

## CHAPTER 811. CHOICES

**ADOPTED RULES WITH PREAMBLE TO BE SUBMITTED TO THE *TEXAS REGISTER*. THIS DOCUMENT WILL HAVE NO SUBSTANTIVE CHANGES BUT IS SUBJECT TO FORMATTING CHANGES AS REQUIRED BY THE *TEXAS REGISTER*.**

ON **FEBRUARY 6, 2007**, THE TEXAS WORKFORCE COMMISSION ADOPTED THE BELOW RULES WITH PREAMBLE TO BE SUBMITTED TO THE *TEXAS REGISTER*.

Estimated date of publication in the *Texas Register*: **February 23, 2007**

The rules will take effect: **February 26, 2007**

The Texas Workforce Commission (Commission) adopts the following new sections, *without* changes, to Chapter 811, relating to Choices, as published in the November 24, 2006, issue of the *Texas Register* (31 TexReg 9576):

Subchapter C, Choices Services, §§811.29–811.34

The Commission adopts amendments, *without* changes, to the following sections of Chapter 811, relating to Choices, as published in the November 24, 2006, issue of the *Texas Register* (31 TexReg 9576):

Subchapter A, General Provisions, §§811.1–811.3

Subchapter B, Choices Services Responsibilities, §§811.11–811.16

Subchapter C, Choices Services, §§811.21–811.28

Subchapter D, Choices Work Activities, §§811.42–811.51

Subchapter E, Support Services and Other Initiatives, §§811.65–811.67

The Commission adopts amendments, *with* changes, to the following section of Chapter 811, relating to Choices, as published in the November 24, 2006, issue of the *Texas Register* (31 TexReg 9576)

Subchapter D, Choices Work Activities, §811.41

Subchapter E, Support Services and Other Initiatives, §811.61 and §811.62

The Texas Workforce Commission (Commission) adopts the repeal of the following sections of Chapter 811, relating to Choices, as published in the November 24, 2006, issue of the *Texas Register* (31 TexReg 9576):

Subchapter C, Choices Services, §§811.29–811.32

Subchapter D, Choices Work Activities, §811.52

PART I. PURPOSE, BACKGROUND, AND AUTHORITY

PART II. EXPLANATION OF INDIVIDUAL PROVISIONS WITH COMMENTS AND RESPONSES

## **PART I. PURPOSE, BACKGROUND, AND AUTHORITY**

The purpose of this amendment is to implement the regulatory requirements issued by the United States Health and Human Services Department (DHHS). The interim final regulations (interim regulations) issued by DHHS contain new provisions related to Temporary Assistance for Needy Families (TANF) work activities. In addition, technical changes are needed for clarification and consistency throughout Chapter 811.

In February 2006, the Deficit Reduction Act (DRA) of 2005 reauthorized the TANF program. In addition to providing ongoing funding for TANF, DRA also changes several provisions in law related to TANF work participation. DRA directed DHHS to issue regulations regarding:

- allowable work activities;
- verification, documentation, and internal control procedures; and
- inclusion of certain child-only cases in the calculation of work participation rates.

On June 29, 2006, DHHS issued its interim regulations (*Federal Register*, Volume 71, Number 125), which provide definitions for each allowable work activity including additional provisions for supervision, verification, and documentation for each allowable work activity.

The interim regulations also introduce a new term—*work-eligible individuals*—defined as parents who are included in the calculation of work participation rates. The new definition adds certain child-only cases to the calculation of federal work participation rates. Modification of current definitions and addition of new definitions to identify individuals eligible for or participating in Choices services are proposed to simplify and clarify the Choices service delivery for the Local Workforce Development Boards (Boards).

The interim regulations became effective on October 1, 2006, and Boards were informed of the major changes affecting Choices services prior to proposed amendments to Chapter 811. Boards have been advised to provide Choices services within the parameters of the interim regulations when provisions of Chapter 811 are not supported by the interim regulations. While there may be more stringent requirements under this chapter, the Commission's intent is to provide the Boards the same flexibility offered under the interim regulations.

In addition to the changes made to comply with the interim regulations and to align the rules with other current federal regulations, technical changes are made to:

- simplify and clarify rule language;
- update terminology and definitions;
- remove obsolete provisions; and
- update statutory citations.

## **PART II. EXPLANATION OF INDIVIDUAL PROVISIONS WITH COMMENTS AND RESPONSES**

### **SUBCHAPTER A. GENERAL PROVISIONS**

The Commission adopts amendments to Subchapter A, as follows:

#### **§811.2. Definitions**

Section 811.2(2), the definition of "TDHS – The Texas Department of Human Services," is removed. TDHS is now part of the Texas Health and Human Services Commission (HHSC) and is defined in §811.2(8). References to TDHS are changed throughout this chapter to reflect this name change.

Section 811.2(2) replaces the term "Choices individual" with "Choices eligible" to clarify which individuals are eligible to receive Choices services.

New §811.2(3) adds a definition for Choices participant. Section 811.2(3)(A) defines an "exempt Choices participant" as an adult or teen head of household who is not required under Texas Human Resources Code, Chapter 31 and HHSC rules (1 TAC, Chapter 372, Texas Works) to participate in Choices services, but may volunteer to participate. Section 811.2(3)(B) defines a "mandatory Choices participant" as an adult or teen head of household, including extended TANF recipients, conditional applicants, and sanctioned families, as defined in this section, who are required under HHSC rules to participate in Choices services. The intent of consolidating these definitions is to simplify language throughout the rules and to distinguish between those individuals who are eligible for Choices services—i.e., Choices eligibles—and those individuals who are participating in Choices services—i.e., Choices participants.

