

AMENDMENTS TO CHAPTER 811. CHOICES

PROPOSED RULE 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*.

ON JANUARY 14, 2003, THE TEXAS WORKFORCE COMMISSION PROPOSED THE BELOW RULE WITH PREAMBLE TO BE SUBMITTED TO THE *TEXAS REGISTER*.

Estimated Publication Date of the Proposal in the *Texas Register*: January 31, 2003.

Estimated End of Comment Period: March 3, 2003

The Texas Workforce Commission (Commission) proposes the amendment of rules regarding Chapter 811 Choices Rules;

in Subchapter A. General Provisions, §§811.2-811.3;

in Subchapter B. Access to Choices Services, §§811.11-811.12; §811.14;

in Subchapter C. Choices Services, §811.22; §811.23; §811.26; and

in Subchapter E. Support Services and Other Initiatives, §811.61.

The Commission also proposes a new §811.30 to Subchapter C. Choices Services.

In general, the Commission proposes 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 to adopt rules establishing federal hardship exemptions to the TANF 60-month time limit for identifying circumstances that reasonably prevent recipients of financial assistance from becoming self-supporting before the expiration of the period specified by federal law.

The Commission proposes 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 proposes 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 proposes to require Boards to serve recipients who are receiving a state or federal hardship exemption. These extended TANF recipients continue to receive cash assistance past their state or federal time limit. The receipt of extended temporary cash assistance is contingent upon their participation in Choices services.

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 individuals 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 be eligible for an exemption or hardship to the state or federal time limit. These individuals 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 is also addressing 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 is also proposing to modify provisions for recipients with disabilities. Specifically, the Commission proposes to provide 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 recipient may 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 are proposed concerning 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.

Recipients who are disabled or recipients who care for a disabled adult or ill or disabled child will continue to be voluntary participants, and will continue to be eligible for state or federal hardship exemptions. Recipients who receive extended cash assistance benefits past their state time limit for personal hardship reasons, which includes recipients who are disabled or recipients who are caring for the ill or disabled, will continue to be served as volunteers. If these recipients continue to receive extended cash assistance benefits past their 60-month time limit, they will be mandatory participants.

Recipients who are disabled or recipients who care for a disabled adult or ill or disabled child who volunteer are not subject to the mandatory community service requirement after four weeks in Choices. 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 §813.2, 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.

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 disabled recipients, recipients caring for a disabled adult in the household, and recipients caring for an ill or disabled relative child who participate 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.

Randy Townsend, Chief Financial Officer, has determined that for the first five-year period the rules are 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 and 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 no anticipated economic costs to persons required to comply with the rules.

Mr. Townsend has determined that there is no anticipated adverse impact on small businesses as a result of enforcing or administering the rules because small businesses are not required to expend additional funds as a result of the rules, except to the extent that the costs for activities relating to Choices services would be paid for out of Choices funds provided to the Boards.

James Barnes, Director of Labor Market Information, has determined that the proposed amendments will not affect employment. The Director of Labor Market Information does not expect any significant impact upon overall employment conditions in the state as a result of the proposed rules.

Luis Macias, Director of Workforce Division, 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 provide activities and support services in a more flexible manner to meet the needs of persons receiving TANF to become self-sufficient and independent of public assistance and to provide employers with a skilled workforce.

Comments on the proposal may be submitted to John Moore, Office of General Counsel, Texas Workforce Commission, 101 East 15th Street, Room 608, Austin, Texas 78778-0001; fax (512)463-1426. Comments may also be submitted via e-mail to Mr. Moore at Proposed Choices Rules Amendments for Approval by the Commission January 14, 2003 (1-8-03 12:00pm)

ruleandpolicy.comments@twc.state.tx.us. Comments must be received by the Commission within thirty (30) days from the date this proposal is published in the *Texas Register*.

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The rules are amended 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

§811.1. Purpose and Goal.

