

## 40 TAC Chapter 811. Choices Rules

ADOPTED RULES WITH PREAMBLE TO BE SUBMITTED TO THE *TEXAS REGISTER*. THIS DOCUMENT WILL NOT HAVE ANY SUBSTANTIVE CHANGES BUT IS SUBJECT TO FORMATTING CHANGES AS REQUIRED BY THE *TEXAS REGISTER*.

The Texas Workforce Commission (Commission) adopts amendments regarding Chapter 811 Choices Rules with changes to the proposed text as published in the January 31, 2003 issue of the *Texas Register* (28 TexReg 921) to §§811.2-811.3 and §811.14. The following sections are adopted without changes and the text will not be republished:

Subchapter B. Access to Choices Services, §§811.11-811.12;  
Subchapter C. Choices Services, §811.22; §811.23; §811.26; and  
Subchapter E. Support Services and Other Initiatives, §811.61.

The Commission also adopts a new §811.30 to Subchapter C. Choices Services without changes.

In general, the Commission adopts amendments to the Choices rules to conform with legislative changes, as well as to conform with other state agency rules.

**Background.** The 77th Legislature enacted Texas Human Resources Code, §31.0066 relating to hardship exemptions from federal time limits for receiving cash assistance under Temporary Assistance for Needy Families (TANF) (Senate Bill 45, 77th Legislature, Regular Session, 2001). This law directs the Commission, the Texas Department of Human Services (TDHS) and the Health and Human Services Commission (HHSC) to adopt rules establishing federal hardship exemptions to the TANF 60-month time limit that identify circumstances that reasonably prevent recipients of financial assistance from becoming self-supporting before the expiration of the period specified by federal law.

The Commission adopts a change to the rule to recognize the special needs of recipients of temporary cash assistance (recipients) who are approaching their state or federal time limit, or those that receive extended TANF benefits. The Commission proposed that targeted services, as defined by the Boards, be provided to recipients who are approaching their state or federal time limit to ensure that they receive an adequate opportunity to access employment services. The Commission also adopts the requirement that Boards serve mandatory recipients receiving a 60-month time limit hardship exemption. These extended TANF recipients continue to receive cash assistance past their 60-month time limit. The receipt of extended temporary cash assistance is contingent upon the recipient's participation in Choices services.

In the proposed rules, the Commission included language to require Boards to outreach recipients who receive a state hardship exemption (i.e., those who continue to receive benefits past their state time limit), as well as recipients who receive TANF benefits past their 60-month time limit, with both of these populations included in the definition of "Extended TANF Recipient." In the final rule, the Commission clarifies the definition of Extended TANF Recipient to exclude recipients who receive a state hardship exemption. This change is based on input from the TDHS. TDHS indicates that because of automation limitations, it recognizes as mandatory only individuals who receive benefits past their 60-month time limit. Based on this automation limitation, the Commission's final rule clarifies that Boards are required to outreach only Extended TANF Recipients who receive benefits past their 60-month time limit. However,

the Commission continues to encourage Boards to outreach state hardship recipients on a voluntary basis.

It is the Commission's intent to provide Boards with information on TANF recipients who are approaching their state or federal time limit. This will allow Boards to plan for the delivery of services to these recipients prior to the expiration of their TANF cash assistance. The Commission recommends that Boards ensure that these individuals receive all appropriate screenings to determine if there are other factors that may preclude job entry, and focus on targeted services to provide appropriate job referrals. The Commission seeks to ensure that all available services are offered and provided to recipients who are in danger of losing their TANF cash assistance.

A portion of individuals whose TANF cash assistance has expired may still be eligible for an exemption or hardship to the 60-month time limit. These mandatory recipients must participate in Choices services as a condition of continued eligibility and must be offered Choices services. The Commission encourages Boards to develop meaningful services that identify employment opportunities appropriate for the skills and background of these extended TANF recipients.

