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TEXAS WORKFORCE COMMISSION

The rules are adopted under Texas Labor Code §§301.0015 and 302.002(d), which provide the Texas Workforce Commission with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of Agency services and activities.

Chapter 811. CHOICES

SUBCHAPTER A. GENERAL PROVISIONS

§811.1. Purpose and Goal.

- (a) The purposes of Temporary Assistance for Needy Families (TANF), as set forth 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 eligibles 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.

The provisions of this §811.1 adopted to be effective February 26, 2007, as published in the Texas Register, February 23, 2007, 32 TexReg 906.

§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--An adult, or teen head of household, in a family who applies for Temporary Assistance for Needy Families (TANF) cash assistance, who previously did not leave TANF in a sanctioned status.
- (2) Choices eligible--An individual eligible to receive Choices services including an adult or teen head of household who is an applicant, conditional applicant, recipient, nonrecipient parent, former recipient, or sanctioned family as defined in this chapter.
- (3) Choices participant--A Choices eligible participating in or outreached for Choices services, including:

- (A) Exempt Choices participant--A Choices eligible who is not required under Texas Human Resources Code, Chapter 31 or Texas Health and Human Services Commission (HHSC) rules (1 TAC, Chapter 372, Texas Works) to participate in Choices services, but who may voluntarily participate in Choices services.
 - (B) Mandatory Choices participant--A Choices eligible who is required under Texas Human Resources Code, Chapter 31 or HHSC rules (1 TAC, Chapter 372, Texas Works) to participate in Choices services.
- (4) Conditional applicant--An adult or teen head of household who left TANF in a sanctioned status, but who is reapplying for TANF cash assistance.
 - (5) Earned Income Deduction (EID)--A standard work-related and income deduction, available for four months through HHSC.
 - (6) Extended TANF recipient--A recipient who receives TANF cash assistance past the 60-month federal time limit because of a hardship exemption as defined in Texas Human Resources Code, Chapter 31 and HHSC rules (1 TAC, Chapter 372, Texas Works).
 - (7) Former recipient--An adult or teen head of household who no longer receives TANF cash assistance because of employment.
 - (8) HHSC--Texas Health and Human Services Commission.
 - (9) Nonrecipient parent--Adults or minor heads of household not receiving TANF cash assistance, but living with their own children who are receiving TANF cash assistance. Nonrecipient parents include parents who are not eligible for TANF cash assistance:
 - (A) due to a disqualification by the Texas Health and Human Services Commission. These disqualifications include parents who:
 - (i) refuse to comply with Medicaid third-party resource requirements;
 - (ii) do not comply with Social Security number requirements;
 - (iii) are found guilty of an intentional program violation;
 - (iv) fail to report the temporary absence of a certified child;
 - (v) are fugitives fleeing to avoid prosecution of, or confinement for, a felony criminal conviction, or are found by a court to be violating federal or state probation or parole;
 - (vi) are convicted of a felony drug offense (not deferred adjudication) committed on or after April 1, 2002; or
 - (vii) refuse to cooperate with the program integrity assessment process;
 - (B) because they are receiving Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI); or
 - (C) because they have exhausted their TANF state time limit.
 - (10) PRWORA--The Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, 110 Stat. 2105, as amended.
 - (11) Recipient--An adult or teen head of household who receives TANF cash assistance.
 - (12) Sanctioned family--An adult or teen head of household who must demonstrate cooperation for one month in order to reinstate TANF cash assistance.

- (13) Secondary school--Educational activities including middle school, high school leading to a high school diploma, or classes leading to the completion of a General Educational Development (GED) credential.
- (14) TANF cash assistance--The cash grant provided through HHSC 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, TANF cash assistance provided under Texas Human Resources Code, Chapters 31 and 34, and other related regulations.
- (15) Work-based services--Includes those employment programs defined in Texas Human Resources Code §31.0126.
- (16) Work eligible individual--Work eligible individuals are adults or minor heads of household receiving TANF cash assistance, and nonrecipient parents--with the following exceptions:
 - (A) Noncitizens who are ineligible to receive cash assistance because of their immigration status;
 - (B) Parents caring for a disabled family member who lives in the home (provided the need for such care is supported by medical documentation), on a case-by-case basis; and
 - (C) Recipients of SSI or SSDI, on a case-by-case basis.
- (17) Work ready--A Choices eligible is considered work ready if he or she has the skills that are required by employers in the local workforce development area. A Board must ensure immediate access to the labor market to determine whether the Choices eligible has those necessary skills to obtain employment.
- (18) Work requirement--For the purposes of 42 U.S.C. §607 and 45 C.F.R. §261.10, a Choices eligible is deemed to be engaged in work by cooperating with:
 - (A) all requirements set forth in the family employment plan, as described in this chapter; and
 - (B) all TANF core and non-core activities, as set forth in this chapter.

The provisions of this §811.2 adopted to be effective September 29, 2008, as published in the Texas Register, September 26, 2008, 33 TexReg 8192.

§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 include those with a potential for career advancement that may assist a Choices eligible's progression toward self-sufficiency.
- (b) The Choices service strategy shall include:
 - (1) Workforce Orientation for Applicants (WOA). As a condition of eligibility, applicants and conditional 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 Choices participants 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 Choices participants with skills that match those job requirements identified by the employer.
 - (B) Boards shall provide Choices participants 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 TANF cash assistance.
 - (C) Post-employment services shall be provided in order to assist a Choices participant's progress toward self-sufficiency as described in subsection (b)(3) of this section and §811.51.
 - (D) In order to assist a Choices eligible's progress toward self-sufficiency:
 - (i) Boards shall provide Choices eligibles who are employed, including mandatory Choices participants coded by HHSC as working at least 30 hours per week, earning at least \$700 per month, and receiving the EID, with information on available post-employment services; or
 - (ii) Boards may provide Choices eligibles with post-employment services as determined by Board policy. The length of time these services may be provided is subject to §811.51.
 - (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) Boards shall ensure that a family employment plan is based on employer needs, individual skills and abilities, and individual time limits for TANF cash assistance.
- (3) Post-Employment Services. A Board shall ensure that post-employment services are designed to assist Choices participants with job retention, career advancement, and reemployment, as defined in §811.51. Post-employment services are a continuum in the Choices service strategy to support a Choices participant's job retention, wage gains, career progression, and 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 secondary school, as defined in §811.2(13), and making the transition from school to employment, as described in §811.30 and §811.50.
- (6) Choices Eligibles with Disabilities. A Board shall ensure that services for Choices eligibles with disabilities include reasonable accommodations to allow the Choices eligibles to access and participate in services, where applicable by law.

