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**XX.**

**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 USCA §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 Local Workforce Development Board (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 Texas Workforce Commission (Commission) is to ensure delivery of the employment and training activities as described in the TANF State Plan and the TANF Work Verification 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 CFR Parts 260 - 265, the TANF State Plan, the TANF Work Verification Plan, this chapter, and consistent with a Board's approved integrated workforce training and services plan as referenced in §801.17 of this title.

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#### §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 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, Temporary Assistance for Needy Families and Supplemental Nutrition Assistance Program) 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) to participate in Choices services.
- (4) Community service--A program that provides employment and training activities to Choices participants through unsalaried, work-based positions in the public or private nonprofit sectors. 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.
- (5) Conditional applicant--An adult or teen head of household who left TANF in a sanctioned status, but who is reapplying for TANF cash assistance and must demonstrate cooperation with Choices program requirements for four consecutive weeks.
- (6) Earned Income Deduction (EID)--A standard work-related and income deduction, available for four months through HHSC.
- (7) Employment Planning Session (EPS)--A meeting with a TANF recipient to introduce Choices services.
- (8) 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).
- (9) Former recipient--An adult or teen head of household who no longer receives TANF cash assistance because of employment.
- (10) HHSC--Texas Health and Human Services Commission.
- (11) Job readiness--Short-term structured activities or a series of activities lasting less than six months designed to prepare a job seeker for unsubsidized employment and increase the job seeker's employability. Activities may include, but are not limited to: interviewing skills, job retention skills, personal maintenance skills, professional conduct skills, and introductory computer skills.
- (12) Job search--Acts of seeking or obtaining employment, or preparing to seek or obtain employment, including life skills training, substance abuse treatment, mental health treatment, or rehabilitation activities. Activities may include: information on and referral to available jobs; occupational exploration, including information on local emerging and demand occupations; job fairs; applying or interviewing for job vacancies; and contacting potential employers.
- (13) Job skills training--Training or education for job skills required by an employer to provide a Choices participant with the ability to obtain employment or to advance or adapt to the changing demands of the workplace.

- (14) 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.**
- (15) PRWORA--The Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, 110 Stat. 2105, as amended.
- (16) Recipient--An adult or teen head of household who receives TANF cash assistance.
- (17) Sanctioned family--An adult or teen head of household who must demonstrate cooperation for one month in order to reinstate TANF cash assistance.
- (18) Secondary school--Educational activities including middle school, high school leading to a high school diploma, or classes leading to the completion of a GED credential.
- (19) 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.
- (20) The Workforce Information System of Texas (TWIST)--the Agency's automated data processing and case management system for the Texas workforce system.
- (21) Vocational educational training--Organized educational programs directly related to preparing Choices participants for employment in current or emerging occupations.
- (22) Work-based services--Includes those employment programs defined in Texas Human Resources Code §31.0126.
- (23) 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.
- (24) Work experience--Unpaid training in the public or private sector designed to improve the employability of Choices participants who have been unable to find employment.
- (25) 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.
- (26) Work requirement--For the purposes of 42 USC §607 and 45 CFR §261.10, a Choices participant is deemed to be engaged in work by participating in :
- (A) unsubsidized employment;
  - (B) subsidized employment;
  - (C) on-the-job training (OJT); or
  - (D) educational services for Choices participants who have not completed secondary school or received a GED credential as provided in §811.30.

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### **§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) use 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) Limits on the amount of funds per Choices participant and the maximum duration for subsidized employment and OJT 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 Workforce Solutions Offices, 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 Workforce Solutions Office 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(b)(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.

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### **§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 Choices work activities, as described in §§811.42, 811.43, 811.44, and 811.50, Boards shall ensure that all participation is verified and documented in TWIST at least monthly.
- (d) For educational services, as described in §811.50, for teen heads of household who have not completed secondary school or received a GED credential, Boards shall ensure that:

- (1) good or satisfactory progress, as determined by the educational institution, is verified and documented in TWIST at least monthly;
- (2) all participation is supervised daily; and
- (3) all participation is verified and documented in TWIST at least monthly.

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## **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, Temporary Assistance for Needy Families and Supplemental Nutrition Assistance Program); and
  - (5) applicants and conditional applicants are provided with an appointment to develop a family employment plan (FEP).
- (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 monitoring of Choices program requirements is ongoing and frequent, as determined by the Board, unless otherwise specified in this chapter, and consists of the following:
  - (1) ensuring receipt of support services;
  - (2) tracking and reporting all support services and entering them into TWIST at least monthly;
  - (3) tracking and reporting actual hours of participation in Choices work activities, 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 Choices program requirements; and
  - (5) ensuring that the Choices participant is progressing toward achieving the goals and objectives in the FEP.
- (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.

