

Chapter 809. Child Care. § 809.93. Texas Workforce Commission Applicant Child Care.

Subchapter E. Client Eligibility Process Requirements

40 TAC §809.93

The Texas Workforce Commission (Commission) adopts new §809.93, concerning the receipt of Texas Workforce Commission Applicant Child Care, with changes to the proposed text as published in the June 12, 1998, issue of the *Texas Register* (23 TexReg 6185).

The purpose of the rule is to establish a priority for receiving child care subject to the availability of funds for individuals who need child care to accept employment, receive a referral from a Department of Human Services (DHS) Texas Works Advisor to attend a Workforce Orientation for Applicants, and secure employment prior to Temporary Assistance For Needy Families (TANF) program certification, pursuant to House Bill 1863, 74th Legislature, Regular Session.

For the purpose of clarity, the Commission made non-substantive changes to subsection (a), by deleting paragraph (2), which states that the client shall "reside in a county where Choices services are available" and renumbering the paragraphs accordingly.

The Commission also added a provision to subsection (c), which incorporates an element of good cause for voluntary terminations that occur within the 30 day period prior to receiving the referral from the Department of Human Services Texas Works Advisor to attend a Workforce Orientation for Applicants. The Commission received comments on the rule from a state representative, a workforce development board, an advisory committee member, and a resource center. Some commenters were for the rule, expressed concerns and had questions about the rule as proposed, and suggested changes.

The names of interested groups or associations offering comments on the rules are as follows:

A State Representative;

An Advisory Committee Member;

The Connections Resource Center; and

The North Central Texas Workforce Development Board.

Following each comment or group of related comments is the Commission's response.

Comment: One commenter asserted that the receipt of Texas Workforce Commission Applicant Child Care appears to be in the best interest of children and parents at a time when child care is essential toward maintaining employment.

Response: The Commission acknowledges this comment.

Comment: One commenter stated providing child care services to individuals who apply for TANF benefits but choose to go to work prior to receiving TANF benefits is an excellent idea, and will enable local workforce development boards to be more responsive of families' efforts to become self-sufficient.

Response: The Commission acknowledges this comment.

Comment: One commenter asks if the Workforce Orientation for Applicants will be offered at times (e.g. evenings, early mornings, weekends) convenient for individuals who apply for TANF but choose to go to work prior to receiving TANF benefits, as it would be unfortunate for individuals to lose work time in order to go to an orientation about finding and keeping jobs.

Response: The Commission agrees that offering the Workforce Orientation at times convenient for clients is important; however, because the orientation represents an eligibility requirement for TANF, and the client in the commenter's case has chosen employment, not TANF, the Commission does not deem it necessary to add such a requirement specifically to the rule. The Commission will continue to encourage local staff and local workforce development boards to offer a sufficient number of orientations for the number of applicants referred.

Comment: One commenter asks if an exception to the 30 day period will be made for individuals who have voluntarily quit employment due to child care difficulties?

Response: The Commission agrees that there are times when an individual's reason for quitting employment may need to be considered, and has incorporated a good cause statement in reference to voluntary terminations within the 30 day period prior to receiving the referral from the Department of Human Services Texas Works Advisor to attend a Workforce Orientation for Applications.

Comment: One commenter states that prohibiting child care for applicants when they are looking for employment prior to being certified for TANF is not supportive of the goal to keep applicants from following through with becoming TANF recipients, and that a period of 30 to 60 days of job search related child care should be made available for Applicant Child Care to assist and motivate parents to stay off TANF and find meaningful employment.

Response: The Commission is in favor of assisting parents to stay off of TANF benefits and find meaningful employment, but does not deem it necessary to alter the rule as proposed for this reason. The period between applying for TANF benefits and certification for benefits is generally less than 30 days. Therefore, it would not be possible to provide "applicant child care" for a period as long as 60 days for an employment search. If employment is not secured by a TANF applicant prior to TANF certification, the applicant becomes a TANF recipient. As a TANF recipient, the individual is potentially eligible for child care as a Choices program participant.

Comment: One commenter points out that there are numerous legitimate reasons why an individual might voluntarily leave a paid leave position, such as unreliable child care, employer harassment or a family medical situation. The commenter believes individuals should not be penalized for leaving a position for any of these reasons, and that good cause for voluntarily leaving a position should be considered.

Response: The Commission agrees that there are times when an individual's reason for quitting employment may need to be considered, and has incorporated a good cause statement in reference to voluntary terminations within the 30 day period prior to receiving the referral from the Department of Human Services Texas Works Advisor to attend a Workforce Orientation for Applications. The new section is adopted under Texas Labor Code, §301.061 and §302.021, which provides the Commission with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of the Commission programs.

§ 809.93. Texas Workforce Commission Applicant Child Care.

(a)

Subject to the availability of funds, the Child Care Management Services Contractor shall provide Child Care for up to one year for individuals who meet the following criteria. The client shall:

(1)

need child care to accept employment;

(2)

receive a referral from the Department of Human Services Texas Works Advisor to attend a Workforce Orientation for Applicants;

(3)

locate employment prior to TANF certification; and

(4)

provide verification of a valid social security number.

(b)

To receive Applicant Child Care, individuals shall also meet the requirements stated in the following sections:

(1)

Section 809.2 of this title (relating to the definition of Family Members);

(2)

Section 809.61(a) of this title (relating to Basic Requirements to Obtain Child Care Services from the Child Care Management Services (CCMS) System);

(3)

Section 809.65 of this title (relating to Eligibility Criteria for Commission Funded Child Care Services);

(4)

Section 809.67(a) of this title (relating to Income Limits for Child Care Services); and

(5)

Section 809.68 of this title (relating to Income Inclusions for Child Care Eligibility Determination).

(c)

To receive Applicant Child Care, individuals shall not have voluntarily terminated paid employment of at least thirty hours a week within thirty days prior to receiving the referral from the Department of Human Services Texas Works Advisor to attend a Workforce Orientation for Applicants, unless the voluntary termination was for good cause connected with the individual's work.

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 August 21, 1998.

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