- (7) Target Populations. A Board shall ensure that services are concentrated, as further defined in §811.11(d) and (e), on the needs of the following:
- (A) recipients who have six 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 12 months or less remaining of their 60-month federal 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.

The provisions of this §811.3 adopted to be effective September 29, 2008, as published in the Texas Register, September 26, 2008, 33 TexReg 8192.

§811.4. Policies, Memoranda of Understanding, and Procedures.

- (a) A Board shall establish policies regarding the following:
- (1) A Choices service strategy, as defined in §811.3, that coordinates various service delivery approaches to:
 - (A) assist applicants and conditional applicants in gaining employment as an alternative to public assistance;
 - (B) utilize a work first design as referenced in §811.3(b)(2) to provide Choices participants access to the labor market; and
 - (C) assist former recipients with job retention and career advancement in order to remain independent of TANF cash assistance;
 - (2) The amount of wages subsidized for subsidized employment placements; and
 - (3) The methods and limitations for provision of work-related expenses.
- (b) A Board may establish optional policies that:
- (1) require the use of the Eligible Training Provider Certification System (ETPS) and Individual Training Account (ITA) systems as described in Chapter 841 of this title to provide for Choices services for Choices participants and paid for with TANF funds; and
 - (2) make post-employment services available to:
 - (A) former recipients who are denied TANF cash assistance because of earnings; and
 - (B) sanctioned families and conditional applicants who obtain employment during their demonstrated cooperation period.
- (c) A Board shall ensure that the following Memoranda of Understanding (MOUs) and collaborative partnerships are developed:
- (1) Local-level MOUs with the appropriate agencies to serve Choices eligibles with disabilities to maximize their potential for success in employment;
 - (2) A local-level MOU in cooperation with HHSC for coordinated case management that is consistent with the MOU between HHSC and the Commission;
 - (3) A local-level MOU with the Texas Department of State Health Services for providing mental health and substance abuse services to Choices participants; and

- (4) A collaborative partnership with housing authorities and sponsors of local housing programs and services to address the unmet housing needs of recipients.
- (d) A Board shall ensure that procedures are developed:
 - (1) to ensure that job development services are available to Choices participants. These services include:
 - (A) 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;
 - (B) identifying the hiring needs of employers;
 - (C) assisting an employer in creating new positions for Choices participants based on the job developer's and employer's analysis of the employer's business needs; or
 - (D) finding opportunities with an employer for a specific Choices participant or a group of Choices participants;
 - (2) to ensure that job placement services are available to Choices participants. Job placement services shall include:
 - (A) identifying employers' workforce needs;
 - (B) identifying Choices participants who have sufficient skills and abilities to be successfully linked with employment; and
 - (C) matching the skills of the Choices participant pool to the hiring needs of local employers;
 - (3) to notify applicants and conditional applicants--in conjunction with HHSC--on the availability of regularly scheduled Workforce Orientations for Applicants (WOAs) and alternative WOAs;
 - (4) to notify HHSC of applicants and conditional applicants who contacted a Texas Workforce Center to request alternative WOAs;
 - (5) to ensure that services are concentrated on Choices eligibles approaching their state or federal time limit, as identified in §811.3(c)(7)(A) and (B). Concentrated services may include targeted outreach, enhanced analysis of circumstances that may limit a Choices eligible's ability to participate, and targeted job development; and
 - (6) to determine a family's inability to obtain child care.
- (e) If a Board elects to establish one or more of the optional policies described in subsection (b) of this section, the Board must ensure that corresponding procedures are developed for those policies.

The provisions of this §811.4 adopted to be effective September 29, 2008, as published in the Texas Register, September 26, 2008, 33 TexReg 8192.

§811.5. Documentation, Verification, and Supervision of Work Activities.

- (a) A Board shall ensure that all required information related to the documentation and verification of participation in Choices work activities, as described in this section, is documented in The Workforce Information System of Texas (TWIST).

- (b) A Board shall ensure that all participation in Choices is verified and documented and that self-attestation is not allowed.
- (c) For paid work activities, as described in §§811.42, 811.43, and 811.44, Boards shall ensure that all participation is verified and documented in TWIST at least monthly. If participation is projected as described in §811.34(3), current and verified participation must be documented in TWIST at least every six months.
- (d) For unpaid activities, as described in §§811.41, 811.45, and 811.46, Boards shall ensure that all participation is:
 - (1) supervised daily; and
 - (2) verified and documented in TWIST at least monthly.
- (e) For unpaid activities, as described in §§811.48, 811.49, and 811.50, Boards shall ensure that:
 - (1) no more than one hour of unsupervised study or homework time per each hour of class time is counted toward a Choices participant's family participation requirement;
 - (2) all study and homework time in excess of one hour per hour of class time is directly monitored, supervised, verified, and documented;
 - (3) study or homework time is only counted toward a Choices participant's family participation requirement if:
 - (A) the 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; and
 - (B) the educational institution's policy requires a certain number of out-of-class preparation hours for the class;
 - (4) good or satisfactory progress, as determined by the educational institution, is verified and documented in TWIST at least monthly;
 - (5) all participation is supervised daily; and
 - (6) all participation is verified and documented in TWIST at least monthly.

The provisions of this §811.5 adopted to be effective September 29, 2008, as published in the Texas Register, September 26, 2008, 33 TexReg 8192.

SUBCHAPTER B. CHOICES SERVICES RESPONSIBILITIES

§811.11 Board Responsibilities.

