

Chapter 800. GENERAL ADMINISTRATION

Subchapter B. ALLOCATIONS AND FUNDING

The Texas Workforce Commission (Commission) proposes amendments to §§800.51-800.54, 800.57, 800.58, 800.61 and 800.62 and the repeal of §§800.55, 800.56, and 800.59, relating to allocations and funding.

Concurrent with the amendments and repeal, the Commission is proposing the review of the sections being amended in Chapter 800, Subchapter B, pursuant to Texas Government Code §2001.039.

Purpose: The purpose of the proposed amendments and repeals is to update the allocations and funding rules consistent with the preliminary review of the rules. The Commission's allocations and funding rules set forth the methods or criteria used by the Commission to allocate or utilize funds primarily using the need-based formulas or other formula set forth in federal and state statutes applicable to the services to be provided.

The specific changes to the rules are generally for the following purposes:

- (1) replacing the reference to "JOBS/TANF" with "Choices" throughout the subchapter,
- (2) clarifying the roles of the "Commission" and "Agency" throughout the subchapter;
- (3) changing the format of the beginning of each rule to make the style more consistent and parallel;
- (4) removing the definitions of "allocation" and "workforce area" so those definitions may be incorporated in the future into §800.2 for applicability to all Commission chapters contained in Part 20;
- (5) removing, in §800.52, the definition of "average net unit rate" because it is no longer needed due to the concurrent repeal of §800.56;
- (6) removing §800.55 because all Job Training Partnership Act (JTPA) funds have been allocated and the JTPA was repealed and replaced with the new Workforce Investment Act;
- (7) removing §800.56 because the rule was no longer needed after §800.58 was adopted in January of 1999;
- (8) adding within §800.58(b) the reference to the Welfare to Work Governor's Reserve funds to make clear that the criteria set forth in §800.58(b) are used as the method of allocating those funds;
- (9) removing §800.58(f)(3) because the rule repeats the provisions relating to priorities for child care services that are contained in §809.221 and §809.225 regarding Child Care General Funds Management and Continuity of Care;
- (10) removing §800.58(g) because the reason for the subsection no longer exists;
- (11) removing §800.59 to relocate the provisions into the more general location within §800.51; and
- (12) removing §800.61(b) because of guidance from the United States Department of Labor that indicated that the provision is not required.

Randy Townsend, Director of Finance, has determined that for each year of the first five years the rules will be in effect, the following statements will apply:

there are no additional estimated costs to the state and to local governments expected as a result of enforcing or administering the rules;

there are no estimated reductions in costs to the state and to local governments as a result of enforcing or administering the rules;

there are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the rules;

there are no foreseeable implications relating to costs or revenue of the state or local governments as a result of enforcing or administering the rules; and

there are anticipated economic costs to persons required to comply with the rules.

Mr. Townsend has also determined that there is no anticipated adverse impact on small businesses as a result of enforcing or administering the rule because small businesses are not regulated or required to do anything by the rules.

Mark Hughes, Director of Labor Market Information, has determined that there is no foreseeable negative impact upon employment conditions in this state as a result of the proposed rules.

Barbara Cigainero, Director of Workforce and Development, has determined that for each year of the first five years the rules are in effect, the public benefit anticipated as a result of enforcing the rules will be to help ensure effective use of funds and to assist Boards in supporting employment, training, and education.

Comments on the proposal may be submitted to Barbara Cigainero, Texas Workforce Commission Building, 101 East 15th Street, Room 504BT, Austin, Texas, 78778, (512) 463-7747. Comments may also be submitted via fax to (512) 463-2799 or e-mailed to: Barbara.Cigainero@twc.state.tx.us.

Comments must be received by the Agency within 30 days from the date of the publication in the *Texas Register*.

40 TAC §§800.51-800.54, 800.57, 800.58, 800.61, 800.62

The rules are proposed under Texas Labor Code §301.061 and §302.002, which provide the Texas Workforce Commission with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of Agency services and activities.

The rules affect Texas Labor Code, Titles 2 and 4 as well as Texas Government Code Chapter 2308.

§800.51.Scope and Purpose.

(a)-(d) (No change.)