The Commission also addressed requirements concerning Alternative Workforce Orientation for Applicants (WOAs). WOAs are designed as orientations to services available at workforce centers for Applicants of TANF (TANF Applicants) to educate them on opportunities for connecting with immediate employment instead of becoming dependent upon public assistance. Staff of the Commission and TDHS worked jointly to develop a new requirement for the delivery of WOAs. As a result, TDHS published rules to require all TANF Applicants to attend a regularly scheduled WOA, unless extraordinary circumstances prevented such attendance. If extraordinary circumstances prevent attendance, TANF Applicants are required to attend an Alternative WOA. The Choices rule changes are designed to require that Boards ensure that methods of delivering Alternative WOAs are developed, which may include providing information by phone, in person, or through the use of information on videotape.

The Commission modifies provisions for recipients with disabilities. The proposed rules included changes to allow disabled recipients to volunteer for a specified number of hours identified by a physician. TDHS subsequently modified its procedures to clarify that disabled recipients who have physician-identified hours are considered mandatory.

Specifically, the Commission adopts a special provision to recognize the number of hours a disabled recipient is able to participate based upon information provided by a physician. Therefore, if a physician confirms that a disabled recipient may participate for 10 hours per week, the mandatory recipient must receive necessary support services to enable his or her participation. In addition, the disabled recipient will count as engaged in activities for participation purposes based on the number of physician-identified hours.

Additional modifications were proposed concerning mandatory recipients who are needed to care for a disabled adult in the household, and for recipients who are caretakers of an ill or disabled child in the household. These recipients will also have an hourly participation requirement based upon the number of physician-identified hours.

The Commission rules permit mandatory recipients who are disabled or who care for a disabled adult or ill or disabled child to be temporarily excluded from the mandatory community service

requirement after four weeks in Choices. This temporary exclusion allows Boards the time necessary to coordinate appropriate community service sites for these recipients. It is the Commission's intent to rescind this exclusion at a later date. A disabled recipient is eligible to receive specialized services from a rehabilitation organization that may be provided under 'Vocational Educational Training' activity; however, only 30 percent of a Board's participation rate numerator may be derived from recipients in certain education activities. The recipient caring for a disabled adult or ill or disabled child is eligible to receive any allowable Choices activities.

Family violence requirements contained in Texas Human Resources Code §31.0322, as amended by House Bill 1175, 77th Legislature, Regular Session, 2001, are also addressed. The proposed amendments place into rule the following legislatively mandated requirements: 1) train certain local staff in family violence issues; 2) ensure reasonable attempts are made to contact TANF recipients prior to applying penalties; and 3) ensure family violence specialists interview TANF recipients who are identified as being victims of family violence.

The rule changes are intended to reflect the guidance provided by the Commission regarding the requirements of this law. Boards requested additional guidance on what constitutes 'reasonable attempt', especially as it relates to recipients who did not respond to outreach versus recipients who are actively engaged in Choices services. The Commission provides the following guidance to Boards with regard to the definition of 'reasonable attempts'. A 'reasonable attempt' may be defined differently for recipients who have been outreached but have never interacted with workforce center staff. For these recipients, a 'reasonable attempt' may include a second outreach letter inquiring about the status of their non-response. Boards have indicated that for recipients who are actively engaged in Choices services, 'reasonable attempts' are more effective when they include not only second outreach letters, but also phone calls or home visits if practical. Boards may tailor their definition of 'reasonable attempt' based on geographical location and individual client circumstances.

In §811.2, the rule contains a new definition for Extended TANF recipient.

In §811.3, the rule contains instructions on serving persons who are within 6 and 12 months of timing out, or who are receiving extended TANF benefits past their 60-month time limit.

In §811.11, the rule provides clarification on the provision of scheduled and alternative WOAs. Amendments are also proposed addressing the family violence requirements.

In §811.12, the rule clarifies that TANF applicants may attend either a scheduled or alternative WOA.

In §811.14, the rule contains a technical amendment to change a reference from 'domestic violence' to 'family violence', and a technical amendment clarifying the length of time good cause for family violence may be provided. Specifically, the rule clarifies that good cause for family violence may be granted for up to 12 months for each occurrence.