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## **§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).

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### **§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(b) - (c);
  - (2) comply with all requirements specified in the FEP; and
  - (3) 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(a); and
  - (2) comply with all requirements specified in the FEP.
- (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.

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### **§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 Choices program requirements as set forth in the FEP, as specified in §811.23; or
  - (2) have good cause as described in this chapter.
- (b) If Choices participants have not cooperated with Choices program 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 in TWIST.
- (f) A Board shall ensure that:
  - (1) HHSC is notified of a mandatory Choices participant's failure to comply with Choices program requirements; and
  - (2) the notification of noncooperation is submitted as early as possible in the same month in which the noncooperation occurs.

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**§811.15. Demonstrated Cooperation.**

- (a) Conditional applicants are required to demonstrate four consecutive weeks of cooperation to be eligible for TANF cash assistance.
- (b) Sanctioned families are required to demonstrate one month of cooperation to reinstate 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 Choices program 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 Choices program 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. The provisions of this §811.15 adopted to be effective January 8, 2013, as published in the Texas Register, January 4, 2013, 38 TexReg 180.*

**§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 an FEP 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) FEPs are required for all Choices participants.
- (c) FEPs shall be developed with applicants and former recipients who choose to participate in Choices services.
- (d) A Board shall ensure that an FEP 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 Choices program requirements. FEPs 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 regularly ensure that progress toward meeting the goals of the FEP is evaluated and the FEP is modified as appropriate to meet job seeker and 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. The provisions of this §811.23 adopted to be effective January 8, 2013, as published in the Texas Register, January 4, 2013, 38 TexReg 180.*

**§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 – REPEALED.**

*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. The repeal of this §811.25 adopted to be effective January 8, 2013, as published in the Texas Register, January 4, 2013, 38 TexReg 180.*

**§811.25. TANF Participation Requirements.**

- (a) Choices participants in a single-parent family are required to participate for at least a minimum weekly average of 30 hours.
- (b) 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.
- (c) 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.

*The provisions of this §811.25 adopted to be effective January 8, 2013, as published in the Texas Register, January 4, 2013, 38 TexReg 180.*

**§811.26. Special Provisions Regarding Community Service – REPEALED.**

*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. The repeal of this §811.26 adopted to be effective January 8, 2013, as published in the Texas Register, January 4, 2013, 38 TexReg 180.*

**§811.27. Special Provisions Regarding Job Search and Job Readiness – REPEALED.**

*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. The repeal of this §811.27 adopted to be effective January 8, 2013, as published in the Texas Register, January 4, 2013, 38 TexReg 180.*

**§811.28. Special Provisions Regarding Vocational Educational Training and Educational Services – REPEALED.**

*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. The repeal of this §811.28 adopted to be effective January 8, 2013, as published in the Texas Register, January 4, 2013, 38 TexReg 180.*

**§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 SNAP 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 SNAP 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 participation requirement as set forth in §811.25(a) - (c), the Choices participant shall be enrolled in additional non-FLSA-covered 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. The provisions of this §811.29 adopted to be effective January 8, 2013, as published in the Texas Register, January 4, 2013, 38 TexReg 180.*

**§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 meeting participation requirements if he or she participates in Choices 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. The provisions of this §811.31 adopted to be effective January 8, 2013, as published in the Texas Register, January 4, 2013, 38 TexReg 180.*

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

- (a) A Board may provide Choices services or support services as set forth in this subchapter to exempt Choices participants who participate to the extent determined able, as supported by medical documentation, but less than the required participation hours.
- (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(a) - (c) 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(a) - (c) 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. The provisions of this §811.32 adopted to be effective January 8, 2013, as published in the Texas Register, January 4, 2013, 38 TexReg 180.*

**§811.33. Other Special Provisions – REPEALED.**

*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. The repeal of this §811.33 adopted to be effective January 8, 2013, as published in the Texas Register, January 4, 2013, 38 TexReg 180.*

**§811.34. Participation Provisions.**

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

- (1) For work activities set forth in §§811.42 - 811.44, Boards may count paid holidays or other paid leave as actual participation hours.
- (2) For self-employment, Boards shall not count more hours toward the work participation rate for a self-employed Choices participant than the number derived from dividing the participant's net self-employment income (gross self-employment earnings 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. The provisions of this §811.34 adopted to be effective January 8, 2013, as published in the Texas Register, January 4, 2013, 38 TexReg 180.*