- (a) The purposes of Temporary Assistance for Needy Families (TANF), as outlined in Title IV, Social Security Act, §401 (42 U.S.C.A. §601) are:
 - (1) provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives;
 - (2) end the dependence of needy parents on government benefits by promoting job preparation, work, and marriage;
 - (3) prevent and reduce the incidence of out-of-wedlock pregnancies; and
 - (4) encourage the formation and maintenance of two-parent families.
- (b) The goal of Choices services is to end the dependence of needy parents on public assistance by promoting job preparation, work, and marriage. A Board may exercise flexibility in providing services to Choices individuals to meet this Choices goal. A Board is also provided the flexibility and may engage in strategies that promote the prevention and reduction of out-of-wedlock pregnancies and encourage the formation and maintenance of two-parent families if those strategies support the primary goal of Choices services, which is employment and job retention.
- (c) The goal of the Commission is to ensure delivery of the employment and training activities as described in the TANF State Plan.
- (d) Boards shall identify the workforce needs of local employers and design Choices services to ensure that local employer needs are met and that the services are consistent with the goals and purposes of Choices services as referenced in this section, and as authorized by PRWORA, the applicable federal regulations at 45 C.F.R. Part 260 - 265, the TANF State Plan, this chapter, and consistent with a Board's approved integrated workforce training and services plan as referenced in §801.17 of this title.

§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 state or federal time limit due to a hardship exemption as defined in TDHS Rules, 40 TAC, §3.6001.
- (~~56~~) Former recipient -- A person who is an adult or teen head of household who no longer receives temporary cash assistance.
- (~~67~~) Choices Individual -- A person who is an applicant, recipient or former recipient as defined in this section.
- (~~78~~) Mandatory Recipient -- A recipient, including Extended TANF recipients who ~~is~~ are required as defined by TDHS Rules, 40 TAC, §3.1101, and §3.6001 to participate in Choices services.
- (~~89~~) PRWORA -- The Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, 110 Stat. 2105, as amended.
- (~~910~~) Recipient -- A person who is an adult or teen head of household who receives temporary cash assistance.
- (~~1011~~) 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.
- (~~112~~) Work-Based Services -- Includes those services defined in Human Resources Code §31.0126.

(1213) 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.

~~<new>~~§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. ~~As part of the orientation, a Board shall ensure that applicants are provided with an appointment to develop a family employment plan. A Board shall ensure that 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. A Board shall ensure that the applicants are informed of:~~
 - ~~(A) employment services available through a Board 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.~~

(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 Boards shall ensure that services are concentrated, as further defined in §811.11 (e) and (f) on the needs of recipients who:
 - (A) have 6 months or less remaining of their state TANF time limit, irrespective of any extension of time due to a hardship exemption; or
 - (B) have twelve months or less remaining of their federal TANF time limit, irrespective of any extension of time due to a hardship exemption; or
 - (C) are identified as receiving a state or federal hardship exemption.
- ~~(78)~~ 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.
- ~~(89)~~ 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 RESPONSIBILITIES

§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);
- (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.
- (a**b**) A Board shall ensure that Choices services are ~~offered~~provided to applicants who attend WOA.
- (c**b**) 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). 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 recipients receiving a state or federal hardship exemption, as identified in §811.3(7)(c) are outreached and offered the opportunity to participate in Choices activities.
- (fe) A Board shall ensure that post-employment services, including job retention and career advancement services, are available to recipients, including those receiving EID.
- (gd) 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.
- (ie) 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 verification that an applicant attends the WOA is completed and TDHS is notified in accordance with TDHS rule, 40 T.A.C. §3.7301; 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.

§811.13. Recipient Responsibilities.

- (a) A Board shall ensure that mandatory recipients, and exempt recipients who voluntarily participate in Choices services, comply with the provisions contained in this section.
- (b) Mandatory recipients, and exempt recipients who voluntarily participate in Choices services, shall:
 - (1) accept a job offer at the earliest possible opportunity;
 - (2) participate in or receive ancillary services necessary to enable the recipient to work or participate in employment-related activities, including counseling, treatment, vocational or physical rehabilitation, and medical or health services;
 - (3) report hours of participation in component activities, including hours of employment; and
 - (4) attend scheduled appointments.
- (c) Within two-parent families, mandatory recipients, and exempt recipients who voluntarily participate in Choices services, shall participate in assessment and family employment planning appointments and assigned employment and training activities as follows:
 - (1) participate in Choices employment and training as specified in §811.25(c)-(d) of this chapter;
 - (2) comply with requirements regarding core and non-core activities, as specified in §§811.25-811.28 of this chapter; and
 - (3) sign a form that contains all the information identified in the Commission's Family Work Requirement form, as described in §811.24 of this chapter.
- (d) Within single-parent families, mandatory recipients, and exempt recipients who voluntarily participate in Choices services, shall participate in assessment and employment planning appointments and assigned employment and training activities as follows:
 - (1) participate in Choices employment and training activities as specified in §811.25(b) of this chapter; and

- (2) comply with requirements regarding core and non-core activities, as specified in §§811.25-811.28 of this chapter.
- (e) A Board shall ensure that recipients who elect to receive the EID through TDHS:
 - (1) report actual hours of work to a Board; and
 - (2) are provided with information on available post-employment services.