In §811.22 and §811.23, the rule contains technical amendments regarding family violence.

In §811.26, the rule contains technical amendments to clarify that mandatory recipients who are disabled, and mandatory recipients caring for a disabled adult in the household or caring for an

ill or disabled relative child, participating in Choices services are not subject to the mandatory community service requirement after four weeks of participation in Choices. This rule will reflect the ability of these recipients to participate in rehabilitation services provided by the Texas Rehabilitation Commission or other similar organizations.

In §811.30, the rule contains new language regarding participation requirements for disabled recipients, recipients caring for a disabled adult in the household, and recipients caring for an ill or disabled relative child, which recognizes the hours the individual is able to work, as specified by a physician.

In §811.61, the rule contains a technical amendment to appropriately cross-reference new §811.30.

Coordination with Stakeholders: Prior to proposing these rule amendments, the Commission circulated a policy concept paper outlining the changes to the Board chairs, members and executive directors, the Workforce Leadership of Texas (WLT) Policy Committee, and the Texas Department of Human Services. In addition, staff of the Commission, during a conference call with the Board executive directors, and at a WLT Policy Committee meeting reviewed the policy concept paper and requested feedback on the draft policy changes.

Comments were received from TDHS. The comment summaries and responses are as follows:

Comment: Regarding §811.2(5), the commenter expressed concern over the proposed definition of Extended TANF Recipient. The proposed definition defined Extended TANF Recipient as a person receiving TANF past the person's state or federal time limit. The commenter suggested that the definition be changed to be consistent with TDHS rule language, which defines Extended TANF Recipients as individuals who have reached their 60<sup>th</sup> month of assistance. For consistency, the commenter recommends deleting the word "state" from the definition.

Response: The Commission agrees with the comment that the definition of Extended TANF Recipient should include only recipients who have reached their 60-month time limit, and will amend the rule accordingly.

Comment: Regarding §811.3(c)(7), the commenter recommended the deletion of the requirement to serve recipients who are receiving the state hardship exemption as a targeted population. The commenter specifically suggested the language be changed to serve these recipients as volunteers.

Response: Based on the current TDHS automation limitation, the Commission agrees with the comment and will remove the reference in the rule to the state hardship exemption. TDHS indicates that the automation changes necessary to serve this population are not cost effective. The Commission continues to encourage Boards to serve these recipients as volunteers.

Comment: Regarding §811.11(e), the commenter recommended that the rule be clarified to indicate whether it is referencing a state or federal time limit hardship exemption or other exemptions.

Response: Although the rule references §811.3(7)(c), which addresses this issue, the Commission agrees further clarification is beneficial. The Commission will amend the rule to indicate clearly that the exemption applies only to Extended TANF Recipients.

For information about the Commission, including services for employers and workers, please visit our web page at [www.texasworkforce.org](http://www.texasworkforce.org).

The rules are adopted under Texas Labor Code, §301.061 which provides the Texas Workforce Commission (Commission) with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of Commission activities and services, and under Chapter 31 including §31.0322 and §31.0066 of the Human Resources Code which requires the Commission to administer the work requirements for recipients of public assistance.

Texas Labor Code, Title 4 and particularly Chapter 301 and Chapter 302 will be affected by the amendments as well as Texas Human Resources Code, Chapter 31 regarding public assistance.

## **SUBCHAPTER A. GENERAL PROVISIONS**

### **§811.2. Definitions.**

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

- (1) Applicant -- A person who applies for temporary cash assistance.
- (2) TDHS -- The Texas Department of Human Services.
- (3) Exempt Recipient -- A recipient who is not required as defined by TDHS Rules, 40 TAC, 3.1101, to participate in Choices services.
- (4) Earned Income Deduction (EID) -- A standard work-related and income deduction, available through the TDHS for four months, as defined in TDHS Rules, 40 TAC, §3.1003 to recipients who are employed at least 30 hours a week and earn at least \$700 a month.
- (5) Extended TANF Recipient -- A person who receives TANF cash assistance past the date of the individual's 60-month limit due to a hardship exemption as defined in TDHS Rules, 40 TAC, §3.6001.
- (6) Former recipient -- A person who is an adult or teen head of household who no longer receives temporary cash assistance.
- (7) Choices Individual -- A person who is an applicant, recipient or former recipient as defined in this section.
- (8) Mandatory Recipient -- A recipient, including Extended TANF recipients who are required as defined by TDHS Rules, 40 TAC, §3.1101, and §3.6001 to participate in Choices services.