**SUBCHAPTER D. CHOICES ACTIVITIES**

**§811.41. Job Search and Job Readiness Assistance – REPEALED.**

*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. The repeal of this §811.41 adopted to be effective January 8, 2013, as published in the Texas Register, January 4, 2013, 38 TexReg 180.*

**§811.41. Choices Work Activities.**

- (a) For purposes of the work participation rate, a Choices participant is considered to be engaged in work by participating in:
  - (1) unsubsidized employment, as specified in §811.42;
  - (2) subsidized employment, as specified in §811.43;
  - (3) OJT, as specified in §811.44; or
  - (4) educational services for Choices participants who have not completed secondary school or received a GED, as specified in §811.30.
- (b) Educational services, as specified in subsection (a)(4) of this section, are limited to teen heads of household, as specified in §811.30.

- (c) Boards may use any other Choices activity set forth in §811.52 that would reasonably be expected to assist Choices participants in obtaining and retaining employment.

*The provisions of this §811.41 adopted to be effective January 8, 2013, as published in the Texas Register, January 4, 2013, 38 TexReg 180.*

#### **§811.42. Unsubsidized Employment.**

- (a) 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.
- (b) Self-employment is defined as an income-producing enterprise that will lead an individual on a clear pathway to self-sufficiency by lessening the family's reliance on public benefits.

*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. The provisions of this §811.42 adopted to be effective January 8, 2013, as published in the Texas Register, January 4, 2013, 38 TexReg 180.*

#### **§811.43. Subsidized Employment.**

- (a) 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.
- (b) 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.
- (c) Boards shall ensure subsidized employment placements prepare and move Choices participants into unsubsidized employment.
- (d) 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. The provisions of this §811.43 adopted to be effective January 8, 2013, as published in the Texas Register, January 4, 2013, 38 TexReg 180.*

#### **§811.44. On-the-Job Training.**

- (a) OJT is training in the public or private sector for a paid employee while he or she is engaged in productive work that provides knowledge and skills essential to the full and adequate performance of the job.
- (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. OJT 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) A Board shall not contract with employers who have previously exhibited a pattern of failing to provide Choices participants in OJT 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 OJT 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. The provisions of this §811.44 adopted to be effective January 8, 2013, as published in the Texas Register, January 4, 2013, 38 TexReg 180.*

#### **§811.45. Work Experience – REPEALED.**

*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. The repeal of this §811.45 adopted to be effective January 8, 2013, as published in the Texas Register, January 4, 2013, 38 TexReg 180.*

#### **§811.46. Community Service – REPEALED.**

*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. The repeal of this §811.46 adopted to be effective January 8, 2013, as published in the Texas Register, January 4, 2013, 38 TexReg 180.*

**§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, 33 TexReg 8192.*

**§811.48. Vocational Educational Training – REPEALED.**

*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. The repeal of this §811.48 adopted to be effective January 8, 2013, as published in the Texas Register, January 4, 2013, 38 TexReg 180.*

**§811.49. Job Skills Training – REPEALED.**

*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. The repeal of this §811.49 adopted to be effective January 8, 2013, as published in the Texas Register, January 4, 2013, 38 TexReg 180.*

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

- (a) Educational services 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(18), 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. The provisions of this §811.50 adopted to be effective January 8, 2013, as published in the Texas Register, January 4, 2013, 38 TexReg 180.*

**§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 SNAP 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. The provisions of this §811.51 adopted to be effective January 8, 2013, as published in the Texas Register, January 4, 2013, 38 TexReg 180.*

**§811.52. Parenting Skills Training – REPEALED.**

*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.*

**§811.52. Other Choices Activities.**

Boards may provide any of the following activities, without restriction, if the activities are reasonably expected to assist Choices participants in obtaining and retaining employment:

- (1) Job readiness and job search assistance, as defined in §811.2(11) and (12), respectively;
- (2) Community service, as defined in §811.2(4);
- (3) Work experience, as defined in §811.2(24);
- (4) Vocational educational training, as defined in §811.2(21);
- (5) Job skills training, as defined in §811.2(13); and

(6) Post-employment services, as set forth in §811.51.

*The provisions of this §811.52 adopted to be effective January 8, 2013, as published in the Texas Register, January 4, 2013, 38 TexReg 180.*

## **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 Choices program requirements set forth in §811.16, Subchapter B of this chapter, 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 Choices program requirements set forth in §811.16, Subchapter B of this chapter, 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 Choices program 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 Choices program 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 Choices program 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. The provisions of this §811.61 adopted to be effective January 8, 2013, as published in the Texas Register, January 4, 2013, 38 TexReg 180.*

### **§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.*