- (a) A Board shall ensure that:
 - (1) the WOA is offered frequently enough to allow applicants and conditional applicants to comply with the HHSC requirement that gives applicants and conditional applicants 10 calendar days from the date of their eligibility interview to attend a WOA;
 - (2) during a regularly scheduled WOA or alternative WOA, applicants and conditional applicants are informed of:
 - (A) employment services available through the One-Stop Service Delivery Network to assist applicants and conditional applicants in achieving self-sufficiency without the need for TANF 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, including services and referrals for services available to Choices eligibles with disabilities;
- (3) alternative WOAs are developed that allow applicants and conditional applicants with extraordinary circumstances to receive the information listed in paragraph (2) of this subsection;
 - (4) verification that applicants and conditional applicants attend a scheduled or alternative WOA is completed and HHSC is notified in accordance with HHSC rules (1 TAC, Chapter 372, Texas Works); and
 - (5) applicants and conditional applicants are provided with an appointment to develop a family employment plan.
- (b) A Board shall ensure that:
 - (1) Choices services are offered to applicants who attend a WOA; and
 - (2) conditional applicants who attend a WOA are immediately scheduled to begin Choices services.
 - (c) A Board shall ensure that a Choices participant's eligibility is verified monthly.
 - (d) A Board shall ensure that all extended TANF recipients are outreached and offered the opportunity to participate in Choices activities.
 - (e) A Board shall ensure that post-employment services, including job retention and career advancement services, are available to Choices eligibles including mandatory Choices participants coded by HHSC as working at least 30 hours per week, earning at least \$700 per month, and receiving EID.
 - (f) A Board shall ensure that the monitoring of work requirements is ongoing and frequent, as determined by a Board, unless otherwise specified in this chapter, and consists of the following:
 - (1) ensuring receipt of support services;
 - (2) tracking and reporting support services;
 - (3) tracking and reporting actual hours of participation, at least monthly, unless otherwise specified in this chapter;
 - (4) determining and arranging for any intervention needed to assist the Choices participant in complying with work requirements;
 - (5) ensuring that the Choices participant is progressing toward achieving the goals and objectives in the family employment plan; and
 - (6) monitoring all other work requirements.
 - (g) 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 Choices eligibles;
 - (B) request penalties or grant good cause; or
 - (C) provide employment planning or employment retention services; and

- (2) Choices eligibles who are identified as being victims of family violence are referred to an individual or an agency that specializes in issues involving family violence.
- (h) A Board shall ensure that documentation is obtained and maintained regarding all contact with Choices participants, including verification of participation hours, and data is entered into TWIST.
- (i) A Board shall ensure that a referral program is developed to provide Choices eligibles facing higher than average barriers to employment, as described in this chapter, with referrals to pre-employment and post-employment services offered by community-based and other organizations.

The provisions of this §811.11 adopted to be effective September 29, 2008, as published in the Texas Register, September 26, 2008, 33 TexReg 8192.

§811.12. Applicant and Conditional Applicant Responsibilities.

Applicants and conditional applicants are required to attend a scheduled or an alternative WOA, in accordance with HHSC rules (1 TAC Chapter 372, Texas Works).

The provisions of this §811.12 adopted to be effective February 26, 2007, as published in the Texas Register, February 23, 2007, 32 TexReg 906.

§811.13. Responsibilities of Choices Participants.

- (a) A Board shall ensure that Choices participants comply with the provisions contained in this section.
- (b) Choices participants shall:
 - (1) accept a job offer at the earliest possible opportunity;
 - (2) participate in or receive ancillary services necessary to enable Choices participants to work or participate in employment-related activities, including counseling, treatment, vocational or physical rehabilitation, and medical or health services;
 - (3) report actual hours of participation in Choices work activities, including hours of employment; and
 - (4) attend scheduled appointments.
- (c) Within two-parent families, Choices participants shall participate in assessment and family employment planning sessions and assigned employment and training activities as follows:
 - (1) participate in Choices employment and training as specified in §811.25(c)-(d);
 - (2) comply with requirements regarding core and non-core activities, as specified in §§811.25–811.34;
 - (3) comply with all requirements specified in the family employment plan; and
 - (4) sign a form that contains all the information identified in the Commission's Family Work Requirement form, as described in §811.24.
- (d) Within single-parent families, Choices participants shall participate in assessment and employment planning sessions and assigned employment and training activities as follows:
 - (1) participate in Choices employment and training activities as specified in §811.25(b);
 - (2) comply with requirements regarding core and non-core activities, as specified in §§811.25–811.34; and

- (3) comply with all requirements specified in the family employment plan.
- (e) A Board shall ensure that mandatory Choices participants coded by HHSC as working at least 30 hours per week, earning at least \$700 per month, and receiving the EID:
 - (1) report to the Board actual hours of work, as defined in §811.34; and
 - (2) are provided with information on available post-employment services.

The provisions of this §811.13 adopted to be effective February 26, 2007, as published in the Texas Register, February 23, 2007, 32 TexReg 906.

§811.14. Noncooperation.

- (a) A Board shall ensure that cooperation by Choices participants is verified each month to ensure that the Choices participants:
 - (1) comply with work requirements as set forth in the family employment plan; or
 - (2) have good cause as described in this chapter.
- (b) If Choices participants have not cooperated with work requirements and do not have good cause, a Board shall ensure that:
 - (1) a penalty is requested for mandatory Choices participants; or
 - (2) Choices services, including support services, are terminated for exempt Choices participants.
- (c) A Board shall ensure that timely and reasonable attempts, as defined by the Agency, are made to contact a mandatory Choices participant prior to requesting a penalty to:
 - (1) determine the reason for noncooperation and whether good cause is applicable, as described in §811.16(c);
 - (2) inform the mandatory Choices participant of:
 - (A) the violation, if good cause has not been determined;
 - (B) the right to appeal; and
 - (C) the necessary procedures to demonstrate cooperation.
- (d) A Board shall ensure that timely and reasonable attempts, as defined by the Agency, are made to contact a sanctioned family and conditional applicants upon discovery of noncooperation during their demonstrated cooperation period to determine if good cause exists.
- (e) A Board shall ensure that the reasonable attempts to contact a mandatory Choices participant are documented.
- (f) A Board shall ensure that:
 - (1) HHSC is notified of a mandatory Choices participant's failure to comply with work requirements; and
 - (2) the notification of noncooperation is submitted as early as possible in the same month in which the noncooperation occurs.