- (9) PRWORA -- The Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, 110 Stat. 2105, as amended.
- (10) Recipient -- A person who is an adult or teen head of household who receives temporary cash assistance.
- (11) Temporary cash assistance -- The cash grant provided through TDHS to individuals who meet certain residency, income, and resource criteria as provided under federal and state statutes and regulations, including the PRWORA, the TANF block grant statutes, the TANF State Plan, temporary cash assistance provided under Texas Human Resources Code Chapters 31 or 34, and other related regulations.
- (12) Work-Based Services -- Includes those services defined in Human Resources Code §31.0126.
- (13) Work Ready -- A Choices individual is considered work ready if he or she has the skills that are required by employers in the workforce area. A Board must ensure immediate access to the labor market to determine whether the Choices individual has those necessary skills to obtain employment.

**§811.3. Choices Service Strategy.**

- (a) A Board shall ensure that its strategic planning process includes an analysis of the local labor market to:
  - (1) determine employers' needs;
  - (2) determine emerging and demand occupations; and
  - (3) identify employment opportunities, which includes those with a potential for career advancement.
- (b) A Board shall set local policies for a Choices service strategy that coordinates various service delivery approaches to:
  - (1) assist applicants in gaining employment as an alternative to public assistance;
  - (2) utilize a work first design as referenced in paragraph 2 of subsection (c) of this section to provide recipients participating in Choices access to the labor market; and
  - (3) assist former recipients in job retention and career advancement to remain independent of temporary cash assistance.
- (c) The Choices service strategy shall include:

- (1) Workforce Orientation for Applicants (WOA). As a condition of eligibility, applicants are required to attend a workforce orientation that includes information on options available to allow them to enter the Texas workforce.
- (2) Work First Design.
  - (A) The work first design:
    - (i) allows individuals to take immediate advantage of the labor market and secure employment, which is critical due to individual time-limited benefits; and
    - (ii) meets the needs of employers by linking individuals with skills that match those job requirements identified by the employer.
  - (B) Boards shall provide individuals access to other services and activities available through the One-Stop Service Delivery Network, which includes the WOA, to assist with employment in the labor market before certification for temporary cash assistance.
  - (C) Post-employment services shall be provided in order to assist an individual's progress towards self-sufficiency as described in paragraph (3) of subsection (c) of this section and §811.51 of this chapter.
  - (D) In order to assist an individual's progress toward self-sufficiency:
    - (i) Boards shall provide recipients who are employed, including those receiving the EID, with information on available post-employment services; or
    - (ii) Boards may provide former recipients with post-employment services as determined by Board policy. The length of time these services may be provided is subject to §811.51(e) of this chapter.
  - (E) In order to assist employers, Boards shall coordinate with local employers to address needs related to:
    - (i) employee post-employment education or training;
    - (ii) employee child care, transportation or other support services available to obtain and retain employment; and
    - (iii) employer tax credits.
  - (F) A Board shall ensure that a family employment plan is based on employer needs, individual skills and abilities, and individual time limits for temporary cash assistance.

