



TEXAS COUNCIL *for*
DEVELOPMENTAL
DISABILITIES

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July 31, 2013

Texas Department of Assistive and Rehabilitative Services
Center for Policy and External Relations, Mail Code 1411
4800 North Lamar Blvd.
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Email: DARSrules@dars.state.tx.us

Re: Comments on proposed revisions to 40 TAC, Chapter 108, Division for Early Childhood
Intervention Services, Subchapter N, Family Cost Share System

Thank you for the opportunity to provide comments regarding the proposed revisions to 40 TAC, Chapter 108, Division for Early Childhood Intervention Services, Subchapter N, Family Cost Share System. The Texas Council for Developmental Disabilities (TCDD) is established by federal law in the Developmental Disabilities Assistance and Bill of Rights Act and is guided by a 27 member board, appointed by the Governor, 60 percent of whom are individuals with developmental disabilities or family members of individuals with disabilities. TCDD's purpose in law is to encourage policy change so that people with disabilities have opportunities to be fully included in their communities and exercise control over their own lives.

In order to receive Early Childhood Intervention (ECI) funding, the Department of Assistive and Rehabilitative Services (DARS) is required to implement family cost share policies that require families with an adjusted gross income greater than 400% of the federal poverty level to pay the full cost of services, up to five percent of the family's adjusted gross monthly income. The General Appropriations Act Rider requiring such leaves DARS with little administration discretion.

Although DARS has little flexibility, TCDD would be remiss if it did not urge DARS to exercise all available authority to ameliorate the considerable disparate affect on families and great difficulty in children's access to ECI that this rule could create.

§108.1413. Family Monthly Maximum Payment

TCDD appreciates that the monthly maximum payment for a family at 350-400% of FPL will remain no more than \$55 per month for ECI services. The current family cost share at 400% FPL is \$85 per month, but the proposed rule requires a family at 400% FPL to pay 100% of the cost of services, or 5% of adjusted income. A family of two at 400% FPL earns \$62,040 annually. The current average monthly

cost per child in ECI is \$479.82. A monthly cost share of 5% before income adjustments is \$258. This is an increase of more than 300% of their current cost share. Our considerable concern is compounded by the fact that DARS reports that children currently receiving ECI services have more serious delays and medical diagnoses.

Recommendation:

The offsets to income exist for all income categories so no balance in fairness is present in the proposed rule. The only opportunity TCDD finds for assisting these families is *§108.1423. Reconsideration and Adjustment of Family Cost Share Obligation (d) (7) other extenuating circumstances for which the family requests reconsideration*. The intent of ECI to assure that families who have children ages birth to three, with diagnosed disabilities, developmental delays or substantial risk of significant delays receive resources and supports that assist them in maximizing their child's development. If the family cost-share for a family at 400% or higher FPL is large enough that families are unable to pay, their child will be prevented from receiving ECI services. Reconsideration and adjustment of the family cost share obligation at that time is critical to assure services are affordable to the family. TCDD further recommends that DARS provide guidance to providers to assure the intent of ECI is met and to assure that uniform and generous income disregard criteria are used statewide.

TCDD appreciates DARS commitment to meeting the needs of children with disabilities.

Sincerely,

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