) an occupational or professional certification or license; or

(D) the acquisition of technical skills, knowledge, and abilities specific to an occupation.

~~(16)~~ (17) Listed family home--A family home, other than the eligible child's own residence, that is listed, but not licensed or registered with, CCR, pursuant to Texas Human Resources Code, §42.052(c).

~~(17)~~ (18) Military deployment--The temporary duty assignment away from the permanent military installation or place of residence for reserve components of the single military parent or the dual military parents. This includes deployed parents in the regular military, military reserves, or National Guard.

~~(18)~~ (19) Parent--An individual who is responsible for the care and supervision of a child and is identified as the child's natural parent, adoptive parent, stepparent, legal guardian, or person standing in loco parentis (as determined in accordance with Commission policies and procedures). Unless otherwise indicated, the term applies to a single parent or both parents.

~~(19)~~ (20) Protective services--Services provided when a child:

- (A) is at risk of abuse or neglect in the immediate or short-term future and the child's family cannot or will not protect the child without Texas Department of Family and Protective Services (DFPS) Child Protective Services (CPS) intervention;
- (B) is in the managing conservatorship of DFPS and residing with a relative or a foster parent; or
- (C) has been provided with protective services by DFPS within the prior six months and requires services to ensure the stability of the family.

(21)~~(20)~~ Provider--A provider is defined as a:

- (A) regulated child care provider;
- (B) relative child care provider; or
- (C) listed family home subject to the requirements in §809.91(e) of this chapter.

(22)~~(21)~~ Regulated child care provider--A provider caring for an eligible child in a location other than the eligible child's own residence that is:

- (A) licensed by CCR;
- (B) registered with CCR; or
- (C) operated and monitored by the United States military services.

(23)~~(22)~~ Relative child care provider--An individual who is at least 18 years of age, and is, by marriage, blood relationship, or court decree, the child's:

- (A) grandparent;
- (B) great-grandparent;
- (C) aunt;
- (D) uncle; or
- (E) sibling (if the sibling does not reside in the same household as the eligible child).

(24)~~(23)~~ Residing with--Unless otherwise stipulated in this chapter, a child is considered to be residing with the parent when the child is living with, and physically present with, the parent during the time period for which child care

services are being requested or received.

~~(25)~~(24) Teen parent--A teen parent (teen) is an individual 18 years of age or younger, or 19 years of age and attending high school or the equivalent, who has a child.

~~(26)~~(25) Texas Rising Star program--A quality-based rating system of child care providers participating in Commission-subsidized child care.

~~(27)~~(26) Texas Rising Star provider--A regulated child care provider meeting the Texas Rising Star program standards. Texas Rising Star providers are:

- (A) designated as an Entry Level Provider;
- (B) certified as a Two-Star Provider;
- (C) certified as a Three-Star Provider; or
- (D) certified as a Four-Star Provider.

~~(28)~~(27) Working--Working is defined as:

- (A) activities for which one receives monetary compensation such as a salary, wages, tips, and commissions;
- (B) participation in Choices or Supplemental Nutrition Assistance Program Employment and Training (SNAP E&T) activities; or
- (C) engaging in job search at the time of eligibility determination or redetermination as described in §809.56 of this chapter.

SUBCHAPTER C. ELIGIBILITY FOR CHILD CARE SERVICES

§809.43. Priority for Child Care Services.

- (a) A Board shall ensure that child care services are prioritized among the following three priority groups:
 - (1) The first priority group is assured child care services and includes children of parents eligible for the following:
 - (A) Choices child care as referenced in §809.45 [of this subchapter](#);
 - (B) Temporary Assistance for Needy Families (TANF) Applicant child care as referenced in §809.46 [of this subchapter](#);

- 1 (C) SNAP E&T child care as referenced in §809.47 [of this subchapter](#); and
2
3 (D) Transitional child care as referenced in §809.48 [of this subchapter](#).
4
5 (2) The second priority group is served subject to the availability of funds and
6 includes, in the order of priority:
7
8 (A) children who need to receive protective services child care as referenced
9 in §809.49 [of this subchapter](#);
10
11 (B) children of a qualified veteran or qualified spouse as defined in §801.23
12 of this title;
13
14 (C) children of a foster youth as defined in §801.23 of this title;
15
16 (D) children experiencing homelessness as defined in §809.2 [of this chapter](#)
17 and described in §809.52 [of this subchapter](#);
18
19 (E) children of parents on military deployment as defined in §809.2 [of this](#)
20 [chapter](#) whose parents are unable to enroll in military-funded child care
21 assistance programs;
22
23 (F) children of teen parents as defined in §809.2 [of this chapter](#); ~~and~~
24
25 (G) children with disabilities as defined in §809.2 [of this chapter](#); and
26
27 [\(H\) children of a child care worker as defined in §809.2 of this chapter](#).
28
29 (3) The third priority group includes any other priority adopted by the Board.
30
31 (b) A Board shall not establish a priority group under subsection (a)(3) of this section
32 based on the parent's choice of an individual provider or provider type.