- (3) **Post-Employment Services.** A Board shall ensure that post-employment services are designed to assist individuals with job retention, career advancement and reemployment, as defined in §811.51 of this chapter. Post-employment services are a continuum in the Choices service strategy to support an individual's progression to self-sufficiency.
- (4) **Adult Services.** A Board shall ensure that services for adults shall include activities individually designed to lead to employment and self-sufficiency as quickly as possible.
- (5) **Teen Services.** A Board shall ensure that services for teen heads of household shall include assistance with completion of secondary school or a certificate of general equivalence and making the transition from school to employment, as described in §811.27 and §811.50 of this chapter.
- (6) **Individuals with Disabilities.** A Board shall ensure that services for individuals with disabilities include reasonable accommodations to allow the individuals to access and participate in services, where applicable by law. A Board shall ensure that Memoranda of Understanding (MOU) are established with the appropriate agencies to serve individuals with disabilities.
- (7) **Target Populations.** A Board shall ensure that services are concentrated, as further defined in §811.11 (d) and (e) of this chapter, on the needs of the following:
  - (A) recipients who have 6 months or less remaining of their state TANF time limit, irrespective of any extension of time due to a hardship exemption;
  - (B) recipients who have twelve months or less remaining of their 60-month TANF time limit, irrespective of any extension of time due to a hardship exemption; and
  - (C) recipients who are Extended TANF Recipients.
- (8) **Local Flexibility.** A Board may develop additional service strategies that are consistent with the goal and purpose of this chapter and the One-Stop Service Delivery Network.
- (9) **Local-Level MOU.** A Board shall ensure the development of a local-level MOU in cooperation with TDHS for coordinated case management that is consistent with the MOU between TDHS and the Commission.

## **SUBCHAPTER B. ACCESS TO CHOICES SERVICES**

### **§811.11. Board Responsibilities.**

- (a) A Board shall ensure that:
  - (1) procedures are developed, in conjunction with TDHS, to notify applicants on the availability of regularly scheduled Workforce Orientations for Applicants (WOA) and alternative WOAs;

- (2) the WOA is offered frequently enough to allow applicants to comply with the TDHS requirement that gives applicants ten (10) calendar days to attend a WOA;
  - (3) during a regularly scheduled WOA or alternative WOA, applicants are informed of:
    - (A) employment services available through the One-Stop Service Delivery Network to assist applicants in achieving self-sufficiency without the need for temporary cash assistance;
    - (B) benefits of becoming employed;
    - (C) impact of time-limited benefits;
    - (D) individual and parental responsibilities; and
    - (E) other services and activities, including education and training, available through the One-Stop Service Delivery Network;
  - (4) alternative WOAs are developed that allow applicants with extraordinary circumstances to receive the information listed in §811.11(a)(3) of this subsection;
  - (5) procedures are developed to notify TDHS of applicants that contacted the Board's workforce centers to request alternative WOAs;
  - (6) verification that an applicant attends a scheduled or alternative WOA is completed and TDHS is notified in accordance with TDHS rule, 40 T.A.C. §3.7301; and
  - (7) applicants are provided with an appointment to develop a family employment plan.
- (b) A Board shall ensure that Choices services are offered to applicants who attend WOA.
  - (c) A Board shall ensure that recipient status is verified monthly and recipients either:
    - (1) comply with Choices services requirements as outlined in the family employment plan unless the recipient is exempted by TDHS; or
    - (2) have good cause as described in §811.14 of this subchapter (relating to Good Cause for Recipients).
  - (d) A Board shall develop policies and procedures to ensure that services are concentrated on individuals approaching their state or federal time limit, as identified in §811.3(7)(a) and (b) of this chapter. Concentrated services may include targeted outreach, enhanced analysis of circumstances that may limit a recipient's ability to participate, and targeted job development.

- (e) A Board shall ensure that all Extended TANF Recipients are outreached and offered the opportunity to participate in Choices activities.
- (f) A Board shall ensure that post-employment services, including job retention and career advancement services, are available to recipients, including those receiving EID.
- (g) A Board shall ensure that the monitoring of Choices requirements and activities is ongoing and frequent, as determined by a Board, and consists of the following:
  - (1) ensuring receipt of support services
  - (2) tracking and reporting of support services;
  - (3) tracking and reporting actual hours of participation, at least monthly;
  - (4) determining and arranging for any intervention needed to assist the individual in complying with Choices service requirements;
  - (5) ensuring that the individual is progressing toward achieving the goals and objectives in the family employment plan; and
  - (6) monitoring all other participation requirements.
- (h) A Board shall ensure that:
  - (1) no less than four hours of training regarding family violence is provided to staff who:
    - (A) provide information to an applicant or recipient of temporary cash assistance;
    - (B) recommend penalties or grant good cause; or
    - (C) provide employment planning or employment retention services; and
  - (2) recipients who are identified as being victims of family violence are referred to an individual or an agency that specializes in issues involving family violence.
- (i) A Board shall ensure that:
  - (1) reasonable attempts, as defined by the Board, are made to contact a recipient prior to initiating a penalty to determine the reason for non-compliance;
  - (2) the attempts to contact a recipient are documented; and
  - (3) notification is made to TDHS if a recipient fails to comply with Choices services requirements.