New §811.2(5) clarifies the definition of Earned Income Deduction (EID). Individuals who are working and receiving TANF cash assistance can receive the EID regardless of how many hours they work or how much they earn. Current language in Chapter 811 does not differentiate between individuals who receive the EID and are working fewer than 30 hours per week and individuals who are employed 30 hours per week or more. Specific exclusions or responsibilities listed throughout Chapter 811 for "EID individuals" are applicable only to those individuals coded by HHSC as working 30 hours per week, earning at least \$700 per month, and receiving EID.

Section 811.2(6), the definition of mandatory individual, is removed. Section 811.2(3), the definition of Choices participant, includes mandatory individuals.

New §811.2(6) clarifies that the 60-month time limit for TANF cash assistance is federally imposed.

Section 811.2(10) removes references to exempt and mandatory recipients from the definition of "recipient." These references are now found in §811.2(3)(A) and §811.2(3)(B), relating to the definition of a Choices participant. The definition of recipient retains the prior references to an

extended TANF recipient or former recipient formerly set forth in §811.2(8)(B) and §811.2(8)(C), which now are separate definitions set forth in §811.2(6) and §811.2(7).

Certain paragraphs in §811.2 have been renumbered to accommodate additions or deletions.

### **§811.3. Choices Services Strategy**

Section 811.3(c)(2)(D)(i) clarifies that Choices eligibles authorized to receive post-employment services include mandatory Choices participants coded by HHSC as working at least 30 hours per week, earning at least \$700 per month, and receiving the EID.

Section 811.3(c)(7)(B) adds the term "federal" to clarify that the 60-month TANF time limit for TANF cash assistance is federally imposed.

## **SUBCHAPTER B. CHOICES SERVICES RESPONSIBILITIES**

The Commission adopts amendments to Subchapter B, as follows:

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

Section 811.11(a)(2) specifies that applicants and conditional applicants have 10 days from the date of their eligibility interview to attend a Workforce Orientation for Applicants (WOA).

Section 811.11(a)(3)(A) specifies that applicants and conditional applicants are informed of employment services available while attending a WOA.

Section 811.11(c) replaces the term "recipient status" with the term "a Choices participant's eligibility" for better clarification.

Section 811.11(f) clarifies that Choices eligibles authorized to receive post-employment services include mandatory Choices participants coded by HHSC as working at least 30 hours per week, earning at least \$700 per month, and receiving the EID.

Section 811.11(g) adds the phrase "unless otherwise specified in this chapter," to specify that additional criteria for monitoring and tracking work requirements may be specified throughout the chapter.

Section 811.11(i) adds verification of participation hours in Choices as necessary data to be entered into The Workforce Information System of Texas (TWIST).

### **§811.13. Responsibilities of Choices Participants**

Section 811.13(b)(3) clarifies that Choices participants must report "actual" hours of participation as defined in §811.34. In addition, the term "component activities" is replaced with "Choices work activities" to provide consistent terminology throughout the chapter.

Section 811.13(c) and §811.13(d) replace the term "employment planning appointments" with the term "employment planning sessions" to provide consistent terminology throughout the chapter.

Section 811.13(e) states that mandatory Choices participants must be coded by HHSC as working at least 30 hours per week, earning at least \$700 per month, and receiving the EID as related to their responsibility of reporting hours and receiving post-employment services.

**§811.14. Noncooperation**

Section 811.14(a)(3) is reorganized as §811.14(b) to specify that for Choices participants who have not cooperated with work requirements and do not have good cause, a Board must ensure that a penalty is requested for mandatory Choices participants or a Board must terminate Choices services, including support services, for exempt Choices participants.

Section 811.14(d) clarifies that attempts to determine good cause for sanctioned families and conditional applicants must be made upon discovery of noncooperation during their demonstrated cooperation period.

Certain subsections in §811.14 have been renumbered to accommodate additions or deletions.

**§811.15. Demonstrated Cooperation**

Section 811.15(a) replaces "one month" with "four consecutive weeks," relating to conditional applicants, to provide consistent terminology throughout the chapter.

**§811.16. Good Cause for Choices Participants**

Section 811.16(b)(5) replaces the term "Responsibility Agreement" with "family employment plan" to provide consistent terminology throughout the chapter.

Section 811.16(c)(2) adds a new good cause reason for Choices participants who participate only to the extent determined able as supported by medical documentation but less than the required hours specified in this chapter.

Section 811.16(c)(4) replaces the term "household member" with the term "family member." The paragraph also specifies that a disabled family member does not attend school full time and Boards must ensure the need for care is supported by medical documentation.

Section 811.16(c)(5) adds a new good cause reason for those Choices participants who are caring for a disabled family member who attends school full time. The paragraph also stipulates that Boards must ensure the need for care is supported by medical documentation. Two separate good cause reasons are necessary to determine which Choices participants may be excluded from the calculation of federal work participation rates. Only those participants caring for a disabled family member who does not attend school full-time are disregarded in the calculation of federal work participation rates.

Section 811.16(c)(7)(B) and §811.16(c)(7)(C) remove the term "formal" to align the description of child care providers with the definition set forth in Chapter 809 of this title.

Section 811.16(c)(7)(D) replaces the term "formal or informal" with "appropriate" to align the good cause description with federal law.

Section 811.16(e)(4) is added to clarify that good cause and short-term excused absences are different types of determinations and must be established separately.

Certain paragraphs in §811.16 have been renumbered to accommodate additions or deletions.