The provisions of this §811.14 adopted to be effective September 29, 2008, as published in the Texas Register, September 26, 2008, 33 TexReg 8192.

§811.15. Demonstrated Cooperation.

- (a) Conditional applicants are required to demonstrate four consecutive weeks of cooperation to become eligible for reinstatement of TANF cash assistance.
- (b) Sanctioned families are required to demonstrate one month of cooperation as a condition of eligibility for TANF cash assistance.
- (c) A Board shall ensure that HHSC is immediately notified if:
 - (1) a sanctioned family denied TANF cash assistance because of one month of noncooperation has demonstrated full cooperation with work requirements for the program month immediately following the program month in which the family noncooperated;
 - (2) a conditional applicant whose TANF case is closed because of two or more months of noncooperation has demonstrated full cooperation with work requirements for four consecutive weeks; or
 - (3) a sanctioned family or conditional applicant has been granted good cause during the demonstrated cooperation period.

The provisions of this §811.15 adopted to be effective February 26, 2007, as published in the Texas Register, February 23, 2007, 32 TexReg 906.

§811.16. Good Cause for Choices Participants.

- (a) Good cause applies to Choices participants. A Board shall ensure that good cause is determined as provided in this chapter.
- (b) A Board shall ensure that a good cause determination:
 - (1) is based on individual and family circumstances;
 - (2) is based on face-to-face or telephone contact;
 - (3) covers a temporary period when Choices participants may be unable to attend scheduled appointments or participate in ongoing work activities;
 - (4) is made at the time the change in circumstances is made known to the Board's service provider; and
 - (5) is conditional upon efforts to address circumstances that limit the ability to participate in Choices services as required in the family employment plan.
- (c) The following reasons may constitute good cause for purposes of this chapter:
 - (1) Temporary illness or incapacitation;
 - (2) Choices participants with disabilities or caring for a disabled family member who participate to the extent determined able, as supported by medical documentation, but less than the required participation hours, as set forth in §811.25(b)–(d) and §811.31(b);
 - (3) Court appearance;
 - (4) Caring for a disabled family member who requires the Choices participant's presence in the home. Boards shall ensure the need for such care is supported by medical documentation;
 - (5) 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;

- (6) 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. Informal child care may also be determined unsuitable by the parent;
 - (B) Eligible child care providers are unavailable, as defined in Chapter 809 of this title;
 - (C) Affordable child care arrangements within maximum rates established by the Board are unavailable; and
 - (D) Appropriate child care within a reasonable distance from home or the work site is unavailable;
 - (7) An absence of other support services necessary for participation;
 - (8) Receipt of 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;
 - (9) An individual or family crisis or a family circumstance that may preclude participation, including substance abuse, mental health, and disability-related issues, provided the Choices participant engages in problem resolution through appropriate referrals for counseling and support services; or
 - (10) A Choices participant is a victim of family violence.
- (d) A Board shall ensure that mandatory Choices participants 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 mandatory Choices participant has demonstrated an inability to obtain needed child care, as defined in subsection (c)(6)(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 C.F.R. §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;
 - (3) that is based on the existence of family violence does not exceed a total of twelve consecutive months per occurrence; and
 - (4) is determined separately from granting Choices participants short-term excused absences from participation, as defined in §811.34(2).

The provisions of this §811.16 adopted to be effective September 29, 2008, as published in the Texas Register, September 26, 2008, 33 TexReg 8192.

SUBCHAPTER C. CHOICES SERVICES

§811.21. General Provisions.

- (a) A Board shall ensure that services are available to assist Choices eligibles 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 specified in §811.29.
- (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 shall ensure that job development services identify, at a minimum, job openings for current mandatory Choices participants.

The provisions of this §811.21 adopted to be effective September 29, 2008, as published in the Texas Register, September 26, 2008, 33 TexReg 8192.

§811.22. Assessment.

- (a) A Board shall ensure that initial and ongoing assessments are performed to determine the employability and retention needs, including wage advancement and career development needs, of Choices participants as follows:
- (1) An assessment is required for Choices participants who are:
 - (A) at least age 18; or
 - (B) heads of household, as determined by HHSC, who are not yet age 18, have not completed secondary school or received a GED credential, 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) pre- and post-employment skills development needs to determine the necessity for job-specific training;
 - (3) unmet housing needs and whether those needs are a barrier to full participation in the workforce and progression to self-sufficiency;
 - (4) support services needs; and
 - (5) individual and family circumstances that may affect participation, including the existence of family violence, substance abuse, mental health, or disability-related issues, as one of the factors considered in evaluating employability.

- (c) A Board shall ensure that the assessment identifies Choices eligibles with higher than average barriers to employment, as defined by the Board.
- (d) A Board shall ensure that if the skills assessment indicates that a Choices participant requires job-specific training for placement in a job paying wages that equal or exceed the Board's identified self-sufficiency wage, the Board shall, to the extent funds are available and to the extent allowed under this chapter, place the Choices participant in vocational educational training activities or job skills training activities that are designed to improve employment and wage outcomes and job retention; and
- (e) For mandatory Choices participants 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 GED credential and are not attending secondary school:
 - (1) The assessments shall also include evaluations of the mandatory Choices participants':
 - (A) vocational and educational skills, experience, and needs; and
 - (B) literacy level by using a statewide standard literacy assessment instrument unless the Choices participants are mandatory Choices participants coded by HHSC as working at least 30 hours per week, earning at least \$700 per month, and receiving the EID.
 - (2) A Board shall ensure that the grade-level results or other literacy information are provided to HHSC for use in determining the appropriateness of the initial state time-limit designation for TANF cash assistance as described in the Texas Human Resources Code §31.0065, relating to state time-limited benefits.
- (f) Assessment Outcome. Assessments shall result in the development of a family employment plan, as described in §811.23.

