

## TEXAS WORKFORCE COMMISSION LETTER

<b>ID/No:</b>	WD 20-16
<b>Date:</b>	September 30, 2016
<b>Keyword:</b>	Child Care; Choices; SNAP E&T
<b>Effective:</b>	<b>October 1, 2016</b>

**To:** Local Workforce Development Board Executive Directors  
Commission Executive Offices  
Integrated Service Area Managers



**From:** Reagan Miller, Deputy Director, Workforce Solutions

**Subject: Implementation of the Amendments to Chapter 809 Child Care Services Rules Regarding Eligibility for Child Care Services**

---

### **PURPOSE:**

To provide information and guidance to Local Workforce Development Boards (Boards) for implementing amendments to Chapter 809 Child Care Services rules regarding eligibility for child care services pursuant to the requirements of the federal Child Care and Development Block Grant (CCDBG) Act of 2014.

### **BACKGROUND:**

On November 19, 2014, President Obama signed the CCDBG Act of 2014, reauthorizing the CCDBG Act for the first time since 1996. The new law makes significant changes to the Child Care and Development Fund (CCDF) program, designed to promote children's healthy development and safety, improve the quality of child care, and provide support for parents who are working or are in training or education.

Additionally, on December 24, 2015, the U.S. Health and Human Services Administration for Children and Families issued a Notification of Proposed Rulemaking (NPRM) to amend CCDF regulations based on the changes to the CCDBG Act.

In the development of these rules, the Texas Workforce Commission's (TWC) three-member Commission (Commission) sought the involvement of Texas' 28 Boards. On March 29, 2016, the Commission approved the policy concept outlining the recommended changes to Chapter 809 to implement the requirements of the CCDBG Act and the NPRM. Agency executive management discussed the policy concept with the Board executive directors during the March 29, 2016, Executive Director Council meeting, and Agency staff presented the policy concept to Board staff during the March 29, 2016, workforce forum.

The Commission approved the proposed changes to Chapter 809 on May 31, 2016, for public comment. The Commission received comments from Boards and the general public, took the comments into consideration, and made changes to the proposed rule language where appropriate.

On September 6, 2016, the Commission adopted amendments to Chapter 809 Child Care Services rules to implement the requirements of the CCDBG Act and, where applicable, the NPRM requirements.

The amended rules will become effective October 1, 2016.

TWC Workforce Development Child Care Policy staff provided information and training on the new rules through webinars conducted from September 7, 2016, to September 9, 2016.

#### **PROCEDURES:**

**NLF:** Boards must be aware that on September 6, 2016, the Commission approved amendments to Chapter 809 Child Care Services rules to become effective October 1, 2016. The adopted rules and preamble are located in Attachment 1.

*Implementation for Existing Temporary Assistance for Needy Families Applicant Child Care, Transitional Child Care, and At-Risk Child Care*

**NLF:** Boards must be aware of the implementation requirements described below for Temporary Assistance for Needy Families Applicant Child Care, Transitional Child Care, and At-Risk Child Care for children determined eligible for care prior to October 1, 2016.

The following rule provisions are effective October 1, 2016, and prior to the family's next scheduled eligibility redetermination:

- §809.51(a)(1)—Child care must end for changes in family income or family size that cause the family to exceed 85 percent of the state median income (SMI).
- §809.51(a)(2)(A)-(E)—Care must continue during temporary changes in the status of the parent as working or attending a job training or education program.
- §809.51(a)(2)(F)—Care must continue up to the end of the Board's scheduled redetermination period for the family if a child turns 13 years old (19 for a child with disabilities).

- §809.51(b)—Care must continue for three months for a nontemporary cessation of activities, up to the end of the Board’s scheduled redetermination period.
- §809.51(b)—Care must end if no required activity has resumed by the end of the three-month period or the end of the family’s scheduled redetermination period, whichever comes first.
- §809.51(d) and §809.78(a)(1)(A)—Suspensions of care shall only occur with the concurrence of the parent.
- §809.19(a)(1)(C)(iv)—Reductions in the parent share of cost must be granted if a parent reports a reduction in income or family size change that would decrease the share of cost.

**NLF:** Upon the parent’s report of a change in income or family size, the Board must ensure that the new income calculation guidelines are used to determine if the family exceeds 85 percent of SMI or if a reduction in the parent share of cost is warranted.

**NLF:** §809.51(a)(2)—If the family moves to a new local workforce development area prior to the Board’s scheduled redetermination, then the new Board must continue the eligibility through the end date established for the case by the previous Board.

*New Parent Information Notification and Reporting Requirements:*

**NLF:** Pursuant to §809.73, Boards must ensure that parents are notified that they are *only* required to report the following information:

- Changes in family income or family size that would cause the family to exceed 85 percent of SMI for a family of the same size;
- Permanent changes in work or attendance at a job training or educational program; and
- Any change in family residence, primary phone number, or e-mail (if available).

**NLF:** Boards must ensure that parents are informed that:

- the changes must be reported within 14 calendar days of the change; and
- failure to report changes may result in fact-finding for suspected fraud.

**NLF:** Boards must ensure that parents are notified that they *may* also report changes in:

- reductions in income or increases in family size; and
- work, job training, or education program participation that may result in an increase in the level of child care services authorized.