(e) Funds available to the Commission that are not otherwise allocated under this subchapter, may be used by the Commission for purposes authorized by state and federal laws and regulations.

§800.52.Definitions.

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

(1) (No change.)

~~[(2) Allocation—The amount available for expenditures within a workforce area during a specified period, according to specific state and federal requirements.]~~

~~[(3) Average net unit rate—The average amount per child (adjusted to full-time equivalent unit) paid for child care during the previous year, less parent fees or other subsidy, in order to account for variations in market rates across the state.]~~

~~[(4) JOBS/TANF work requirement—The requirement for an adult recipient to engage in an approved work activity for a specified number of hours per week as a condition of eligibility for TANF cash assistance.]~~

~~[(5) Mandatory work registrant—A food stamp recipient subject to participation in the Food Stamp Employment and Training program as a condition of eligibility, as specified in 7 Code of Federal Regulations §273.7.]~~

(2) [~~(6)~~] Two-parent family participation rate--The percentage of two-parent families receiving TANF benefits that a state must engage in an approved work activity for a specified number of hours per week as provided by the Personal Responsibility and Work Opportunities Reconciliation Act of 1996, §407.

~~[(7) Workforce area—A local workforce development area under Government Code, §2308.252.]~~

Choices [~~JOBS/TANF Program~~].

(a) Funds available to the Commission to provide Choices Services [under the JOBS/TANF program (Job Opportunities and Basic Skills (JOBS) under Temporary Assistance for Needy Families program (TANF) as authorized at 42 USC §§601 et seq.)] will be allocated to the workforce areas using a need-based formula, in order to meet state and federal requirements, as set forth in subsection (b) of this section.

(b) At least 80% of the Choices [JOBS/TANF program] funds, excluding Investment in Long-Term Success for TANF Recipients components, will be allocated to the workforce areas on the basis of:

(1) the relative proportion of the total number of two-parent families with Choices [JOBS/TANF] work requirements residing within the workforce area to the statewide total number of two-parent families with Choices [JOBS/TANF] work requirements, and

(2) the relative proportion of the total number of single-parent families with Choices [JOBS/TANF] work requirements residing within the workforce area to the statewide total of single-parent families with Choices [JOBS/TANF] work requirements.

(3) Funding will be divided between paragraphs (1) and (2) of this subsection based on the need to meet federal participation rates for both the two-parent families and all families, as required by federal law.

(c) No more than 10% of Choices [JOBS/TANF] funds expended as part of a workforce area's allocation shall be used for administrative costs, as defined by the appropriate federal regulations and Commission policy.

§800.54.Food Stamp Employment and Training [Program].

(a) Funds available to the Commission to provide FSE&T services under USCA §2015(d) [under the Food Stamp Employment and Training program (FS E & T) (7 USC §2015(d))] will be allocated to the workforce areas using a need-based formula, as set forth in subsection (b) of this section.

(b) At least 80% of the FS E & T funds will be allocated to the workforce areas on the basis of the relative proportion of the total unduplicated number of mandatory work registrants receiving food stamps residing within the workforce area to the statewide total unduplicated number of mandatory work registrants receiving food stamps.

(c) No more than 10% of the funds expended as part of a workforce area's allocation shall be used for administrative costs, as defined by the appropriate federal regulations and Commission policy.

§800.57.Employment Services.

(a) Employment Services funds available to the Commission to provide Employment Services under §7(a) of the Wagner-Peyser Act (29 USCA Chapter 4B) will be utilized by the Commission as set forth in subsection (b) of this section.

(b) At least 80% of the [~~funds available to the Commission for the~~] Employment Services funds [~~program~~] under §7(a) of the Wagner-Peyser Act (29 ~~USCA~~ [~~USC~~] Chapter 4B , ~~including §49(c)~~) will be utilized by the Commission within the workforce areas according to the established federal formula, as follows:

(1) Two-thirds will be based on the relative proportion of the total civilian labor force residing within the workforce area to the statewide total civilian labor force; and

(2) One-third will be based on the relative proportion of the total number of unemployed individuals residing within the workforce area to the statewide total number of unemployed individuals.

§800.58. Child Care [~~Allocations~~].