The provisions of this §811.22 adopted to be effective February 26, 2007, as published in the Texas Register, February 23, 2007, 32 TexReg 906.

§811.23. Family Employment Plan.

- (a) Boards must ensure that prior to the development of a family employment plan Choices participants receive general information about services provided through the One-Stop Service Delivery Network that will assist them in obtaining employment, if the Choices participants did not receive this information during the WOA.
- (b) Family employment plans are required for all Choices participants.
- (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;
 - (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 Choices participant immediately to the local labor market;
 - (B) addressing potential barriers that limit the Choices participant's ability to work or participate in activities;

- (C) arranging support services for the Choices participant or the family to address circumstances that limit the Choices participant's ability to work or participate, including services for substance abuse, mental health, family violence, and disability-related issues;
 - (D) developing specific post-employment service strategies with methods and time frames for reaching the goal of an identified self-sufficiency wage; and
 - (E) requiring Choices participants 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 participant—unless the Choices participant is a mandatory Choices participant coded by HHSC as working at least 30 hours per week, earning at least \$700 per month, and receiving the EID—and a Board's service provider;
 - (5) assigns required hours and sets forth the participation agreement for compliance with work 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; and
 - (6) provides information about the penalty process, good cause process, right of appeal, and the importance of immediately contacting a case manager should individual or family circumstances arise that prevent participation.
- (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.

The provisions of this §811.23 adopted to be effective February 26, 2007, as published in the Texas Register, February 23, 2007, 32 TexReg 906.

§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, unless the Choices participants:
 - (A) are mandatory Choices participants who are temporarily unable to sign the form, such as a Choices participant who is temporarily unavailable; or
 - (B) are mandatory Choices participants coded by HHSC as working at least 30 hours per week, earning at least \$700 per month, and receiving the EID whose only participation requirement is to report their hours of employment.

The provisions of this §811.24 adopted to be effective February 26, 2007, as published in the Texas Register, February 23, 2007, 32 TexReg 906.

§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 set forth in 42 U.S.C. §607, 45 C.F.R. §§261.10, 261.12, 261.31, 261.32, and 261.33, as set forth in this section, and as set forth in §§811.26, 811.27, and 811.28.

- (1) TANF core activities are:
 - (A) unsubsidized employment, as described in §811.42;
 - (B) subsidized employment, as described in §811.43;
 - (C) work experience, as described in §811.45;
 - (D) on-the-job training, as described in §811.44;
 - (E) job search and job readiness assistance, as described in §811.41;
 - (F) community service, as described in §811.46;
 - (G) vocational educational training, as described in §811.48; or
 - (H) child care services to a Choices participant in community service, as described in §811.47.
- (2) TANF non-core activities are:
 - (A) job skills training, as described in §811.49; or
 - (B) educational services for Choices participants who have not completed secondary school or received a GED credential, as described in §811.50.
- (b) Choices participants in a single-parent family are required to participate for at least a minimum weekly average of 30 hours. An average of 20 hours per week must be derived from participation in core activities. Up to an average of 10 hours per week may be derived from participation in non-core activities.
- (c) Choices participants in two-parent families who are not receiving Commission-funded child care are required to have one or both adults in the family participate for at least a minimum weekly average of 35 hours. An average of 30 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) Choices participants in two-parent families who are receiving Commission-funded child care are required to have one or both adults in the family participate for at least a minimum weekly average of 55 hours. An average of 50 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 provisions of this §811.25 adopted to be effective February 26, 2007, as published in the Texas Register, February 23, 2007, 32 TexReg 906.

§811.26. Special Provisions Regarding Community Service.

- (a) Choices participants, with the exception of those described in §811.30 and §811.33, who are not in an employment activity, must be placed into community service after four weeks of enrollment in Choices. Choices participants who are not in an employment activity after reaching their hourly limit per 12-month period, as set forth in §811.27, in job search and job readiness activities must be placed into community service. An employment activity is defined as:
 - (1) unsubsidized employment, as described in §811.42;
 - (2) subsidized employment, as described in §811.43;
 - (3) on-the-job training, as described in §811.44; or
 - (4) work experience, as described in §811.45.

- (b) Choices participants 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).
- (c) Exempt Choices participants are not subject to the requirements set forth in subsection (a) of this section.

The provisions of this §811.26 adopted to be effective September 29, 2008, as published in the Texas Register, September 26, 2008, 33 TexReg 8192.

§811.27. Special Provisions Regarding Job Search and Job Readiness.

- (a) Choices participants in unsubsidized employment as defined in §811.42, who lose that employment, may participate in job search activities as defined in §811.41(c) and job readiness activities as defined in §811.41(d) unless they have reached the 120- or 180-hour limit per 12-month period set forth in subsection (b)(2) of this section.
- (b) Job search and job readiness activities as defined in §811.41 are limited as follows:
 - (1) Choices participants may not be enrolled for more than four weeks of consecutive activity;
 - (2) Choices participants may not be enrolled for more than:
 - (A) 120 hours per 12-month period for single parents with a child under age six; and
 - (B) 180 hours per 12-month period for all other Choices eligibles; and
 - (3) After four consecutive weeks of participation in job search and job readiness activities, Choices participants are not eligible for additional participation in job search and job readiness activities until they have complied with §811.26(a), which requires that Choices participants be engaged in an employment activity or in community service.
- (c) A Board may count a partial week (i.e., three or four days) of participation in job search and job readiness activities as a full week of participation only once for any Choices participant in a 12-month period.

The provisions of this §811.27 adopted to be effective September 29, 2008, as published in the Texas Register, September 26, 2008, 33 TexReg 8192.

§811.28. Special Provisions Regarding Vocational Educational Training and Educational Services.

- (a) Choices participants may not be enrolled in vocational educational training, as defined in §811.48, for more than a cumulative total of 12 months.
- (b) No more than 30% of Choices participants 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 §811.30.
- (c) Choices participants shall be enrolled only in core and non-core activities.

The provisions of this §811.28 adopted to be effective February 26, 2007, as published in the Texas Register, February 23, 2006, 32 TexReg 906.