### **SUBCHAPTER C. CHOICES SERVICES**

The Commission adopts amendments to Subchapter C, as follows:

#### **§811.21. General Provisions**

Sections 811.21(b)(1)–811.21(b)(3) are removed and relocated in new §811.29(a)(1)–(3) in order to list all provisions required by the Fair Labor Standards Act (FLSA) in one section.

#### **§811.22. Assessment**

Section 811.22(b)(5) removes the phrase "or the need for parenting skills training" because HHSC requires Choices eligibles to attend a parenting skills class as part of their eligibility for TANF cash assistance.

Section 811.22(e)(1)(B) specifies that mandatory Choices participants must be coded by HHSC as employed to be excluded from the literacy assessment. Additionally, the requirement to provide literacy information to HHSC is removed because it is contained in §811.22(e)(2).

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

Section 811.23(d)(3)(C) is modified to include substance abuse and mental health treatment as types of referrals for support services, as provided in the interim regulations.

Section 811.23(d)(4) is modified to state that individuals coded by HHSC as working at least 30 hours per week, earning at least \$700 per month, and receiving the EID are not required to sign the family employment plan.

Section 811.23(e), which instructs Boards to enroll mandatory individuals in specific job readiness activities, is removed. The job readiness activities referenced in this subsection are no longer allowable work activities as defined in the interim regulations.

Certain subsections in §811.23 have been relettered to accommodate additions or deletions.

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

Section 811.24(2)(B) is modified to clarify that mandatory Choices participants must be coded by HHSC as employed 30 hours per week, earning at least \$700 per month, and receiving the EID to be excluded from signing the Family Work Requirement.

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

Sections 811.25(a)(1)(A)–§811.25(a)(1)(H) are reordered to mirror the order of the activities in the interim regulations.

Section 811.25(a)(2)(C) is removed because parenting skills training is not an allowable federal work activity as specified in the interim regulations.

Section 811.25(d)(1) and §811.25(d)(2), the work participation exceptions for two-parent families, are removed because these exclusions are not allowable in the calculation of federal work participation rates. Two-parent families receiving Commission-funded child care must participate in Choices activities an average of fifty-five hours per week regardless of good cause status.

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

Section 811.26(a)(2) is removed and relocated in §811.29(b) in order to list all provisions required by FLSA in one section.

Certain subsections in §811.26 have been relettered to accommodate additions or deletions.

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

Section 811.27(b) removes the reference to job readiness activities in §811.41(d)(3)(A)(D) relating to activities associated with the health, safety, and welfare of families because these activities are no longer allowable under the interim regulations.

Section 811.27(d), which requires Boards to ensure Choices participants are continuously enrolled in specific job readiness activities listed in §811.41(d)(3), is removed. These job readiness activities related to the health, safety, and welfare of families are no longer allowable under the interim regulations.

Certain subsections in §811.27 have been relettered to accommodate additions or deletions.

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

New §811.29(a) is added in order to list all provisions required by FLSA in one section. These provisions are relocated, with minor modifications, from removed §811.21(b)(1)–§811.21(b)(3).

New §811.29(b) is added in order to list all provisions for FLSA-covered activities in one section. These provisions are relocated, with minor modifications, from removed §811.26(a)(2). In addition, new language is added stating that if a Choices participant's hours of community service or other unpaid work activity do not meet the core work activity requirement in §811.25(b)–(d), Boards must:

- (1) enroll the Choices participant in additional core activities; or
- (2) deem the remaining core hours as having met the core work activity requirement.

The Commission adds new §811.29(b)(2) to give Boards the option to deem core participation hours for Choices participants who cannot participate for their full core work activity hours in FLSA-covered activities. For example, a two-parent family with one child receives a maximum TANF benefit of \$250 per month and a maximum Food Stamp benefit of \$399 per month. The total TANF and Food Stamp benefits divided by the minimum wage allows the family to participate only 29 hours per week in FLSA-covered activities.

Two-parent families have a 30-hour per week core activity requirement if they do not receive subsidized child care; the requirement increases to 50 hours per week if they do receive subsidized child care. Under the current calculation of Choices participation, the two-parent family, if not receiving subsidized child care, must participate in an additional hour of core activities and five hours of non-core work activities to be counted as meeting the work participation requirement. If the two-parent family receives subsidized child care, the family must participate an additional 21 hours in core activities and five hours in non-core activities to be counted as meeting the work participation requirement.

Under the new deeming option, this two-parent family will count as meeting its core work participation requirement—with or without receiving subsidized child care—by participating the maximum of 29 hours allowed by FLSA requirements and participating 5 hours in non-core activities.

The deeming provision is allowed by the interim regulations as long as a state operates a mini-Simplified Food Stamp Program (mini-SFSP). Under the mini-SFSP, states must notify the Food and Nutrition Service (FNS) only of their *intent* to combine Food Stamp and TANF benefits when calculating participation hours for FLSA-covered activities. In previous guidance issued by the U.S. Department of Labor, states were given the option of combining Food Stamp and TANF benefits in the calculation of FLSA-covered work activities. Because this option always has been available in the Choices rules, the Commission submitted a letter to FNS requesting recognition as a state that operates a mini-SFSP in order to employ the deeming provision. FNS recently approved the Commission's request.

#### **§811.30. Special Provisions for Teen Heads of Household**

New §811.30 sets out the provisions, with minor modifications, previously located in repealed §811.29.

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

New §811.31 sets out the provisions, with minor modifications, previously located in repealed §811.30.