§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; ~~or~~
 - (8) is in a family crisis or a family circumstance that may preclude participation, including ~~domestic violence~~, 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 ~~domestic violence~~ does not exceed a total of twelve consecutive months per occurrence ~~from the first determination of good cause~~.

SUBCHAPTER C. CHOICES SERVICES

§811.21. General Provisions.

- (a) A Board shall ensure that services are available to assist Choices individuals with obtaining employment as quickly as possible and, if employed, with retaining employment. These services may include:
 - (1) job readiness and job search-related services;
 - (2) work-based services;
 - (3) post-employment services;
 - (4) education and training services as described in this chapter; and
 - (5) support services.
- (b) A Board shall ensure that employment and training activities are conducted in compliance with the Fair Labor Standards Act (FLSA) as follows:
 - (1) the amount of time per week that a recipient may be required to participate in activities that are not exempt from minimum wage and overtime under the FLSA shall be determined by the temporary cash assistance and food stamp benefits amount being divided by the minimum wage so that the amount paid to the recipient would be equal to or more than the amount required for payment of wages, including minimum wage and overtime; and
 - (2) if a Board provides activities that meet all of the following categories set forth in this paragraph, the activity is considered "training" under the FLSA and minimum wage and overtime is not required:
 - (A) the training is similar to that given in a vocational school;
 - (B) the training is for the benefit of the trainees;
 - (C) trainees do not displace regular employees;
 - (D) employers derive no immediate advantage from trainees' activities;
 - (E) trainees are not entitled to a job after training is completed; and
 - (F) employers and trainees understand that trainee is not paid.

- (c) A Board shall ensure that placement in work-based services does not result in the displacement of currently employed workers or impair existing contracts for services or collective bargaining agreements.
- (d) A Board may, through local policies and procedures, require the use of the Eligible Training Provider Certification System (ETPS) and Individual Training Account (ITA) systems as described in 40 T.A.C. Chapter 841 to provide for Choices services for individuals participating in Choices services and paid for with TANF funds.
- (e) A Board shall, through local policies and procedures, make available job development services, which include:
 - (1) contacting local employers or industry associations to request that job openings be listed with Texas Workforce Centers, and other entities in the One-Stop Service Delivery Network selected by the Board;
 - (2) identifying the hiring needs of employers;
 - (3) assisting the employer in creating new positions for job seekers based on the job developer's and employer's analysis of the employer's business needs; or
 - (4) finding opportunities with an employer for a specific job seeker or a group of job seekers.
- (f) A Board shall ensure that job development services identify, at a minimum, job openings for current mandatory recipients.
- (g) A Board shall, through local policies and procedures, make available job placement services. Job placement services shall include:
 - (1) identifying employers' workforce needs;
 - (2) identifying job seekers who have sufficient skills and abilities to be successfully linked with employment; and
 - (3) matching the skills of the job seeker pool to the hiring needs of local employers.

§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~~ domestic 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~~domestic 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.

§811.24. Family Work Requirement Form for Two-Parent Families.

A Board shall ensure that a Family Work Requirement form is developed for all two-parent families that:

- (1) contains an agreement by both adults in the family to comply with the family work requirements through distribution of required hours of participation between one or both adults in the two-parent family; and
- (2) is signed by the adults in the household that are required to participate in Choices services, except for the following:
 - (A) recipients who are temporarily unable to sign the form, such as a recipient who is temporarily unavailable; or
 - (B) recipients receiving the EID whose only participation requirement is to report their hours of employment.

§811.25. TANF Core and TANF Non-Core Activities.