§811.29. Special Provisions Regarding the Fair Labor Standards Act.

- (a) A Board shall ensure that employment and training activities are conducted in compliance with FLSA as follows.

- (1) The amount of time per week that a Choices participant may be required to participate in activities that are not exempt from minimum wage and overtime under FLSA shall be determined by the TANF cash assistance and Food Stamp benefits amount being divided by the minimum wage, so that the amount paid to the Choices participant is equal to or more than the amount required for payment of wages, including minimum wage and overtime; or
- (2) The amount of time per week that a sanctioned family or conditional applicant may be required to participate in activities that are not exempt from minimum wage and overtime under FLSA shall be determined by the Food Stamp benefits amount being divided by the minimum wage, so that the amount paid to the sanctioned family is equal to or more than the amount required for payment of wages, including minimum wage and overtime; and
- (3) If a Board provides activities that meet all of the following categories, the activity is considered training under FLSA and minimum wage and overtime are 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) The trainees do not displace regular employees;
 - (D) The employers derive no immediate advantage from trainees' activities;
 - (E) The trainees are not entitled to a job after training is completed; and
 - (F) The employers and trainees understand that trainees are not paid.
- (b) The number of hours that a Choices participant is required to participate in community service or another unpaid work activity shall be determined in compliance with FLSA as described in subsection (a) of this section. If a Choices participant's hours of community service or other unpaid work activity are not sufficient to meet the core work activity requirement as set forth in §811.25(b)–(d), the Choices participant shall be enrolled in additional non-FLSA-covered core activities.

The provisions of this §811.29 adopted to be effective September 29, 2008, as published in the Texas Register, September 26, 2008, 33 TexReg 8192.

§811.30. Special Provisions for Teen Heads of Household.

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

The provisions of this §811.30 adopted to be effective February 26, 2007, as published in the Texas Register, February 23, 2007, 32 TexReg 906.

§811.31. Special Provisions for Choices Participants in Single-Parent Families with Children under Age Six.

- (a) A Board shall ensure that Choices participants in single-parent families with children under age six are notified of the penalty exception to Choices participation as described in §811.16(d).
- (b) A Choices participant in a single-parent family with children under age six shall count as engaged in work if he or she participates in core activities for at least an average of 20 hours per week.

The provisions of this §811.31 adopted to be effective February 26, 2007, as published in the Texas Register, February 23, 2007, 32 TexReg 906.

§811.32. Special Provisions Regarding Exempt Choices Participants and Choices Participants with Reduced Work Requirements.

- (a) A Board shall not provide Choices services or support services as set forth in §§811.25–811.33 to exempt Choices participants who fail to meet work requirements.
- (b) A Board shall ensure that a penalty is not requested for:
 - (1) exempt Choices participants;
 - (2) Choices participants with disabilities who participate to the extent determined able, as supported by medical documentation, but less than the required participation hours, as specified in §811.25(b)–(d) and §811.31(b); or
 - (3) Choices participants who are caring for a disabled family member, as supported by medical documentation, when the Choices participant participates to the extent determined able, but less than the required participation hours, as specified in §811.25(b)–(d) and §811.31(b).

The provisions of this §811.32 adopted to be effective February 26, 2007, as published in the Texas Register, February 23, 2007, 32 TexReg 906.

§811.33. Other Special Provisions.

- (a) Conditional Applicants. A Board shall ensure that conditional applicants enrolled in job search activities, as described in this chapter, receive staff-assisted services as defined in §811.41(b)(1)(B).
- (b) Sanctioned Families. A Board shall ensure that sanctioned families enrolled in job search activities, as described in this chapter, receive staff-assisted services as defined in §811.41(b)(1)(B).

The provisions of this new §811.33 adopted to be effective February 26, 2007, as published in the Texas Register, February 23, 2007, 32 TexReg 906.

§811.34. Participation Provisions.

A Board shall count only actual hours of participation in TANF core and non-core activities as allowable work participation hours with the following exceptions, unless otherwise specified in this chapter:

- (1) For paid work activities set forth in §§811.42–811.44, Boards may count paid holidays or other paid leave as actual participation hours.
- (2) For unpaid work activities set forth in §811.41 and §§811.45–811.50, Boards may count short-term excused absences as actual participation if they meet the following conditions:

- (A) A short-term excused absence:
 - (i) is because of a holiday; or
 - (ii) totals a maximum of 80 additional hours within a 12-month period and does not exceed 16 hours of excused absences per month.
 - (B) The Choices participant must have been scheduled to participate in an unpaid work activity during the time period in which the holiday or excused absence falls. Boards shall ensure credited participation hours do not exceed the number of hours the Choices participant was scheduled to participate.
- (3) A Board may project participation hours in unsubsidized employment (except self-employment), subsidized employment, and on-the-job training, up to six months at a time, using an average of four weeks of current, verified, and documented actual hours. For self-employment, a Board:
- (A) may project participation hours in self-employment, up to six months at a time, using an average of three months of current, verified, and documented actual hours.
 - (B) may not count more hours toward the work participation rate for self-employed Choices participants than the number derived by dividing the Choices participant's net self-employment income (gross self-employment wages minus business expenses) by the federal minimum wage.

The provisions of this §811.34 adopted to be effective September 29, 2008, as published in the Texas Register, September 26, 2008, 33 TexReg 8192.