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

New §811.32(a) and §811.32(b)(1) set out the provisions, with minor modifications, previously located in repealed §811.31(a) and §811.31(b).

New §811.32(b)(2) provides that Boards should not request a penalty for Choices participants with disabilities who participate to the extent determined able, as supported by medical documentation, but less than the required hours specified in the chapter.

New §811.32(b)(3) provides that Boards should not request a penalty for Choices participants caring for a disabled family member, as supported by medical documentation when the Choices participant participates to the extent able but less than the required hours specified in the chapter.

### **§811.33. Other Special Provisions**

New §811.33 sets out the provisions, without modifications, previously located in repealed §811.32(b) and §811.32(c). The provisions previously located in repealed §811.32(a), regarding counting participation hours for mandatory participants with disabilities or mandatory participants caring for a disabled family member, are no longer included in this chapter because this method of calculating work participation hours is not consistent with the federal calculation of work participation hours. Section 811.16 and new §811.32 provide good cause provisions and penalty exceptions for Choices participants with reduced work requirements.

### **§811.34. Participation Provisions**

New §811.34 is added to provide guidance on counting actual participation hours for all work activities, along with the exceptions to this provision, as required by the interim regulations.

New §811.34(1) provides that Boards may count holidays or other paid leave as actual participation hours for paid work activities.

New §811.34(2) provides that Boards may count short-term excused absences as actual participation hours for unpaid work activities.

New §811.34(2)(A) states that the short-term excused absence must be because of a holiday, or total a maximum of 10 additional days within a 12-month period and not exceed two excused absences per month.

New §811.34(2)(B) provides that 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. In addition, Boards must ensure credited participation hours do not exceed the number of hours the Choices participant was scheduled to participate.

New §811.34(3) states that Boards may project participation hours in paid work activities based on an average of four weeks of current, documented actual hours.

New §811.34(3)(A) provides that a Board may project participation hours in self-employment for up to six months using an average of three months of current, documented actual hours.

New §811.34(3)(B) states that a Board 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.

## **SUBCHAPTER D. CHOICES WORK ACTIVITIES**

The Commission adopts amendments to Subchapter D, as follows:

### **§811.41. Job Search and Job Readiness Assistance**

Section 811.41(b)(1)(C) replaces the term "client-directed" with the term "customer-directed"; replaces the word "significant" with the word "direct"; and removes the requirement for customers to engage in activities addressing the health, safety, and welfare of their families. These changes are made to align with the definition of allowable job readiness activities provided in the interim regulations.

Proposed §811.41(b)(1)(C)(i) and §811.41(b)(1)(C)(ii) have been removed based on guidance received from the Administration for Children and Families (ACF). The two sections informed Boards about how to verify and count participation hours in customer-directed job search. The sections stated that daily contact with Choices participants must be maintained to document the contact, verify participation, and discuss the progress of the participant's job search, and also allowed each job contact made by the Choices participant while participating in customer-directed job search to count as two hours of participation. The hours of participation increased if it was documented and verified that the job contact took more than two hours because of travel time or other reasonable explanations.

ACF has clarified that daily supervision for job search and job readiness activities does not necessarily mean daily contact. In addition, ACF's guidance clarified that Boards must ensure that only actual time spent in any Choices activity will be counted as participation. Boards must not assign a standard set of hours to job search activities, such as two hours for each job contact. The Commission recommends that Boards modify their job search logs to specify time spent for each job search contact or activity.

**Comment:** One commenter stated daily contact and 100% verification of participation in customer-directed job search was excessive as required by §811.41(b)(1)(C)(i). The commenter stated that case managers would be focusing on documenting daily contact and verifying participation rather than on helping participants find employment. The commenter suggested using a job search log to list daily contacts and having weekly appointments between the case manager and Choices participant.

**Response:** The Commission appreciates the suggestions. Based on guidance from ACF, the Commission has removed §811.41(b)(1)(C)(i). ACF clarified that daily supervision for job search and job readiness activities does not necessarily mean daily contact. However, Boards must ensure case managers are accessible daily for Choices participants to report their job search progress and receive any additional guidance during their job search. Furthermore, Boards are allowed to perform a random sampling of the job search log to validate contacts made during customer-directed job search. The use of job search logs without any validation is considered self-attestation, which is no longer acceptable. The Commission also encourages Boards to use other methods such as tracking contacts in WorkInTexas.com, e-mail confirmations, or other online job banks to verify job search participation.

Section 811.41(b)(4) is added to require daily supervision of job search and job readiness activities, as required by the interim regulations. As previously stated, Boards are not required to ensure that case managers have daily contact with each Choices participant enrolled in job search. However, Boards must ensure that case managers are accessible daily to allow Choices participants to report their job search progress or seek additional guidance.

Section 811.41(b)(5) is added to require daily documentation in TWIST of job search and job readiness activities. This section requires Boards to document daily participation hours, as opposed to weekly hours, in TWIST. For example, documentation for participation in job search may reflect eight hours for Monday, eight hours for Wednesday, and eight hours for Friday, instead of 24 hours of job search for the entire week. This requirement does not apply to the frequency of data entry. Boards retain the flexibility to determine how often data entry occurs, as long as it is within the parameters set forth in §811.21. Automation changes in TWIST will be made to accommodate this new requirement.

Section 811.41(b)(6) is added to include the allowance for counting substance abuse treatment, mental health treatment, or rehabilitation activities as allowable job readiness activities as provided by the interim regulations.

Section 811.41(c) is modified to define job search activities as acts of seeking and obtaining employment, as specified in the interim regulations.

