

TEXAS WORKFORCE COMMISSION
Workforce Development Letter

ID/No:	WD 26-20, Change 1
Date:	November 17, 2020
Keyword:	Child Care; Natural Disaster
Effective:	Immediately

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



From: Reagan Miller, Director, Child Care & Early Learning Division

Subject: **Reinstatement of the Child Care Work Requirement and Discontinuance of Extended Eligibility Redetermination Periods—Update**

PURPOSE:

The purpose of this WD Letter is to provide Local Workforce Development Boards (Boards) with updated guidance on the implementation of child care services during the ongoing coronavirus disease 2019 (COVID-19) global pandemic.

RESCISSIONS:

WD 26-20
WD 09-20, Change 2

BACKGROUND:

Under Texas Workforce Commission (TWC) Chapter 809 Child Care Services rule [§809.51\(b\)](#), if a parent has a permanent job loss, he or she may only receive an additional three months of child care unless the parent becomes reemployed or is attending an educational or training program. (In other words, parents have a three-month job search period.) On March 24, 2020, as a result of COVID-19, TWC's three-member Commission (Commission) [waived this provision](#). Since that determination, unemployed families have continued to receive subsidized child care indefinitely, even if they had a permanent job loss.

Additionally, as noted in the [COVID-19: Guidance for Child Care Services Discussion Paper](#) brought before the Commission on March 17, 2020, TWC rules and guidelines provide Boards with flexibility to respond to unforeseen circumstances, such as those arising from COVID-19. This included the ability to extend recertification periods pursuant to §809.42(b).

On October 13, 2020, the Commission voted to discontinue the previous waiver that allowed unemployed families to continue to receive subsidized child care for an indefinite period and allowed blanket extensions of the 12-month eligibility period.

PROCEDURES:

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.”

Child Care after a Permanent Loss of Work, Education, or Training

NLF: Boards must be aware that effective October 31, 2020, TWC will discontinue the waiver of [§809.51\(b\)](#). This waiver allowed unemployed families to continue to receive subsidized child care for an indefinite period, even if there was a permanent job loss. TWC will also reinstate the requirement for Boards to provide no less than three months of child care following permanent job loss.

NLF: Boards must continue to record the permanent loss of work, education, or training for parents receiving child care as described in the Child Care Services Guide, section D-802, even if the permanent loss is due to COVID-19.

NLF: Boards must be aware that parents who have already received three or more months of child care following permanent job loss, as of November 1, 2020, will be provided four additional weeks of child care to allow them to meet work or education requirements so that they can meet eligibility for a new 12-month eligibility period. Therefore, at a minimum, all parents will continue to receive child care through Friday, November 27, 2020, or until the end of their current Activity Interruption period, whichever date is later.

NLF: Boards must notify parents immediately that the three-month limitation on receiving child care subsidies is being reinstated on November 1, 2020. Once parents’ current Activity Interruption end date arrives, which includes the four additional weeks of child care to meet work or education requirements, the case will be either closed if the family does not meet eligibility requirements or redetermined for a new 12-month eligibility period if the family continues to qualify for child care assistance.

NLF: Boards must send termination notices, including the right to appeal the termination, to parents at least 15 calendar days before termination of child care services, as noted in §809.71. This action must be documented in TWIST *Counselor Notes*.

COVID-19 and Child Care Redeterminations

Redetermination Periods

NLF: Boards must discontinue blanket extensions of 12-month eligibility redeterminations that are based solely on COVID-19 as the extenuating circumstance and begin processing all redeterminations upon expiration of the currently effective eligibility period on November 1, 2020.

NLF: Boards must be aware that any additional extensions may only be authorized on a case-by-case basis, in accordance with §809.42(b), as further described in the Child Care Services Guide, section D-1005.

NLF: Boards must ensure that staff documents the reason for any redetermination extensions in *TWIST Counselor Notes*.

NLF: Boards must notify parents immediately that blanket extensions of the 12-month eligibility period are ending, and once their current eligibility period end date arrives, the case will be either closed if the family does not meet eligibility requirements or redetermined for a new 12-month eligibility period if the family continues to qualify for child care assistance.

Income Calculations and Minimum Work-Hour Requirements

NLF: Boards must be aware that parents might increase their work hours due to COVID-19 (for example, as a result of coworkers' inability to work or because of increased demand for services in the parents' occupation). These increased work hours might result in a temporary fluctuation of, and increase in, earnings.

Section 809.44(a) requires Boards to consider irregular fluctuations in earnings and to ensure that temporary fluctuations in income do not affect eligibility. Instructions on how to consider income fluctuations are found in section D-107.c of the Child Care Services Guide.

NLF: Boards must also be aware that parents might face reductions in work hours tied to COVID-19. Section D-202.a of the Child Care Services Guide includes guidance on how to account for fluctuations in participation hours for situations that are outside of parents' control.

Recoupments

NLF: Boards must be aware that TWC has reinstated the requirement to recoup funds from parents for improper child care payments, beginning December 1, 2020.

If such recoupment is required because of nonpayment of the parent share of cost, the Board must be able to illustrate that it has worked with parents to determine why payments were not made and to temporarily reduce the parent share of cost, if necessary.

Child Care Income Report and Unemployment Insurance Early Warning Report

NLF: Boards must reinstate procedures to begin using the Child Care Income Report for the quarter that begins January 1, 2021, to identify eligibility or program violations.

NLF: Boards must reinstate procedures to begin using the Unemployment Insurance (UI) Early Warning Report, starting with the December 2, 2020, report, to identify eligibility or program violations.

LF: Boards are encouraged to leverage the UI Early Warning Report to help employers identify potential workers.

ATTACHMENTS:

None

INQUIRIES:

Send inquiries regarding this WD Letter to childcare.programassistance@twc.texas.gov.

REFERENCES:

Texas Workforce Commission Chapter 809 Child Care Services Rules

Texas Workforce Commission Child Care Services Guide

[COVID-19: Guidance for Child Care Services](#) Discussion Paper

[COVID-19 Emergency Child Care](#) Discussion Paper