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).
- (b) A Board shall ensure that job search and job readiness activities:
 - (1) incorporate the following:
 - (A) individual and group activities;
 - (B) staff-assisted services in which Texas Workforce Center staff provide direction and guidance to Choices participants, including appropriate referrals based on their skills and abilities to pre-scheduled job interviews; and preparatory activities that are essential to obtaining and retaining employment; and
 - (C) customer-directed activities that do not require direct staff involvement, and include activities in which Choices participants independently identify employment opportunities based upon their employment strengths, and perform preparatory activities that are essential to obtaining and retaining employment.
 - (2) are limited to activities necessary for Choices participants to secure immediate employment.
 - (3) provide individual assistance or coordinated, planned, and supervised activities that prepare Choices participants for seeking employment.
- (c) Job search activities are defined as acts of seeking and obtaining employment, including:
 - (1) job referrals;
 - (2) information on available jobs;

- (3) occupational exploration, including information on local emerging and demand occupations;
 - (4) job fairs;
 - (5) applying or interviewing for job vacancies; and
 - (6) making contacts with potential employers.
- (d) Job readiness activities are designed to assist Choices participants with addressing issues that will aid them in seeking, obtaining, and retaining employment, including:
- (1) life skills;
 - (2) guidance and motivation for development of positive work behaviors necessary for the labor market;
 - (3) job skills assessment;
 - (4) substance abuse treatment, mental health treatment, and rehabilitation activities, if the need for treatment and therapy activities is documented by a qualified medical, substance abuse, or mental health professional;
 - (5) job counseling;
 - (6) interviewing skills and practice interviews; and
 - (7) assistance with applications and resumes.

(e) Job search and job readiness activities are time-limited as defined in §811.27.

The provisions of this §811.41 adopted to be effective September 29, 2008, as published in the Texas Register, September 26, 2008, 33 TexReg 8192.

§811.42. Unsubsidized Employment.

- (a) Unsubsidized employment is a core activity as defined in §811.25(a)(1).
- (b) Unsubsidized employment includes the following:
 - (1) full-time 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.

The provisions of this §811.42 adopted to be effective February 26, 2007, as published in the Texas Register, February 23, 2007, 32 TexReg 906.

§811.43. Subsidized Employment.

- (a) Subsidized employment is a core activity as defined in §811.25(a)(1).
- (b) Subsidized employment is full-time 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 participants 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 participant'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.

(2) Employers must provide the same wages and benefits to subsidized employees as for unsubsidized employees with similar skills, experience, and position.

(d) Boards shall ensure subsidized employment placements prepare and move Choices participants into unsubsidized employment.

(e) Boards shall ensure subsidized employment placements are allotted to employers who expect to retain Choices participants as regular unsubsidized employees once the subsidized placement has ended, unless successful completion of the placement is expected to result in unsubsidized employment with a different employer.

The provisions of this §811.43 adopted to be effective September 29, 2008, as published in the Texas Register, September 26, 2008, 33 TexReg 8192.

§811.44. On-the-Job Training.

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

(b) A Board shall ensure that a determination is made on a case-by-case basis whether to authorize, arrange, or refer a Choices participant for subsidized, time-limited training activities, to assist the Choices participant 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 participant on or off the work site 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 participant 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 participant is being trained, taking into account the content of the training, the prior work experience of the Choices participant, and the service strategy of the Choices participant, 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 participants 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.

(d) Boards shall ensure on-the-job training placements are allotted to employers who expect to retain Choices participants as regular unsubsidized employees once the on-the-job training placement has ended, unless successful completion of the placement is expected to result in unsubsidized employment with a different employer.

The provisions of this §811.44 adopted to be effective September 29, 2008, as published in the Texas Register, September 26, 2008, 33 TexReg 8192.

§811.45. Work Experience.

(a) Work experience is a core activity as defined in §811.25(a)(1).

- (b) A Board shall ensure that a determination is made on a case-by-case basis whether to authorize, arrange, or refer Choices participants for unsalaried, work-based training positions to improve the employability of Choices participants who have been unable to find unsubsidized employment.
- (c) A Board shall ensure that all Choices participants 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 Choices participants quickly into regular employment; and
 - (3) has designated hours, tasks, skills attainment objectives, and daily supervision.
- (e) A Board shall ensure that entities that enter into nonfinancial agreements with a Board, identify work experience positions and provide job training and work experience within their organization. These positions shall enable Choices participants to gain the skills necessary to compete for positions within the entity as well as positions in the labor market.

The provisions of this §811.45 adopted to be effective September 29, 2008, as published in the Texas Register, September 26, 2008, 33 TexReg 8192.

§811.46. Community Service.

- (a) Community service is a core activity as defined in §811.25(a)(1).
- (b) A Board shall ensure that a determination is made, on a case-by-case basis, whether to authorize, arrange, or refer Choices participants to a community service program that provides employment or training activities to Choices participants through unsalaried, work-based positions in the public or private nonprofit sectors. A Board shall not allow Choices participants to arrange their own community service placements. A Board shall ensure community service programs contain structured, supervised activities that are a direct benefit to the community and are designed to improve the employability of Choices participants who have been unable to find employment.
- (c) A Board shall ensure that all mandatory Choices participants subject to §811.26(a) are referred to a community service program.
- (d) Community service positions may include, but are not limited to, work performed in:
 - (1) a school or Head Start program;
 - (2) a church;
 - (3) a government or nonprofit agency; or
 - (4) Americorps, VISTA, or other volunteer organizations.
- (e) A Board shall ensure community service placements are limited to positions that serve a useful community purpose in fields such as health, social service, environmental protection, education, urban and rural redevelopment, welfare, recreation, public facilities, public safety, and child care.

The provisions of this §811.46 adopted to be effective September 29, 2008, as published in the Texas Register, September 26, 2008, 33 TexReg 8192.

§811.47. Child Care Services to Choices Participants in Community Service - REPEALED.

The repeal of this §811.47 adopted to be effective September 29, 2008, as published in the Texas Register, September 26, 2008,

§811.48. Vocational Educational Training.

- (a) Vocational educational training is a core activity as defined in §811.25(a)(1).
- (b) A Board shall ensure that a determination is made, on a case-by-case basis, whether to authorize, arrange, or refer Choices participants for vocational educational training.
- (c) The vocational educational training shall:
 - (1) prepare Choices participants for a specific trade, occupation, or vocation that requires training other than a baccalaureate or advanced degree;
 - (2) include activities that provide Choices participants with the knowledge and skills to perform a specific trade, occupation, or vocation;
 - (3) relate to current or emerging occupations;
 - (4) be consistent with employment goals identified in the family employment plan, when possible;
 - (5) be provided only if there is an expectation that employment will be secured upon completion of the training;
 - (6) be subject to the time limitations as detailed in this subchapter; and
 - (7) be provided by education or training organizations, including but not limited to, vocational or technical schools, community colleges, postsecondary institutions, career schools and colleges, nonprofit organizations, and secondary schools offering vocational education.