- (j) A Board shall ensure that documentation is obtained and maintained regarding all contact with Choices individuals and data entered into TWIST.

**§811.12. Applicant Responsibilities.**

Applicants are required to attend a scheduled or an alternative WOA, in accordance with TDHS rule 40 T.A.C. §§3.7301-3.7302.

**§811.14. Good Cause for Recipients.**

- (a) Good cause applies only to recipients. A Board shall ensure whether the recipient has good cause as provided in this chapter.
- (b) A Board shall ensure that a good cause determination:
  - (1) is based on the individual circumstances of the recipient;
  - (2) is based on face-to-face or telephone contact with the recipient;
  - (3) covers a temporary period when a recipient may be unable to attend scheduled appointments or participate in ongoing work activities;
  - (4) is made at the time the change in the recipient's circumstances is made known to the Board's service provider; and
  - (5) is conditional upon efforts to enable the recipient to address circumstances that limit the ability to participate in Choices services as required in the Personal Responsibility Agreement.
- (c) The following reasons may constitute good cause for purposes of this chapter if the mandatory recipient is unable to meet the participation requirements due to:
  - (1) temporary illness or incapacitation;
  - (2) court appearance;
  - (3) caring for a physically or mentally disabled household member who requires the recipient's presence in the home;
  - (4) a demonstration that there is:
    - (A) no available transportation and the distance prohibits walking; or
    - (B) no available job within reasonable commuting distance, as defined by the Board;
  - (5) an inability to obtain needed child care, as defined by the Board and based on the following reasons:

- (A) informal child care by a relative or under other arrangements is unavailable or unsuitable, and based on, where applicable, Board policy regarding child care as specified in §811.47 of this chapter. Informal child care may also be determined unsuitable by the parent;
  - (B) eligible formal child care providers are unavailable, as defined in Chapter 809 of this title;
  - (C) affordable formal child care arrangements within maximum rates established by the Board are unavailable; and
  - (D) formal or informal child care within a reasonable distance from home or the work site is unavailable;
- (6) is without other support services necessary for participation;
- (7) receives a job referral that results in an offer below the federal minimum wage, except when a lower wage is permissible under federal minimum wage law;
- (8) is in a family crisis or a family circumstance that may preclude participation, including substance abuse and mental health, provided the recipient engages in problem resolution through appropriate referrals for counseling and support services; or
- (9) is a victim of family violence.
- (d) A Board shall promulgate policies and procedures for determining a family's inability to obtain child care and shall ensure that recipients in single-parent families caring for children under age six are informed of:
- (1) the penalty exception to the family work requirement, including the criteria and applicable definitions for determining whether a recipient has demonstrated an inability to obtain needed child care, as defined in §811.14(c)(5)(A)-(D) of this section.
  - (2) a Board's policy and procedures for determining a family's inability to obtain needed child care, and any other requirements or procedures, such as fair hearings, associated with this provision, as required by 45 CFR §261.56.
- (e) A Board shall ensure that good cause:
- (1) is reevaluated at least on a monthly basis;
  - (2) is extended if the circumstances giving rise to the good cause exception are not resolved after available resources to remedy the situation have been considered; and

- (3) that is based on the existence of family violence does not exceed a total of twelve consecutive months per occurrence.