Section 811.41(c)(1), §811.41(c)(3), §811.41(c)(6), and §811.41(c)(7), specifying certain types of job search activities, are deleted. These activities do not meet the new definition of job search but do meet the new definition of job readiness. Therefore, these activities are moved to §811.41(d).

Section 811.41(c)(5), "applying or interviewing for job vacancies," and §811.41(c)(6), "making contacts with potential employers," are added as allowable activities related to job search, as provided in the interim regulations.

Sections 811.41(d)(3)–811.41(d)(9) are added to specify other options for job readiness activities such as substance abuse treatment, rehabilitation activities, and job search activities that meet the new definition of job readiness, as defined in the interim regulations.

Sections 811.41(d)(3)(A)–811.41(d)(3)(D), specifying activities essential to the health, safety, and welfare of families as a job readiness activity, are removed. The interim regulations specifically prohibit these types of activities to be counted under any work category.

Certain paragraphs in §811.41 have been renumbered to accommodate additions or deletions.

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

Section 811.43(d) is added to provide that subsidized placements must prepare customers for unsubsidized employment, as required by the interim regulations.

Section 811.43(e) is added to provide that subsidized placements must be made with employers that expect to offer unsubsidized employment to Choices participants after the placement has ended.

**§811.44. On-the-Job Training**

Section 811.44(d) is added to require Boards to ensure that Choices participants enrolled in on-the-job training are supervised daily, as required by the interim regulations.

Section 811.44(e) is added to require Boards to ensure on-the-job training is documented in TWIST at least every two weeks.

**§811.45. Work Experience**

Section 811.45(b) removes the requirement that work experience positions are offered only in the private for-profit sector. The interim regulations do not place this restriction on work experience and this change aligns the work experience definition in this chapter with the definition of work experience in the interim regulations.

Section 811.45(d)(3) specifies that supervision for work experience activities must be on a daily basis, as required by the interim regulations.

Section 811.45(f) is added to require that documentation for work experience activities be entered into TWIST as least every two weeks.

**§811.46. Community Service**

Section 811.46(b) is modified to require that Boards must not allow Choices participants to arrange their own community service placements because the placements must meet more stringent criteria, as required by the interim regulations, to be counted as participation. Additionally, the subsection incorporates the definition of community service programs to align with the definition in the interim regulations. Community service programs are defined in the interim regulations as structured, supervised programs that provide a direct benefit to the community and improve the employability of the Choices participant.

Section 811.46(d) is added to specify examples of allowable placement sites for community service activities.

Section 811.46(e) is added to list examples of allowable fields for community service activities, as provided in the interim regulations.

Section 811.46(f) is added to require that Choices participants in community service programs must be supervised on a daily basis, as required by the interim regulations.

Section 811.46(g) is added to require that community service activities must be documented in TWIST at least every two weeks.

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

Section 811.47(b) removes the reference that states providing child care is a core activity. This statement is duplicative because it is found in §811.47(a).

Section 811.47(b)(3), which gives Boards the flexibility to set local policies for determining participation hours in child care activities, is removed. The interim regulations emphasize the need for consistency in the calculation of participation hours. Therefore, the Commission has provided additional guidance in §811.47(f) on calculating participation hours for this activity.

Section 811.47(c) is added to require that placement in a child care activity must aid the Choices participant in becoming self-sufficient.

Section 811.47(d) is added to require that Choices participants who provide child care services are supervised on a daily basis, as required by the interim regulations.

Section 811.47(e) is added to require that child care services provided by Choices participants are documented at least every two weeks.

Section 811.47(f) is added to require that Boards must count only actual hours of participation in child care activities as allowable work participation hours.

**§811.48. Vocational Educational Training**

Section 811.48(b) removes the statement that services provided by the Texas Rehabilitation Commission (now the Department of Assistive and Rehabilitative Services [DARS]) may be counted as vocational education training. The interim regulations provide a more narrow definition of vocational education and what types of institutions may provide the training. Services provided by DARS are no longer allowable as vocational educational training under this definition. However, if DARS contracts out vocational educational training to an education or training organization, Boards have the flexibility to determine whether that activity meets the allowable definition for vocational educational training. In addition, other activities offered through DARS may meet the new definitions of the other allowable Choices activities. Boards are encouraged to coordinate with DARS to provide services for Choices participants with disabilities within the parameters of this chapter.

Section 811.48(c)(1), §811.48(c)(2), and §811.48(c)(7) are added to incorporate the interim regulation's definition of vocational educational training. These sections specify that vocational educational training is directly related to a specific occupation, trade, or vocation and list the types of organizations that may provide vocational educational training.

Section 811.48(c)(3) clarifies that vocational educational training must relate to current or emerging occupations, as provided in the interim regulations.

Section 811.48(d), which relates to counting study or homework hours for vocational educational training, is modified to align with the interim regulations. The interim regulations allow only supervised study or homework hours to count as participation. The Commission removes the

five hour per week limit on study or homework time. If study or homework time must be supervised, a limit on countable participation hours is not necessary because hours can be verified.

Section 811.48(d)(3) is modified to state that study or homework time must be directly monitored, supervised, and documented.

Section 811.48(d)(4) is removed because the requirement that a Choices participant is making good progress is no longer limited only to counting study or homework time. Under the interim regulations, a Choices participant's "good or satisfactory" progress must be verified in order to count as participation.

Section 811.48(e) is added to require that Boards must verify a Choices participant's good or satisfactory progress in vocational educational training, as determined by the educational institution.