- (a) Participation hours are subject to the restrictions regarding TANF core and TANF non-core activities as outlined in 45 C.F.R. §261.31, §261.32 and §261.33, and as outlined in this section and §811.26 of this subchapter.
 - (1) TANF core activities are:
 - (A) job search and job readiness assistance, as described in §811.41 of this chapter;
 - (B) unsubsidized employment, as described in §811.42 of this chapter;
 - (C) subsidized employment, as described in §811.43 of this chapter;
 - (D) on-the-job training, as described in §811.44 of this chapter;
 - (E) work experience, as described in §811.45 of this chapter;
 - (F) community service, as described in §811.46 of this chapter;
 - (G) vocational educational training, as described in §811.48 of this chapter; or
 - (H) child care services to a recipient who is participating in community service, as described in §811.47 of this chapter.
 - (2) TANF non-core activities are:
 - (A) job skills training, as described in §811.49 of this chapter;

- (B) educational services for recipients who have not completed secondary school or received a certificate of general equivalence, as described in §811.50 of this chapter.
- (b) A recipient in a single-parent family is deemed to be engaged in work during the month if he or she participates for at least a minimum weekly average of thirty hours. An average of twenty hours per week must be derived from participation in core activities. Up to an average of ten hours per week may be derived from participation in non-core activities.
- (c) Two-parent families who are not receiving Commission-funded child care are deemed to be engaged in work during the month if one or both adults in the family participate for at least a minimum weekly average of thirty-five hours. An average of thirty hours per week must be derived from participation in core activities. Up to an average of five hours per week may be derived from participation in non-core activities.
- (d) Two-parent families who are receiving Commission-funded child care are deemed to be engaged in work during the month if one or both adults in the family participate for at least a minimum weekly average of fifty-five hours. An average of fifty hours per week must be derived from participation in core activities. Up to an average of five hours per week may be derived from participation in non-core activities. The following work participation exceptions apply to two-parent families who are receiving Commission-funded child care:
 - (1) two-parent families with one adult in good cause status are deemed to be engaged in work during the month if the adult who is not in good cause status participates for at least a minimum weekly average of thirty-five hours. An average of thirty hours per week must be derived from participation in core activities. Up to an average of five hours per week may be derived from participation in non-core activities; or
 - (2) two-parent families with both adults in good cause status for whom no penalty will be requested for failure to meet the minimum weekly average hours based on the good cause determination.

§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.

§811.27. Special Provisions for Teen Heads of Household.

- (a) A Board must ensure that teen heads of household who have not completed secondary school or received a certificate of general equivalence are enrolled in educational activities as defined in §811.50 of this chapter.
- (b) Teen heads of household who have not completed secondary school or received a certificate of general equivalence will count as engaged in work if they:
 - (1) maintain satisfactory attendance at a secondary school or the equivalent during the month as follows;
 - (A) during months in which school is in session, maintains satisfactory attendance;
 - (B) in months in which school is not in session, participates in allowable activities as described in §811.25 of this subchapter; or
 - (2) participate in education directly related to employment for an average of at least 20 hours per week during the month; or
 - (3) participate in Choices employment and training activities as specified in §811.25 of this subchapter.

§811.28. Special Provisions for Recipients in Single-Parent Families with Children Under Age Six.

- (a) A Board shall ensure that recipients in single-parent families with children under age six are notified of the penalty exception to Choices participation as described in §811.14(d) of this chapter.
- (b) A recipient in a single-parent family will count as engaged in work if he or she participates for at least an average of twenty hours per week in core activities.

§811.29. Special Provisions Regarding Exempt Recipients Who Voluntarily Participate.

Boards are not required to provide Choices services as outlined in §§811.25-811.28 of this subchapter to exempt recipients who fail to meet work requirements.

<new*>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 D. CHOICES WORK ACTIVITIES

§811.41. Job Search and Job Readiness Assistance.

- (a) Job search and job readiness are core activities as defined in §811.25(a)(1) of this chapter.
- (b) A Board shall ensure that job search and job readiness services:
 - (1) incorporate the following:
 - (A) individual and group activities; and
 - (B) staff-assisted and client-directed activities.
 - (2) are limited to activities necessary for Choices individuals to secure immediate employment.
 - (3) provide individual assistance or coordinated, planned, and supervised activities that prepare Choices individuals for seeking employment, and including but are not limited to, the following:
 - (A) job skills assessment;
 - (B) job placement;
 - (C) counseling;
 - (D) information on available jobs;
 - (E) occupational exploration, including information on local emerging and demand occupations;
 - (F) interviewing skills and practice interviews;
 - (G) assistance with applications and resumes;
 - (H) job fairs;

- (I) life skills; or
 - (J) guidance and motivation for development of positive work behaviors necessary for the labor market.
- (4) are time-limited as defined in this subchapter.

