

TEXAS WORKFORCE COMMISSION LETTER

ID/No: WD 44-04

Date: September 21, 2004

Key Word: Child Care

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

From: Luis M. Macias, Director, Workforce Development Division

Subject: Prohibition Against a Minimum Income-Level Requirement to Determine Eligibility for Child Care

PURPOSE:

To inform Local Workforce Development Boards (Boards) of the prohibition against establishing a minimum income-level requirement for determining a family's eligibility for child care services.

REFERENCE:

United States Department of Health and Human Services Child Care and Development Fund, Final Rule (45 CFR §98.20 and §98.44)
Texas Workforce Commission Child Care and Development Rules: 40 TAC §809.92(b)
Texas Child Care and Development Fund State Plan for Grant Years 2004-2005, Appendix 2

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 U.S. Department of Health and Human Services (USHHS) Child Care and Development Fund, Final Rule (45 CFR §98.20) states that a child’s eligibility for child care services be based on a maximum income requirement of the “state’s median income for a family of the same size.” Additionally, 45 CFR §98.44(a) provides that states shall give priority for child care services to “children of families with very low family income.” The Child Care and Development Fund State Plan in Appendix 2 - Eligibility and Priority Terminology, item (8), defines *very low income* as “income at or below 100% of the HHS Federal Poverty Guidelines.”

Texas Workforce Commission (Commission) rule §809.92(b) sets forth criteria for Boards to set maximum income-level eligibility limits for child care services; however, Commission rules do not provide for Boards setting minimum income-level eligibility limits.

It is the intent of USHHS, and Commission rules Chapter 809, that child care services be available to all eligible families whose incomes fall below maximum income levels and to ensure that services are provided to:

- families attempting to transition off of public assistance; and
- families at risk of becoming dependent on public assistance.

PROCEDURES:

Effective immediately, Boards must:

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- be aware of the prohibition against establishing minimum income-level eligibility requirements for child care services; and
- nullify all existing policies that impose a minimum income level to determine a family’s eligibility for child care services.

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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