

TEXAS WORKFORCE COMMISSION LETTER

ID/No:	WD 37-11
Date:	September 26, 2011
Keyword:	Child Care; TANF/Choices; TWIST
Effective:	Immediately

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



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

Subject: **Including Nonreported Attendance in Local Workforce Development Board Attendance Policies—*Update***

PURPOSE:

To provide Local Workforce Development Boards (Boards) with information and guidance on including Z-Days—authorized care days for which no activity is reported by the parent through the Child Care Attendance Automation (CCAA) system—in the Board’s attendance policies.

This WD Letter provides Boards with updated information and guidance on Z-Days, specifically, special provisions for parents with variable schedules.

CHANGES TO WD LETTER 12-11:

New information in this WD Letter is in **bold** typeface, which indicates new or clarifying language.

BACKGROUND:

The Texas Workforce Commission’s (Commission) Child Care Services rule §809.13(d)(13) requires Boards to adopt policies related to attendance standards and procedures for child care services. WD Letter 05-10, Change 1, issued July 21, 2010, and entitled “Parent Requirements for Child Care Attendance Automation—*Update*” requires Boards to:

- ensure that parents use the CCAA card (attendance card) to report attendance and absences; and
- inform parents that child care services can be terminated, and they can be held responsible for paying the provider for attendance and absences that are not reported using the attendance card.

Commission rules and policy require the following for Choices child care:

- Commission’s Choices rule §811.62(a)–(d) requires Boards to provide child care services as needed to Choices eligible participants.
- Section B-701 of the Choices Guide requires Boards to ensure that at the time child care is authorized or when changes in child care occur, Choices case managers inform participants of the following:
 - The importance of cooperating with Chapter 809, the Commission’s Child Care Services rules, and child care program policies, and of meeting all requirements of the child care program.
 - If participants fail to meet all requirements, they are still required to meet participation requirements and are responsible for making their own child care arrangements.
- At authorization or when changes in child care occur, Boards also are required to ensure that:
 - if a participant is denied child care due to failure to comply with Chapter 809, the Commission’s Child Care Services rules, good cause is not granted; and
 - if the participant fails to participate, a penalty is requested.

For children in Child Protective Services (CPS), §809.49(a)(1) requires a Board to ensure that child care will continue as long as authorized and funded by the Texas Department of Family and Protective Services (DFPS).

PROCEDURES:

Boards may adopt an attendance policy¹ that counts Z-Days—authorized care days on which a parent fails to report attendance using the CCAA system—as paid absences, pursuant to Commission Child Care Services rule §809.13(d)(13).

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Non-CPS Child Care

Boards including Z-Days as part of their attendance policy must ensure that the attendance policy allows exceptions for Z-Days the occurrence of which is beyond the control of the parent, including documented instances in which:

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- the CCAA card was not available to the parent within the time period allotted for the parent to record attendance; and
- the provider’s Point of Service device or phone system for the interactive voice response system was temporarily unavailable within the time period available for the parent to record attendance.

Boards including Z-Days as part of their attendance policy also must ensure that:

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- child care services are discontinued when a parent exceeds the maximum number of paid absences determined by Board policy and procedures;
- parents are informed of the Board’s absence policy pursuant to §809.71(15);

¹ As required by Commission rule at 40 TAC §802.1(f) and as detailed in WD Letter 10-07, Board members must take such actions in an open meeting.

- parents are notified when a child reaches 50 percent and 75 percent of the allowed absences;
- providers and parents are informed that providers cannot collect double reimbursement, i.e., from parents as well as from Boards, for nonreported attendance; and
- parents are not allowed to reapply for child care services for at least 30 days after services have been terminated due to excessive absences.

Special Provisions for Parents with Variable Schedules

Boards that include Z-Days as part of their attendance policy must be aware that in order to prevent over-counting of absences caused by a parent’s variable work schedule and minimize the potential for excess authorizations to providers, TWIST will generate claims under one of the following two calculations for a service month:

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TWIST Calculation 1

If the actual number of days reported as present in CCAA plus the number of paid holidays is *greater* than the number of days in the month minus 8, then the claim is the actual days reported present plus paid holidays reported in CCAA.

TWIST Calculation 2

If the actual number of days reported as present plus the number of paid holidays is *equal to or less* than the number of days in the month minus 8, then the claim is the lesser of:

- the number of days in a month minus 8; or
- the maximum number of days authorized in the month.

Boards must be aware that the two calculations only apply to:

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- Boards that include Z-Days as part of their attendance policy; and
- child care referrals for parents with flexible work, education, or job training schedules.

Attachment 1 provides examples of each of these calculations.

Special Provisions regarding Choices Child Care

Boards that include Z-Days as part of their attendance policy must ensure that:

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- all attendance policies, including Z-Days as absences, are included as a child care program requirement for Choices participants;
- the child care case manager notifies the Choices case manager when a child in Choices child care reaches 50 percent and 75 percent of the allowed absences—or on a more regular basis as determined by the Board;
- Choices parents are not allowed to reapply for child care services for at least 30 days after services have been terminated due to excessive absences, unless the parent is on sanction status for nonparticipation in Choices; and

- Choices participants are authorized for child care during sanction so the participant can demonstrate compliance with the Choices program.

Child Protective Services Child Care

Boards must ensure that child care continues as long as it is authorized and funded by DFPS, regardless of the number of paid absences.

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Boards must ensure that the regional CPS day care coordinator is notified, on a mutually agreed-upon basis, when a child receiving CPS child care is absent, including Z-Days.

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INQUIRIES:

Direct inquiries regarding this WD Letter to wfpolicy.clarifications@twc.state.tx.us.

ATTACHMENT:

Attachment 1: Including Absences and Z-Days with Variable Schedules Examples

RESCISSIONS:

WD Letter 12-11

REFERENCE:

Texas Workforce Commission Child Care Services Rules: 40 TAC §809.13, §809.49, §809.71, §809.75, and §809.93

WD Letter 10-07, issued February 2, 2007, and entitled “Adoption of Local Workforce Development Board Policies in Open Meetings”

WD Letter 05-10, Change 1, issued July 21, 2010, and entitled “Parent Requirements for Child Care Attendance Automation—*Update*”

Choices Guide: <http://www.twc.state.tx.us/boards/guides/choices-guide.pdf>

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.”