(a) (No change.)

(b) Child Care and Development Fund (CCDF) Mandatory Funds authorized under the Social Security Act §418(a)(1), as amended, together with state general revenue Maintenance of Effort (MOE) Funds, Social Services Block Grant funds, Welfare-to-Work funds reserved by the Governor, [~~and~~] TANF funds , and other funds designated by the Commission [~~appropriated~~] for child care (excluding any amounts withheld for state-level responsibilities) will be allocated on the following basis:

(1) 50% [~~fifty percent (50%)~~] will be based on the relative proportion of the total number of children under the age of five years old residing within the workforce area to the statewide total number of children under the age of five years old, and

(2) 50% [~~fifty percent (50%)~~] will be based on the relative proportion of the total number of people residing within the workforce area whose income does not exceed 100% of the poverty level to the statewide total number of people whose income does not exceed 100% of the poverty level.

(c)-(f) (No change.)

[~~(g) The provisions in this section shall be applicable to allocations for child care beginning in fiscal year 2000.~~]

§800.61. Welfare to Work [~~Program~~].

(a) Welfare to Work funds available to the Commission for the Welfare to Work allowable activities as referenced in Chapter 839 of this Title will be allocated by the Commission to the workforce areas according to the formula set forth in subsection (b) of this section.

(b) [~~(a)~~] At least 85% [~~eighty five percent (85%)~~] of the federal funds available to the [~~Texas Workforce~~] Commission [~~(Commission)~~] for the Welfare to Work allowable activities as referenced in Chapter 839 of this Title [~~program~~] will be allocated by the Commission to the workforce areas according to the formula, as follows:

(1) 50% [~~fifty percent (50%)~~] of these federal funds will be allocated based on the relative number by which the population in the area below poverty exceeds 7.5% of the total population (referred to as the poverty factor), and

(2) 50% [~~fifty percent (50%)~~] of these federal funds will be allocated based on the relative number of adults residing in the areas receiving assistance under TANF or the predecessor statute [~~program~~] for at least 30 months (referred to as the long-term TANF factor.)

[~~(b) Notwithstanding the allocation formula in (a) above, of the funds allocated, no more funds may be disbursed than the total for which match is recorded, documented, or certified by the state.~~]

(c) At least 85% of any unencumbered general revenue funds appropriated or otherwise made available to the Commission for the sole purpose of providing cash match for the Welfare to Work allowable activities [~~program~~] shall be allocated based upon the same allocation formula as in subsection (a) of this section [~~above~~].

(d) No more than 10% [~~ten percent (10%)~~] of the funds expended as part of a workforce area's allocation shall be used for administrative costs, as defined by the appropriate federal regulations and Commission policy.

(e) Section 800.51(a) and (b) [~~Subsections (a)-(e) of §800.51~~] of this title (relating to Allocation and Funding) do not apply to this section.

§800.62. School-to-Careers.

(a)-(h) (No change.)

(i) If it is determined by the Commission that a local partnership will not fulfill its responsibilities under the substate grant, the Commission may declare the local partnership non-responsive and accept an application from a newly constituted local partnership or other entity meeting the criteria of the Act, established in accordance with guidance from the Commission, to proceed with implementation of the School-to-Careers activity in the workforce area.

Section 800.51(e) [~~800.59~~] of this title (relating to Funds Not Allocated), and Subchapter C of this chapter [~~§800.60 of this title~~] (relating to Reallocation of Funds), shall not apply to this section.

(j) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State, on October 10, 2000.

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J. Randel (Jerry) Hill
General Counsel
Texas Workforce Commission
Earliest possible date of adoption: November 26, 2000
For further information, please call: (512) 463-8812

40 TAC §§800.55, 800.56, 800.59

(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Workforce Commission or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The repeals are proposed under Texas Labor Code §301.061 and §302.002, which provide the Texas Workforce Commission with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of Agency services and activities.

The rules affect Texas Labor Code, Titles 2 and 4 as well as Texas Government Code Chapter 2308.

§800.55. Job Training Partnership Act Program.

§800.56. Child Care Services.

§800.59. Funds Not Allocated.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State, on October 10, 2000.

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