§811.42. Unsubsidized Employment.

- (a) Unsubsidized employment is a core activity as defined in §811.25(a)(1) of this chapter.
- (b) Unsubsidized employment includes the following:
 - (1) full or part-time employment, in which wages are paid in full by the employer;
 - (2) unsubsidized internship with wages paid by the internship employer; and
 - (3) self-employment.

§811.43. Subsidized Employment.

- (a) Subsidized employment is a core activity as defined in §811.25(a)(1) of this chapter.
- (b) Subsidized employment is full or part-time employment that is subsidized in full or in part and complies with this section. Subsidized employment may occur in either the private sector or public sector. A Board shall not be the employer of record for Choices individuals enrolled in a subsidized employment activity. Subsidized employment includes but is not limited to the following:
 - (1) subsidized internship with a portion of the Choices individual's wages subsidized;
 - (2) subsidized employment with a staffing agency acting as the employer of record; and
 - (3) subsidized employment with the actual employer acting as the employer of record.
- (c) Wages.
 - (1) Wages shall be at least federal or State minimum wage, whichever is higher. Boards must set a policy to establish the amount of the wage that is subsidized.
 - (2) Employers must provide the same wages and benefits to subsidized employees as for unsubsidized employees with similar skills, experience, and position.

§811.44. On-the-Job Training.

- (a) On-the-job training is a core activity as defined in §811.25(a)(1) of this chapter.

- (b) A Board shall ensure that a determination is made on a case-by-case basis whether to authorize, arrange, or refer a Choices individual for subsidized, time-limited training activities, to assist the Choices individual with obtaining knowledge and skills that are essential to the workplace while in a job setting. On-the-job training is training by an employer that is provided to a Choices individual while engaged in productive work in a job that:
 - (1) provides knowledge or skills essential to the full and adequate performance of the job;
 - (2) provides reimbursement to the employer of a percent of the wage rate of the Choices individual for the extraordinary costs of providing the training and additional supervision related to the training;
 - (3) is limited in duration as appropriate to the occupation for which the Choices individual is being trained, taking into account the content of the training, the prior work experience of the Choices individual, and the service strategy of the Choices individual, as appropriate; and
 - (4) includes training specified by the employer.
- (c) Unsubsidized employment after satisfactory completion of the training is expected. A Board shall not contract with employers who have previously exhibited a pattern of failing to provide Choices individuals in on-the-job training with continued long-term employment, which provides wages, benefits, and working conditions that are equal to those that are provided to regular employees who have worked a similar length of time and are doing a similar type of work.

§811.45. Work Experience.

- (a) Work experience is a core activity as defined in §811.25(a)(1) of this chapter.
- (b) A Board shall ensure that a determination is made on a case-by-case basis whether to authorize, arrange, or refer recipients for unsalaried, work-based training positions in the private for-profit sector to improve the employability of a recipient who has been unable to find employment.
- (c) A Board shall ensure that all recipients who are unemployed after completing job search services are evaluated on an individual basis to determine if enrollment in work experience shall be required, based on available resources and the local labor market.
- (d) A Board shall ensure that each work experience placement:
 - (1) is time-limited;
 - (2) is designed to move the recipient quickly into regular employment; and
 - (3) has designated hours, tasks, skills attainment objectives, and staff supervision.

- (e) A Board shall ensure that entities that enter into non-financial agreements with a Board, identify work experience positions and provide job training and work experience within their organization. These positions shall enable recipients to gain the skills necessary to compete for positions within the entity as well as positions in the labor market.

§811.46. Community Service.

- (a) Community service is a core activity as defined in §811.25(a)(1) of this chapter.
- (b) A Board shall ensure that all recipients subject to §811.26(a) of this chapter are referred to a community service program that provides employment or training activities to recipients through unsalaried, work-based positions in the public or private nonprofit sectors to improve the employability of recipients who have been unable to find employment.