## **SUBCHAPTER C. CHOICES SERVICES**

### **§811.22. Assessment.**

- (a) A Board shall ensure that initial and ongoing assessments are performed to determine the employability and retention needs of Choices individuals as follows:
  - (1) An assessment is required for mandatory recipients, and for exempt recipients who voluntarily participate in Choices services, and who are:
    - (A) at least age 18; or
    - (B) heads of household, as determined by TDHS, who are not yet age 18, have not completed secondary school or received a certificate of general equivalence, and are not attending secondary school.
  - (2) An assessment shall be provided to applicants who choose to participate in Choices services.
  - (3) Ongoing assessments shall be provided to former recipients who choose to participate in Choices services.
- (b) Assessments shall include evaluations of strengths and potential barriers to obtaining and retaining employment, such as:
  - (1) skills and abilities, employment, and educational history in relation to employers' workforce needs in the local labor market;
  - (2) support services needs; and
  - (3) family circumstances that may affect participation, including the existence of family violence, substance abuse, and mental health, or the need for parenting skills training, as one of the factors considered in evaluating employability.
- (c) For recipients who are at least age 18, or who are heads of household but are not yet age 18 and have not completed secondary school or received a certificate of general equivalence and are not attending secondary school:
  - (1) The assessments shall also include evaluations of the recipient's:
    - (A) vocational and educational skills, experience, and needs; and
    - (B) literacy level by using a statewide standard literacy assessment instrument with the following exception: recipients receiving the EID are excluded from the literacy assessment. A Board shall ensure that the grade-level results or other literacy information is provided to TDHS for use in

determining the appropriateness of the initial state time-limit designation for temporary cash assistance as described in the Texas Human Resources Code §31.0065, relating to state time-limited benefits.

- (2) The grade-level results or other literacy information are provided to TDHS for use in determining the appropriateness of the initial state time-limit designation for temporary cash assistance as described in the Texas Human Resources Code §31.0065, relating to state time-limited benefits.
- (d) **Assessment Outcome.** Assessments shall result in the development of a family employment plan, as described in §811.23 of this subchapter.

### **§811.23. Family Employment Plan.**

- (a) Boards must ensure that prior to the development of a family employment plan, recipients receive general information about services provided through the One-Stop Service Delivery Network that will assist them in obtaining employment, if the recipient did not receive this information during the WOA.
- (b) Family employment plans are required for mandatory recipients, and for exempt recipients who voluntarily participate in Choices services.
- (c) Family employment plans shall be developed with applicants and former recipients who choose to participate in Choices services.
- (d) A Board shall ensure that a family employment plan is developed during the assessment and:
  - (1) is based on assessments, as described in §811.22 of this subchapter;
  - (2) contains the goal of self-sufficiency through employment to meet the needs of the local labor market;
  - (3) contains the steps and services to achieve the goal, including:
    - (A) connecting the job seeker immediately to the local labor market;
    - (B) addressing potential barriers that limit the job seeker's ability to work or participate in activities;
    - (C) arranging support services for the job seeker or the family to address circumstances that limit the individual's ability to work or participate, including services for family violence;
    - (D) providing post-employment skill enhancement and career advancement; and
    - (E) requiring recipients to notify the Board's service provider of changes in family circumstances that may preclude participation in Choices services;

- (4) is signed by the Choices individual, unless the Choices individual is a recipient receiving the EID, and a Board's service provider; and
  - (5) assigns required hours and outlines the participation agreement for compliance with Choices services requirements. Family employment plans for two-parent families must include a description of how the required hours of participation will be distributed between one or both adults in the two-parent household.
- (e) A Board shall ensure that progress towards meeting the goals of the family employment plan is evaluated and the family employment plan is modified as appropriate to meet employer needs in the local labor market.