*Absences for Currently Enrolled Children*

**NLF:** Boards must be aware that child care cannot be terminated due to a child’s exceeding the Board’s previously established absence policies.

**LF:** However, at Board option, once a child has exceeded the Board’s previously established absence polices, the Board may have the family eligibility redetermined prior to the next scheduled redetermination date.

*Failure to Pay the Parent Share of Cost for Currently Enrolled Children*

**NLF:** Boards must be aware that care cannot end due to a parent’s failure to pay the parent share of cost.

**LF:** However, at Board option, if a parent fails to pay the parent share of cost, the Board may have the family eligibility redetermined prior to the next scheduled redetermination date.

**NLF:** Boards must be aware that if a Board has a policy pursuant to §809.13(c)(3) to reimburse providers for the parent share of cost when the parent fails to pay the provider, then pursuant to §809.117(d)–(e), the parent must repay the amount and cannot be redetermined eligible until the repayment is recovered in full.

**NLF:** Boards must be aware that the provisions of §809.117(d)–(e) must not be applied to recoupments prior to the effective date of the Board policy regarding reimbursements to the provider for the parent failure to pay the parent share of cost.

**NLF:** Boards must follow the procedures described in WD Letter 05-04, Change 1, issued May 26, 2004, and entitled “Change and Clarification on Overpayment Recovery of Child Care Related Funds” when recovering funds from the parent.

*Implementation for Existing Choices and Supplemental Nutrition Assistance Program Employment and Training Cases*

**NLF:** Boards must be aware of the implementation requirements described below for Choices and Supplemental Nutrition Assistance Program Employment and Training (SNAP E&T) cases determined eligible for care prior to October 1, 2016.

The following rule provisions are effective October 1, 2016, and prior to the family’s next scheduled eligibility redetermination/reauthorization based on the end date noted on the 2510 (local form) when authorizing Choices and SNAP E&T child care:

- §809.51(a)(2)(F)—Care must continue up to the end of the Board’s scheduled redetermination period for the family if a child turns 13 years old (19 for a child with disabilities).
- §809.51(b)—Care must continue for three months, or up to the end of the Board’s scheduled redetermination/reauthorization period, whichever is

earlier, if the parent stops participating in Choices or SNAP E&T services and the case is closed.

- §809.51(b)—Care must end if no required activity (Choices, SNAP E&T, or other work, job training, or education activity) has resumed by the end of the three-month period or the end of the family’s scheduled redetermination/reauthorization period, whichever comes first.
- §809.51(d) and §809.78(a)(1)(A)—Suspensions of care shall only occur with the concurrence of the parent.

The following rule provisions are effective at the family’s next scheduled eligibility redetermination/reauthorization for Choices and SNAP E&T child care:

- The 12-month eligibility period begins on the date the Choices (§809.45) or SNAP E&T (§809.47) child care is redetermined/reauthorized.
- Begin the 12-month eligibility period for Choices (§809.45) or SNAP E&T (§809.47) child care if the parent is participating in Choices/SNAP E&T at the scheduled redetermination/reauthorization.
- §809.48 and §809.50—Begin the 12-month eligibility period for Transitional or At-Risk child care if the parent is not participating in Choices or SNAP E&T but is determined eligible for Transitional child care at §809.48, or At-Risk child care at §809.50.
- End care if the parent is not participating in Choices (§809.45) or SNAP E&T (§809.47), and not eligible for Transitional (§809.48) or At-Risk (§809.50) child care.

*Implementation for Existing Texas Department of Family and Protective Services (DFPS)–Funded General Protective Cases*

**NLF**: Boards must be aware of the following implementation requirements for DFPS-funded General Protective child care cases in care prior to October 1, 2016:

- The 12-month eligibility period begins on the most recent date prior to October 1, 2016, that DFPS authorized child protective services child care pursuant to §809.49.
- Upon the termination of DFPS-funded care, child care must continue using Board child care funds for the remainder of the 12-month eligibility period pursuant to §809.54(c).

**INQUIRIES:**

Send inquiries regarding this WD Letter to [wfpolicy.clarifications@twc.state.tx.us](mailto:wfpolicy.clarifications@twc.state.tx.us).

**ATTACHMENTS:**

Attachment 1: Adopted Chapter 809 Child Care Services Rules

**RESCISSIONS:**

None

---

**REFERENCES:**

Child Care and Development Block Grant Act of 2014  
Texas Workforce Commission Child Care Services Rules: 40 TAC, Chapter 809  
WD Letter 05-04, Change 1, issued May 26, 2004, and entitled “Change and Clarification on Overpayment Recovery of Child Care Related Funds”

**FLEXIBILITY RATINGS:**

**No Local Flexibility (NLF)**: This rating indicates that Boards must comply with the federal and state laws, rules, policies, and required procedures set forth in this WD Letter and have no local flexibility in determining whether and/or how to comply. All information with an NLF rating is indicated by “must” or “shall.”

**Local Flexibility (LF)**: This rating indicates that Boards have local flexibility in determining whether and/or how to implement guidance or recommended practices set forth in this WD Letter. All information with an LF rating is indicated by “may” or “recommend.”