§811.47. Child Care Services to a Recipient Participating in Community Service.

- (a) Child care services to a recipient participating in community service is a core activity as defined in §811.25(a)(1) of this chapter.
- (b) A recipient may provide child care services for another recipient who is engaged in a community service activity, as described in §811.46 of this subchapter. The hours spent by the recipient providing child care are considered a core activity. Boards that elect to allow this activity must set local policies which include:
 - (1) ensuring the health, safety and well-being of the children in care;
 - (2) limits on the maximum number of children that may be cared for; and
 - (3) the methodology and mechanism for reporting hours of participation by recipients.

§811.48. Vocational Educational Training.

- (a) Vocational educational training is a core activity as defined in §811.25(a)(1) of this chapter.
- (b) A Board shall ensure that a determination is made, on a case-by-case basis, whether to authorize, arrange, or refer Choices individuals for vocational educational training. Services provided by the Texas Rehabilitation Commission may be counted as vocational education training if the service provided to the Choices individual leads to employment.
- (c) The vocational educational training shall:
 - (1) relate to the types of jobs available in the labor market;
 - (2) be consistent with employment goals identified in the family employment plan, when possible;

- (3) be provided only if there is an expectation that employment will be secured upon completion of the training; and
 - (4) be subject to the time limitations as detailed in this subchapter.
- (d) Boards may count up to 5 hours per week of study or homework time toward a recipient's family participation requirement if:
- (1) study or homework time is directly correlated to the demands of the course work for out-of-class preparation as described by the educational institution;
 - (2) the educational institution's policy requires a certain number of out-of-class preparation hours for the class;
 - (3) study or homework time has been directly verified from the educational institution; and
 - (4) the recipient is making progress as determined by the educational institution.

§811.49. Job Skills Training.

- (a) Job skills training is a non-core activity as defined in §811.25(a)(2) of this chapter.
- (b) Job skills training services are designed to increase a Choices individual's employability. Job skills training may also include activities ensuring that Choices individuals become familiar with workplace expectations and exhibit work behavior and attitudes necessary to compete successfully in the labor market. Various types of activities, which are directly related to employment, may qualify, such as personal development and preemployment classes.
- (c) A Board shall ensure that a determination is made on a case-by-case basis whether to authorize, arrange, or refer Choices individuals for job skills training as outlined in the family employment plan.
- (d) Job skills training shall be:
 - (1) directly related to employment; and
 - (2) consistent with employment goals identified in the family employment plan, when possible.
- (e) Job skills training includes:
 - (1) Adult Basic Education (ABE), English-as-a-Second-Language (ESL), or Workforce Adult Literacy services.
 - (A) Boards may count up to 5 hours per week of study or homework time toward a recipient's family participation requirement if:

- (i) study or homework time is directly correlated to the demands of the course work for out-of-class preparation as described by the educational institution;
 - (ii) the educational institution's policy requires a certain number of out-of-class preparation hours for the class;
 - (iii) study or homework time has been directly verified from the educational institution; and
 - (iv) the recipient is making progress as determined by the educational institution.
- (2) entrepreneurial training provided prior to business start up; and
 - (3) self-employment assistance:
 - (A) to Choices individuals currently engaged in operating a small business;
 - (B) to Choices individuals based upon an objective assessment process that identifies individuals who are likely to succeed; and
 - (C) which may include microenterprise services such as:
 - (i) business counseling;
 - (ii) financial assistance; and
 - (iii) technical assistance.

§811.50. Educational Services for Recipients Who Have Not Completed Secondary School or Received a Certificate of General Equivalence.

- (a) Educational services are only available for recipients who have not completed secondary school or who have not received a certificate of general equivalence as follows.
 - (1) Educational services for recipients age 20 or older are non-core activities as defined in §811.25(a)(2) of this chapter.
 - (2) Educational services for recipients that are teen heads of household recipients age 19 and younger are core activities as defined in §811.27 of this chapter.
- (b) A Board shall ensure that a determination is made, on a case-by-case basis, whether to authorize, arrange, or refer recipients who are age 20 and older for the following educational or other training services:
 - (1) secondary school leading to a high school diploma or a certificate of general equivalence;

- (2) Workforce Adult Literacy; or
 - (3) other educational activities which are directly related to employment.
- (c) Boards may count up to 5 hours per week of study or homework time toward a recipient's family participation requirement if:
- (1) study or homework time is directly correlated to the demands of the course work for out-of-class preparation as described by the educational institution;
 - (2) the educational institution's policy requires a certain number of out-of-class preparation hours for the class;
 - (3) study or homework time has been directly verified from the educational institution; and
 - (4) the recipient is making progress as determined by the educational institution.