The provisions of this §811.48 adopted to be effective September 29, 2008, as published in the Texas Register, September 26, 2008, 33 TexReg 8192.

§811.49. Job Skills Training.

- (a) Job skills training is a non-core activity as defined in §811.25(a)(2).
- (b) Job skills training services are designed to increase a Choices participant's employability. Job skills training may also include activities ensuring that Choices participants 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 participants for job skills training as set forth 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) language instruction or literacy instruction;
 - (2) entrepreneurial training provided prior to business start up; and
 - (3) self-employment assistance:
 - (A) for Choices participants currently engaged in operating a small business;

(B) for Choices participants based upon an objective assessment process that identifies Choices participants who are likely to succeed; and (C) that may include microenterprise services such as:

- (i) business counseling;
- (ii) financial assistance; and
- (iii) technical assistance.

The provisions of this §811.49 adopted to be effective September 29, 2008, as published in the Texas Register, September 26, 2008, 33 TexReg 8192.

§811.50. Educational Services for Choices Participants Who Have Not Completed Secondary School or Received a General Educational Development Credential.

- (a) Educational services, which are non-core activities as defined in §811.25(a)(2), are only available for Choices participants who have not completed secondary school or who have not received a GED credential.
- (b) A Board shall ensure that a determination is made, on a case-by-case basis, whether to authorize, arrange, or refer Choices participants who are age 20 and older for the following educational or other training services:
 - (1) secondary school, as defined in §811.2(13), when required as a prerequisite for employment;
 - (2) Adult Basic Education (ABE), language instruction, or literacy instruction; or
 - (3) other educational activities which are directly related to employment.
- (c) A Board shall ensure educational services related to employment directly provide education, knowledge, and skills for specific occupations, work settings, jobs, or job offers.

The provisions of this §811.50 adopted to be effective September 29, 2008, as published in the Texas Register, September 26, 2008, 33 TexReg 8192.

§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 Choices participants who are employed, and to applicants, conditional 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 Choices participants for at least the length of time the Choices participants receive TANF cash assistance.
- (c) A Board shall ensure that ongoing contact is established with Choices eligibles receiving post-employment services at least monthly.
- (d) A Board may include mentoring techniques as part of a post-employment strategy.
- (e) The post-employment services 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 Chapter 809 of this title;
 - (3) work-related expenses, including those identified in §811.64;

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

The provisions of this §811.51 adopted to be effective September 29, 2008, as published in the Texas Register, September 26, 2008, 33 TexReg 8192.

§811.52. Parenting Skills Training.

The repeal of this §811.52 adopted to be effective February 26, 2007, as published in the Texas Register, February 23, 2007, 32 TexReg 906.

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 participants 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 participants are coordinated with the employer, when appropriate.
- (b) A Board shall ensure that support services, including Commission-funded child care, are provided only to Choices participants who are meeting work requirements set forth in §§811.16, 811.23, and 811.25–811.34 , and as set forth in §809.45 of this title. In applying this provision, a Board shall ensure support services are provided to Choices participants if it is determined support services are needed to comply with work requirements set forth in §§811.16, 811.23, and 811.25–811.34, and as set forth in §809.45 of this title.
- (c) A Board shall ensure that:
 - (1) support services are terminated immediately upon a determination of failure to meet work requirements by Choices participants unless otherwise determined by the Board's service provider as referenced in subsection (b) of this section;

- (2) the Board's child care contractor is notified immediately of the failure to meet work requirements; and
 - (3) upon notification, the Board's child care contractor immediately notifies the child care provider that services are terminating due to failure to meet work requirements.
- (d) A Board shall ensure that support services, classified as cash assistance, for:
- (1) applicants and former recipients do not extend beyond four months for those who are unemployed and not receiving TANF cash assistance; and
 - (2) unemployed conditional applicants and sanctioned families do not extend beyond their demonstrated cooperation period.

The provisions of this §811.61 adopted to be effective February 26, 2007, as published in the Texas Register, February 23, 2007, 32 TexReg 906.

§811.62. Child Care for Choices Eligibles.

- (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 §809.48 of this title.
- (c) Choices child care is provided as needed, as specified in §809.45 of this title.
- (d) TANF Applicant child care is provided as needed, as specified in §809.46 of this title.

The provisions of this §811.62 adopted to be effective February 26, 2007, as published in the Texas Register, February 23, 2007, 32 TexReg 906.

§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; and
- (2) use the most economical means of transportation that meets the Choices individual's needs.

The provisions of this §811.63 adopted to be effective November 18, 2003, as published in the Texas Register, November 14, 2003, 28 TexReg 10261.

§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) Work-related expenses may include: tools, uniforms, equipment, transportation, car repairs, housing or moving expenses, and the cost of vocationally required examinations or certificates.

The provisions of this §811.64 adopted to be effective September 29, 2008, as published in the Texas Register, September 26, 2008, 33 TexReg 8192.

§811.65. Wheels to Work.

- (a) The Commission may develop a Wheels to Work initiative in which local nonprofit organizations provide automobiles for Choices eligibles 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 eligibles 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.

The provisions of this §811.65 adopted to be effective February 26, 2007, as published in the Texas Register, February 23, 2007, 32 TexReg 906.

§811.66. General Educational Development Credential Testing Payments.

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

The provisions of this §811.66 adopted to be effective February 26, 2007, as published in the Texas Register, February 23, 2007, 32 TexReg 906.

§811.67. Individual Development Accounts.

- (a) A Board may set local policy and procedures to provide for implementation and oversight of Individual Development Accounts (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 participants 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. §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 HHSC within seven working days of the unauthorized withdrawal.

The provisions of this §811.67 adopted to be effective February 26, 2007, as published in the Texas Register, February 23, 2007, 32 TexReg 906.

SUBCHAPTER F. APPEALS - REPEALED

The repeal of this Subchapter F adopted to be effective November 26, 2007, as published in the Texas Register, November 23, 2007, 32 TexReg 8544.