Section 811.48(f) is added to require that Choices participants enrolled in vocational educational training are supervised on a daily basis, as required by the interim regulations.

Section 811.48(g) is added to require that vocational educational training is documented in TWIST at least every two weeks.

Certain paragraphs in §811.48 have been renumbered to accommodate additions or deletions.

#### **§811.49. Job Skills Training**

Section 811.49(e)(1) removes Adult Basic Education (ABE) as job skills training. The interim regulations state that this type of activity is considered an educational service for Choices participants who have not completed secondary school or received a General Educational Development credential. This reclassification of ABE is reflected in §811.50(b)(2).

Section 811.49(e)(1) also is modified to broaden the specific references to "English as a Second Language (ESL)" as "language instruction" and "Workforce Adult Literacy services" as "literacy instruction." These changes are made to align with terminology contained in the interim regulations. However, ESL and Workforce Adult Literacy services are included under the meaning of the broader terms.

Section 811.49(f), relating to counting study or homework hours for job skills training, is modified by removing the five hour per week limit on study or homework time. The interim regulations allow only supervised study or homework hours to count as participation. If study or homework time must be supervised, a limit on countable participation hours is not necessary because hours can be verified.

Section 811.49(f)(3) is modified to clarify that study or homework time must be directly monitored, supervised, and documented.

Section 811.49(f)(4) is removed because the requirement that a Choices participant is making good progress is no longer limited only to counting study or homework time. Under the interim regulations, a Choices participant's "good or satisfactory" progress must be verified in order to count as participation.

Section 811.49(g) is added to require that Boards must verify a Choices participant's good or satisfactory progress in job skills training.

Section 811.49(h) is added to require that Choices participants enrolled in job skills training are supervised on a daily basis, as required by the interim regulations.

Section 811.49(i) is added to require that job skills training is documented in TWIST at least every two weeks.

Certain paragraphs in §811.49 have been renumbered to accommodate additions or deletions.

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

Section 811.50(b)(1) clarifies that Choices participants age twenty and older are to be enrolled in educational services only if it is required for the job position.

Section 811.50(b)(2) is modified to add ABE and ESL instruction as allowable educational services. The interim regulations reclassified ABE from job skills training to an allowable educational service.

Section 811.50(b)(2) also is modified to broaden the specific references to "English as a Second Language (ESL)" as "language instruction" and "Workforce Adult Literacy services" as "literacy instruction." These changes are made to align with terminology contained in the interim regulations. However, ESL and Workforce Adult Literacy services are included under the meaning of these broader terms.

Section 811.50(c) is added to clarify that educational services must provide skills and knowledge directly related to specific occupations or work settings.

Section 811.50(d), which relates to counting study or homework hours for educational services, is modified by removing the five hour per week limit on study or homework time. The interim regulations only allow supervised study or homework hours to count as participation. If study or homework time must be supervised, a limit on countable participation hours is not necessary because hours can be verified.

Section 811.50(d)(3) clarifies that study or homework time must be directly monitored, supervised, and documented.

Section 811.50(e)(4) is removed because the requirement that a Choices participant is making good progress is no longer limited only to counting study or homework time. Under the interim

regulations, a Choices participant's "good or satisfactory" progress must be verified in order to count as participation.

Section 811.50(e) is added to require that Boards must verify a Choices participant's good or satisfactory progress in educational services, as determined by the educational institution.

Section 811.50(f) is added to require that Choices participants enrolled in educational services be supervised on a daily basis, as required by the interim regulations.

Section 811.50(g) is added to require that educational services are documented in TWIST at least every two weeks.

Certain subsections in §811.50 have been relettered to accommodate additions or deletions.

#### **§811.51. Post-Employment Services**

Section 811.51(a) clarifies who is eligible for post-employment services and adds conditional applicants to the list of individuals who are offered post-employment services. It is the Commission's intent to help employed Choices eligibles to retain employment and achieve self-sufficiency.

Section 811.51(e)(2) replaces the reference to "one month of demonstrated cooperation" with the more general term, "demonstrated cooperation period," because sanctioned families and conditional applicants have different time frames in which to demonstrate cooperation.

#### **§811.52. Parenting Skills Training**

Section 811.52, which lists parenting skills training as a Choices work activity, is repealed. The interim regulations define work activities as those activities that are work or direct preparation for work. While parenting skills training is important for Choices participants, it is not an allowable work activity defined in the interim regulations. Recipients are required to attend parenting skills training as part of their eligibility for TANF cash assistance. Frequently, HHSC has agreements with the local Women, Infants and Children offices or other community organizations to provide parenting skills training.

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

The Commission adopts amendments to Subchapter E, as follows:

#### **§811.61. Support Services**

Section 811.61(d)(2) replaces the reference to "one month of demonstrated cooperation" with the more general term, "demonstrated cooperation period," because sanctioned families and conditional applicants have different time frames in which to demonstrate cooperation. Additionally, references to Chapter 809 of this title, related to Child Care Services, have been updated to reflect new citations.

#### **§811.62. Child Care for Choices Eligibles**

Section 811.62 is updated to reflect new citations in Chapter 809 of this title, related to Child Care Services.

**COMMENTS WERE RECEIVED FROM:**

Gulf Coast Workforce Development Board

The Agency hereby certifies that the adoption has been reviewed by legal counsel and found to be within the Agency's legal authority to adopt.

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; and Texas Human Resources Code, Chapters 31 and 34.

The adopted rules affect Texas Labor Code, Title 4 and Texas Human Resources Code, Chapters 31 and 34.