§811.51. Post-Employment Services.

- (a) A Board shall ensure that post-employment services, which include job retention, career advancement, and reemployment services, are offered to recipients who are employed, and to applicants and former recipients who have obtained employment but require additional assistance in retaining employment and achieving self-sufficiency.
- (b) A Board shall ensure that post-employment services are monitored, and ensure that hours of employment are required and reported by recipients for at least the length of time the recipient receives temporary cash assistance.
- (c) A Board shall ensure that ongoing contact is established with Choices individuals receiving post-employment services at least monthly.
- (d) A Board may, through local policies and procedures, make available post-employment services to former recipients who are denied temporary cash assistance due to earnings. The post-employment services for former recipients may include the following:
 - (1) assistance and support for the transition into employment through direct services or referrals to resources available in the workforce area;
 - (2) child care, if needed, as specified in rules at 40 T.A.C. Chapter 809;
 - (3) work-related expenses, including those identified in §811.64 of this chapter;
 - (4) transportation, if needed;
 - (5) job search, job placement, and job development services to help a former recipient who loses a job to obtain employment; or

- (6) referrals to available education or training resources to increase an employed individual's skills or to help the individual qualify for advancement and long-term employment goals.
- (e) The maximum length of time a former recipient may receive services under this section is dependent upon:
 - (1) the former recipient's circumstances;
 - (2) whether the former recipient is at risk of returning to public assistance. A person is considered at risk of returning to temporary cash assistance if he or she is a food stamp recipient, or receives Commission-funded child care;
 - (3) the former recipient's ongoing need for these services; and
 - (4) the availability of funds for these services.
- (f) Post-employment service providers may include employers, community colleges, technical colleges, proprietary schools, faith-based and community-based organizations.

§811.52. Parenting Skills Training.

A Board shall ensure that a determination is made, on a case-by-case basis and as determined during the assessments described in §811.22 of this chapter, whether to authorize, arrange, or refer Choices individuals for parenting skills training including one or more of the following: nutrition education, budgeting and life skills, and instruction on the necessity of physical and emotional safety for children.

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, ~~and §§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.

§811.62. Child Care for Choices Individuals.

- (a) A Board shall ensure that child care is provided if needed, as specified in Chapter 809 of this title.
- (b) Transitional child care is provided as needed, as specified in §809.101 of this title.
- (c) Choices child care is provided as needed, as specified in §809.102 of this title.
- (d) Applicant child care is provided as needed, as specified in §809.103 of this title.

§811.63. Transportation.

A Board shall ensure that transportation assistance shall:

- (1) be provided if needed to enable a Choices individual to work, attend, and participate in required Choices services, or access necessary support services if alternative transportation resources are not available;
- (2) not extend beyond four months for applicants or former recipients who are unemployed and not receiving temporary cash assistance; and
- (3) use the most economical means of transportation that meets the Choices individual's needs.

§811.64. Work-Related Expenses.

- (a) If other resources are not available, work-related expenses necessary for Choices individuals to accept or retain specific and verified job offers that pay at least the federal minimum wage may be provided or reimbursed.
- (b) A Board shall ensure that written policies are developed related to the methods and limitations for provision of work-related expenses.
- (c) Work-related expenses may include: tools, uniforms, equipment, transportation, car repairs, housing or moving expenses, and the cost of vocationally required examinations or certificates.

§811.65. Wheels to Work.

- (a) The Commission may develop a Wheels to Work initiative in which local nonprofit organizations provide automobiles for Choices individuals who have obtained

employment but are unable to accept or retain the employment solely because of a lack of transportation.

- (b) A Board may, through local policies and procedures, establish services to assist Choices individuals who verify the need for an automobile to accept or retain employment by referring them to available providers.
- (c) Persons or organizations donating automobiles under a Wheels to Work initiative shall receive a charitable donation receipt for federal income tax purposes.

