

## TEXAS WORKFORCE COMMISSION LETTER

**ID/No:** WD 21-07

**Date:** March 1, 2007

**Keyword:** Child Care

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



**From:** Laurence M. Jones, Director, Workforce Development Division

**Subject:** **Children Receiving or Needing Protective Services**

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### **PURPOSE:**

To provide Local Workforce Development Boards (Boards) with guidance and information on:

- the Texas Workforce Commission's (Commission) Chapter 809, Child Care Services rules, related to children receiving or needing protective services; and
- the priority and continuity of care for children receiving or needing protective services.

### **REFERENCE:**

Texas Workforce Commission Child Care Services Rules: 40 TAC, Chapter 809

### **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. Federal and state laws, rules, policies, and required procedures with a "No Local Flexibility" rating are indicated by the acronym, **NLF**, in the margin to the right of the applicable paragraph. Additionally, all information with a "No Local Flexibility" rating is indicated by "must" or "shall."

Failure to comply with the federal and state laws, rules, policies, and required procedures with a "No Local Flexibility" rating may result in corrective action, up to and including sanction and penalty.

**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 guidance or recommended practices with a "Local Flexibility" rating are indicated by the acronym, **LF**, located in the margin to the right of the applicable paragraph. Additionally, guidance or recommended practices with a "Local Flexibility" rating are indicated by "may" or "recommend."

Boards are not subject to corrective action for failure to comply with guidance or recommended practices with a “Local Flexibility” rating.

**BACKGROUND:**

The Texas Department of Family and Protective Services (DFPS) has notified the Commission that because of current projected shortfalls in child care funding, DFPS has advised Child Protective Services (CPS) regional offices to prioritize requests for child care services and stay within regional allocations.

To assist Boards with inquiries from parents of children who may be affected by the projected DFPS shortfalls concerning the availability of Commission-funded child care services, this WD Letter:

- identifies the Chapter 809 rules related to children receiving or needing protective services; and
- provides guidance on determining the priority and continuity of care for children receiving or needing protective services.

**PROCEDURES:**

Boards must be aware that some children previously eligible for DFPS-funded child care may no longer be eligible.

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Therefore, Boards must ensure that appropriate staff is aware of the following Chapter 809 rules:

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**Subchapter C: Eligibility for Child Care Services**

**§809.49(a)(1)—Child Care for Children Receiving or Needing Protective Services**

Section 809.49(a)(1) states that DFPS determines eligibility for children receiving or needing protective services and that child care continues “as long as authorized and funded by DFPS.”

**§809.43(a)(2)—Priority for Child Care Services**

Section 809.43(a)(2) establishes a second priority group for child care “subject to the availability of funds.”

Section 809.43(a)(2)(A) includes in this second priority group “children who need to receive protective services child care as referenced in §809.49.”

Boards must be aware that if child care is not authorized and funded by DFPS, then the child care is not included in the second priority group described in §809.43(a)(2).

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However, Boards may include children in protective services whose child care is not authorized and funded by DFPS in the Board-designated third priority group set forth in §809.43(a)(3).

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**§809.54(c)(1) and (2)—Continuity of Care**

Section 809.54(c)(1)–(2) provides for continuity of care for former DFPS children in *closed* DFPS cases, as follows:

- (1) If DFPS determines that protective services are needed and child care is integral to that need, the child *must* remain eligible for up to six months of Commission-funded child care.
- (2) If DFPS does not determine that protective services are needed, the child *may* remain in care subject to the availability of Commission funds.

Boards must be aware that §809.54(c) applies only to *closed* DFPS cases.

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Further, Boards must be aware that §809.54(c) does not apply to open cases in which DFPS has discontinued the authorization and funding of child care.

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Boards must be aware that if DFPS does not authorize and fund child care for an open DFPS case—including open cases previously funded by DFPS for which DFPS no longer has child care funds available—then the child may be eligible for Commission-funded child care if the parent [as defined in §809.2(14)] meets the Board’s income and activity requirements for At-Risk child care set forth in the following Commission rules:

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- §809.50. Child Care for Children Living at Low Incomes;
- §809.51. Child Care for Children with Disabilities; or
- §809.52. Child Care for Children of Teen Parents.

Boards also must be aware that children in open DFPS cases for which DFPS has not authorized child care and no longer has child care funds available are subject to the Boards’ waiting list policies.

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Additionally, DFPS has requested that Boards do not process child care payments for children with open DFPS cases without a properly authorized DFPS Form 2054 (Service Authorization), or with a backdated Form 2054. Therefore, for children in care without a properly authorized Form 2054 or with a backdated Form 2054, Boards must ensure that payment is not approved until appropriate staff receives written authorization from Monica Knighton of the DFPS state office. Boards must be aware that the written authorization will be provided to appropriate staff by the DFPS regional office staff responsible for child care coordination, and will indicate state office approval (via Monica Knighton’s approval) for the backdated care.

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**ACTIONS REQUIRED:**

Boards must ensure that appropriate staff is apprised of and complies with the requirements in this WD Letter.

**INQUIRIES:**

Direct inquiries regarding this WD Letter to the assigned contract manager for your local workforce development area.

Rescissions: None	Expiration: Continuing
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