## 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 ~~eligible individuals~~ to meet this Choices goal. A Board is also provided the flexibility and may engage in strategies that promote the prevention and reduction of out-of-wedlock pregnancies and encourage the formation and maintenance of two-parent families if those strategies support the primary goal of Choices services, which is employment and job retention.
- (c) The goal of the Commission is to ensure delivery of the employment and training activities as described in the TANF State Plan.
- (d) Boards shall identify the workforce needs of local employers and design Choices services to ensure that local employer needs are met and that the services are consistent with the goals and purposes of Choices services as referenced in this section, and as authorized by PRWORA, the applicable federal regulations at 45 C.F.R. Part 260 - 265, the TANF State Plan, this chapter, and consistent with a Board's approved integrated workforce training and services plan as referenced in §801.17 of this title.

#### §811.2. Definitions.

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

- (1) Applicant -- An adult, or teen head of household, in a family who applies for Temporary Assistance for Needy Families (TANF) ~~temporary~~ cash assistance, who previously did not leave TANF in a sanctioned status.
- ~~(2) TDHS -- The Texas Department of Human Services.~~
- ~~(3) Earned Income Deduction (EID) -- A standard work-related and income deduction, available through the TDHS for four months, as defined in TDHS Rules, §3.1003 of this title to recipients who are employed at least 30 hours a week and earn at least \$700 a month.~~

- ~~(2)~~(4) Choices eligible Individual --- An individual eligible to receive Choices services including an adult, or teen head of household, in a family who is an applicant, conditional applicant, recipient, 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 -- An adult or teen head of household 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 -- An adult or teen head of household, including an extended TANF recipient, conditional applicant, and sanctioned family, as defined in this section, 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)~~(5) Conditional applicant Applicant--- An adult, or teen head of household, in a family who left TANF in a sanctioned status, but who is reapplying for TANF temporary 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.
- ~~(6)~~ Mandatory Individual— An adult, or teen head of household, in a family who is a conditional applicant, mandatory recipient, or sanctioned family as defined in this chapter, who is required to participate in Choices services.
- ~~(9)~~(7) PRWORA -- The Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, 110 Stat. 2105, as amended.
- ~~(10)~~(8) Recipient -- An adult, or teen head of household, in a family who receives TANF temporary cash assistance, and includes:
- (A) Exempt Recipient— A recipient who is not required to participate in Choices services, as defined by TDHS Rules, §3.1101 of this title;

- ~~(B) Extended TANF Recipient — A recipient who receives TANF cash assistance past the 60-month time limit because of a hardship exemption as defined in TDHS Rules, §3.6001 of this title;~~
  - ~~(C) Former Recipient — an adult, or teen head of household, in a family who no longer receives temporary cash assistance because of employment; or~~
  - ~~(D) Mandatory Recipient — An adult, or teen head of household, in a family, including extended TANF recipients who are required as defined by TDHS Rules, §3.1101 and §3.6001 of this title, to participate in Choices services.~~
- (11)(9) Sanctioned familyFamily -- An adult; or teen head of household, ~~in a family~~ who must demonstrate cooperation for one month in order to reinstate TANF cash assistance.
- (12)(10) TANF Temporarycash assistance -- The cash grant provided through HHSC ~~TDHS~~ to individuals who meet certain residency, income, and resource criteria as provided under federal and state statutes and regulations, including the PRWORA, the TANF block grant statutes, the TANF State Plan, TANF temporarycash assistance provided under Texas Human Resources Code, Chapters 31 and or 34, and other related regulations. ~~The term is also referred to as "TANF cash assistance."~~
- (11) ~~Work Requirement — For the purpose of 45 U.S.C. §607 and 45 CFR §261.10, a Choices individual is deemed to be engaged in work by cooperating with:~~
- ~~(A) all requirements set forth in the family employment plan , as set forth in this chapter; and~~
  - ~~(B) all TANF Core and Non-Core activities, as set forth in this chapter.~~
- (13)(12) Work-Based Services -- Includes those employment programs services defined in Texas Human Resources Code §31.0126.
- (14)(13) Work ready Ready-- A Choices eligible individual 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 individual has those necessary skills to obtain employment.
- (15) 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.

### §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~~includes those with a potential for career advancement that may assist a Choices eligible'san individual's progression towards self-sufficiency.
- (b) A Board shall set local policies for a Choices service strategy that coordinates various service delivery approaches to:
  - (1) assist applicants and conditional applicants in gaining employment as an alternative to public assistance;
  - (2) utilize a work first design as referenced in ~~subsection (c)(2) paragraph (2) of subsection (e)~~ of this section to provide Choices participants mandatory individuals, and exempt recipients who voluntarily participate in Choices services, access to the labor market; and
  - (3) assist former recipients in job retention and career advancement to remain independent of TANF temporary cash assistance.
- (c) 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 individuals to take immediate advantage of the labor market and secure employment, which is critical due to individual time-limited benefits; and
      - (ii) meets the needs of employers by linking Choices participants individuals with skills that match those job requirements identified by the employer.
    - (B) Boards shall provide Choices participants individuals access to other services and activities available through the One-Stop Service Delivery Network, which includes the WOA, to assist with employment in the labor market before certification for TANF temporary cash assistance.
    - (C) Post-employment services shall be provided in order to assist a Choices participant'san individual's progress ~~toward~~towards self-sufficiency as described in ~~subsection (b)(3) paragraph (3) of subsection (e)~~ of this section and §811.51 ~~of this chapter~~.