§811.66. Certificate of General Equivalence (GED) Testing Payments.

A Board shall ensure that the cost of certificate of GED testing and issuance of the certificate is paid through direct payments to the GED test centers and the Texas Education Agency for Choices individuals referred for testing by a Board's provider of Choices services.

§811.67. Individual Development Accounts (IDAs).

- (a) A Board may set local policy and procedures to provide for implementation and oversight of IDAs under this section using TANF funds in accordance with 45 C.F.R. §§263.20-263.23. An IDA means an account established by, or for, an eligible individual to allow the individual to accumulate funds for specific purposes.
- (b) A Board shall ensure that any IDAs created and matched with TANF funds are established and administered through a contract with a private nonprofit entity or through a state or local government entity acting in cooperation with a private nonprofit entity. The private nonprofit entity, or cooperating state or local entity, must coordinate with a financial institution in administering the accounts.
- (c) Choices individuals may be eligible for IDAs if all of the requirements of this section are met.
- (d) IDAs may be established for an eligible individual, and may be contributed to with the individual's earned income and up to fifty percent of the individual's federal Earned Income Tax Credit refund. Federal Earned Income Tax Credit refunds shall not be matched with TANF funds.
- (e) Federal TANF funds, as well as public or private funds, may be used to provide matching funds for qualified expenses and to administer IDAs, and shall be expended in a manner consistent with applicable federal and state statutes and regulations, with the exception of federal Earned Income Tax Credit refunds.
- (f) Use of funds in an individual's IDA, shall be in accordance with the Social Security Act §404(h) (42 U.S.C.A. §604(h)) and 45 C.F.R. §§263.20-263.23 and limited to expenses related to:
 - (1) postsecondary educational expenses;
 - (2) first home purchase; or

- (3) business capitalization.
- (g) A Board shall ensure that only qualified withdrawals are made by eligible individuals, and must develop policies and procedures to address unauthorized withdrawals, to include notification:
 - (1) to the individual that unauthorized withdrawals may impact the individual's eligibility for public assistance programs;
 - (2) to the individual of forfeiture of the entitlement to the matching funds for an unauthorized withdrawal; and
 - (3) to TDHS within seven working days of the unauthorized withdrawal.

SUBCHAPTER F. APPEALS

§811.71. Board Review.

- (a) The following may request a review by the respective Board:
 - (1) a Choices individual against whom an adverse action is taken by a Texas Workforce Center Partner; or
 - (2) a person who believes that a Choices individual has displaced the person from employment.
- (b) A request for review shall be submitted in writing and delivered to a Board within 15 calendar days of the date of the adverse action. The request shall also contain:
 - (1) a concise statement of the disputed adverse action;
 - (2) a recommended resolution; and
 - (3) any supporting documentation the Choices individual deems relevant to the dispute.
- (c) On receipt of a request for review, a Board shall coordinate a review by appropriate Board staff.
- (d) The parties to the request for review are the aggrieved person, applicant, or individual and the Texas Workforce Center Partner.
- (e) Additional information may be requested from the parties. Such information shall be provided within 15 calendar days of the request.
- (f) Within 30 calendar days of the date the request for review is received or of the date that additional requested information is received by the reviewing Board staff member, a Board shall send the parties written notification of the results of the review.

§811.72. Appeals to the Agency.

- (a) After results of a review have been issued, the party that disagrees with the outcome of the review may request an Agency hearing to appeal the results of the review.
- (b) The request for appeal to the Agency from a Board's review shall be filed in writing with the Appeals Department, Texas Workforce Commission, 101 East 15th Street, Room 410, Austin, Texas 78778-0001, within 15 calendar days after receiving written notification of the results of the review.
- (c) The appeal to the Agency shall include a hearing, which is limited to the issues and the information considered in a Board review.
- (d) The Agency hearing shall be held in accordance with the procedures applicable to an appeal as contained in Chapter 823 of this title (relating to General Hearings).

§811.73. Appeals to the Texas Department of Human Services (TDHS).

A recipient who expresses dissatisfaction with a decision regarding the termination or reduction of his or her cash assistance benefits may appeal the decision to TDHS. If the termination or reduction of temporary cash assistance is based upon noncompliance with Choices requirements, a Board shall prepare and provide necessary information to TDHS.

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