

TEXAS WORKFORCE COMMISSION LETTER

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Date:	March 29, 2017
Keyword:	Administration; Child Care
Effective:	October 1, 2016

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

From: Reagan Miller, Deputy Director, Workforce Solutions

Subject: **Operational Guidance for Receivables Established for Child Care Services Improperly Paid before October 1, 2016**

PURPOSE:

This WD Letter provides Local Workforce Development Boards (Boards) with operational guidance for receivables established for child care services determined to have been improperly paid before the reauthorization of the Child Care and Development Block Grant Act of 2014 (CCDBG Act) went into effect on October 1, 2016, specifically:

- changes resulting from the reauthorization of the CCDBG Act; and
- related revisions to Texas Workforce Commission (TWC) Chapter 809 Child Care Services rules pertaining to debt collections for child care services for which a determination of debt was made before October 1, 2016, but for which collections are still owed after the CCDBG Act went into effect on October 1, 2016.

RESCISSIONS:

None

BACKGROUND:

The CCDBG Act, as reauthorized, states that a child meeting eligibility requirements at the most recent eligibility determination is considered eligible for 12 months, regardless of:

- increases in income (as long as the income does not exceed the federal maximum income eligibility limit of 85 percent SMI); or
- temporary changes in family employment and training activities.

Child Care and Development Fund (CCDF) final rules include requirements implemented by the reauthorized CCDBG Act on improper payments and recoupments. Specifically, §98.21(a)(4) states, “Because a child meeting

eligibility requirements at the most recent eligibility determination or re-determination is considered eligible between re-determinations, any payment for such a child shall not be considered an error or improper payment due to a change in the family's circumstances" during the 12-month period.

Additionally, the CCDF regulations' preamble clarifies that there is no federal requirement for Lead Agencies to recoup CCDF overpayments, except in instances of fraud.

As a result, TWC amended its Chapter 809 rules to align with federal law and regulations, establishing policies for receivables—but only those that result from fraud or intentional program violations.

The rules, effective October 1, 2016, establish clear and consistent policies for debt collections incurred from October 1, 2016, or from the effective date forward; however, they do not specifically address child care receivables established for child care services that occurred before October 1, 2016.

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."

NLF: Where a court has established a debt for improper payment for child care services, Boards must continue accepting court-ordered restitution, and child care eligibility is prohibited until the parent repays the court-ordered amount in full.

NLF: TWC Child Care Services rules have always required Boards to attempt recovery of all improper payments. Regarding child care receivables established for child care services that occurred before October 1, 2016, Boards must be aware that:

- no further collections actions are required on those receivables if the Board made collection attempts pursuant to applicable TWC policies and procedures; and
- if a Board has attempted to recover improper payments, any outstanding debt will not impact child care eligibility after October 1, 2016.

NLF: Boards must be aware that where a Board has a signed repayment agreement with a parent, the Board may continue receiving payments on the debt. However, if a parent ceases making payments under such a voluntary agreement, this debt will

not impact eligibility for child care services after October 1, 2016, pursuant to the new parameters set forth by the CCDBG Act reauthorization.

INQUIRIES:

Send inquiries to TWC Office of Investigations, Program Investigations Supervisor, Leslie Kruse, at (512) 463-1801 or leslie.kruse@twc.state.tx.us.

REFERENCES:

Child Care and Development Block Grant Act (CCDBG) of 2014
Child Care and Development Fund Final Rule §98.21(a)(4)
Texas Workforce Commission Child Care Services Rules