**§811.26. Special Provisions Regarding Core and Non-Core Activities.**

- (a) Mandatory recipients, with the exception of those described in §811.27 and §811.30 of this subchapter, who are not in an employment activity after four weeks of participation in Choices services, must be placed into community service. Mandatory recipients who are not in an employment activity after reaching their six-week limit per federal fiscal year in job search and job readiness activities must be placed into community service. Mandatory recipients required to participate in a community service activity must be scheduled to participate no less than the minimum weekly average hours calculated as specified in §811.21(b) of this subchapter.
  - (1) An employment activity is defined as:
    - (A) unsubsidized employment, as described in §811.42 of this chapter;
    - (B) subsidized employment, as described in §811.43 of this chapter;
    - (C) on-the-job training, as described in §811.44 of this chapter; or
    - (D) work experience, as described in §811.45 of this chapter.
  - (2) The number of hours that a recipient is required to participate in community service or another unpaid work activity, must be determined in compliance with the FSLA as described in §811.21(b) of this subchapter. If a recipient's hours of community service or other unpaid work activity are not sufficient to meet the core work activities requirement outlined in §811.25(b)-(d) of this subchapter, the recipient must be enrolled in additional core activities.
- (b) Exempt recipients who voluntarily participate in Choices services are not subject to the requirements outlined in §811.26(a) of this section.
- (c) Recipients participating in unsubsidized employment in §811.26(a)(1)(A) who lose that employment may participate in job search and job readiness activities unless they have reached the six-week limit per federal fiscal year.

- (d) Job search and job readiness activities, as defined in §811.41 of this chapter, are limited as follows:
  - (1) recipients may not be enrolled for more than 4 weeks of consecutive activity;
  - (2) recipients may not be enrolled for more than 6 weeks of total activity in a federal fiscal year;
  - (3) in order for a recipient to qualify for their remaining 2 weeks of job search and job readiness, they must first comply with §811.26(a) of this section, which requires that the recipient be engaged in an employment activity or in community service; and
  - (4) only once per federal fiscal year, may a partial week count as a full week of participation, per recipient.
- (e) Recipients may not be enrolled in vocational education training, as defined in §811.48 of this chapter, for more than a cumulative total of 12 months.
- (f) No more than thirty percent of recipients engaged in work activities in a month may be included in the Board's numerator because they are:
  - (1) participating in vocational educational training; and
  - (2) teen heads of household participating in educational activities as described in §811.27 of this subchapter.
- (g) Recipients shall only be enrolled in core and non-core activities.

**§811.30. Special Provisions Regarding Persons with Disabilities.**

- (a) Disabled recipients shall count as engaged in work to the extent that the individuals:
  - (1) participate in Choices employment and training activities for the time period and to the extent determined able as specified by a physician; or
  - (2) participate in activities as directed by the Texas Rehabilitation Commission or similar organization.
- (b) Recipients needed at home to care for a disabled adult in the household shall count as engaged in work if the recipient participates in Choices services for a time period and to the extent determined able as specified by a physician.
- (c) Recipients who are needed at home to care for an ill or disabled child in the household shall count as engaged in work if the recipient participates in Choices services for a time period and to the extent determined able as specified by a physician.

**SUBCHAPTER E. SUPPORT SERVICES AND OTHER INITIATIVES**

### **§811.61. Support Services.**

- (a) A Board shall ensure that support services as specified in this subchapter are provided, if needed, to Choices individuals to address barriers to employment or participation in Choices services, subject to availability of resources and funding. A Board shall ensure that support services provided to Choices individuals are coordinated with the employer, when appropriate.
- (b) A Board shall ensure that support services, including Commission-funded child care, are provided only to recipients who are meeting requirements outlined in §811.14, §811.23, §§811.25-811.28, and §811.30 of this chapter, and as outlined in §809.102 of this title. In applying this provision, a Board shall ensure support services are provided to a recipient if it is determined that the recipient needs the support services to comply with requirements outlined in §811.14, §811.23, and §§811.25-811.28, and §811.30 of this chapter, and as outlined in §809.102 of this title.
- (c) A Board shall ensure that:
  - (1) support services are terminated immediately upon a determination of a recipient's failure to meet Choices requirements, unless otherwise determined by the Board's service provider as referenced in subsection (b) of this section;
  - (2) the Board's child care service provider is notified immediately of the recipient's failure; and
  - (3) upon notification, the Board's child care service provider immediately notifies the child care provider that services are terminating due to failure to meet Choices requirements.