- (D) In order to assist a Choices eligible's ~~an individual's~~ progress toward self-sufficiency:
- (i) Boards shall provide Choices eligibles individuals 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 those receiving the EID, with information on available post-employment services; or
  - (ii) Boards may provide Choices eligibles individuals with post-employment services as determined by Board policy. The length of time these services may be provided is subject to §811.51 ~~of this chapter~~.
- (E) In order to assist employers, Boards shall coordinate with local employers to address needs related to:
- (i) employee post-employment education or training;
  - (ii) employee child care, transportation or other support services available to obtain and retain employment; and
  - (iii) employer tax credits.
- (F) ~~Boards~~ A Board shall ensure that a family employment plan is based on employer needs, individual skills and abilities, and individual time limits for TANF temporary cash assistance.
- (3) Post-Employment Services. A Board shall ensure that post-employment services are designed to assist Choices participants individuals with job retention, career advancement, and reemployment, as defined in §811.51 ~~of this chapter~~. Post-employment services are a continuum in the Choices service strategy to support a Choices participant's ~~an individual'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 assistance with completion of secondary school or a General Educational Development (GED) credential certificate of general equivalence and making the transition from school to employment, as described in §811.30811.29 ~~and §811.50 of this chapter~~.
- (6) Choices Eligibles Individuals with Disabilities. A Board shall ensure that services for Choices eligibles individuals with disabilities include reasonable accommodations to allow the Choices eligibles individuals to access and participate in services, where applicable by law. A Board shall ensure that Memoranda of Understanding (MOUs) ~~(MOU)~~ are established with the appropriate agencies to serve Choices eligibles individuals with disabilities, and that referrals are made, as appropriate, to allow Choices eligibles people with disabilities to maximize their potential for success in employment.

- (7) Target Populations. A Board shall ensure that services are concentrated, as further defined in §811.11(d) and (e) ~~of this chapter~~, on the needs of the following:
  - (A) recipients who have ~~six~~6 months or less remaining of their state TANF time limit, irrespective of any extension of time due to a hardship exemption;
  - (B) recipients who have ~~12 twelve~~ 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 ~~Extended~~ TANF recipients ~~Recipients~~.
- (8) Local Flexibility. A Board may develop additional service strategies that are consistent with the goal and purpose of this chapter and the One-Stop Service Delivery Network.
- (9) Local-Level MOU. A Board shall ensure the development of a local-level MOU in cooperation with HHSC ~~TDHS~~ for coordinated case management that is consistent with the MOU between HHSC ~~TDHS~~ and the Commission.
- (10) Housing Partnerships. A Board shall establish a collaborative partnership with housing authorities and sponsors of local housing programs and services to address the unmet housing needs of recipients.

## **SUBCHAPTER B. CHOICES SERVICES RESPONSIBILITIES**

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

- (a) A Board shall ensure that:
  - (1) procedures are developed, in conjunction with HHSC ~~TDHS~~, to notify applicants and conditional applicants on the availability of regularly scheduled Workforce Orientations for Applicants (WOAs ~~WOA~~) and alternative WOAs;
  - (2) the WOA is offered frequently enough to allow applicants and conditional applicants to comply with the HHSC ~~TDHS~~ requirement that gives applicants and conditional applicants 10-ten calendar days from the date of their eligibility interview to attend a WOA;
  - (3) 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 ~~temporary~~ cash assistance;
    - (B) benefits of becoming employed;
    - (C) impact of time-limited benefits;
    - (D) individual and parental responsibilities; and

- (E) other services and activities, including education and training, available through the One-Stop Service Delivery Network, including services and referrals for services available to Choices eligibles people with disabilities:-
  - (4) alternative WOAs are developed that allow applicants and conditional applicants with extraordinary circumstances to receive the information listed in paragraph (3)§811.11(a)(3) of this subsection;
  - (5) procedures are developed to notify HHSC TDHS of applicants and conditional applicants who contacted a Texas Workforce Center the Board's workforce centers to request alternative WOAs;
  - (6) verification that applicants and conditional applicants attend a scheduled or alternative WOA is completed and HHSC TDHS is notified in accordance with HHSC rules (1 TAC, Chapter 372, Texas Works) TDHS rule, §3.7301 of this title; and
  - (7) 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~~Conditional~~ applicants who attend a WOA are immediately scheduled to begin Choices services.
  - (c) A Board shall ensure that a Choices participant's eligibility recipient status is verified monthly.
  - (d) A Board shall develop policies and procedures to ensure that services are concentrated on Choices eligibles individuals approaching their state or federal time limit, as identified in §811.3(c)(7)(A) and (B) ~~of this chapter~~. Concentrated services may include targeted outreach, enhanced analysis of circumstances that may limit a Choices eligible's recipient's ability to participate, and targeted job development.
  - (e) A Board shall ensure that all extended ~~Extended~~ TANF recipients ~~Recipients~~ are outreached and offered the opportunity to participate in Choices activities.
  - (f) A Board shall ensure that post-employment services, including job retention and career advancement services, are available to Choices eligibles individuals including mandatory Choices participants coded by HHSC as working at least 30 hours per week, earning at least \$700 per month, and those receiving EID.
  - (g) 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 ~~of~~ 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 individual in complying with work requirements;
  - (5) ensuring that the Choices participant individual is progressing toward achieving the goals and objectives in the family employment plan; and
  - (6) monitoring all other work requirements.
- (h) A Board shall ensure that:
- (1) no less than four hours of training regarding family violence is provided to staff who:
    - (A) provide information to Choices eligibles individuals;
    - (B) ~~request recommend~~ penalties or grant good cause; or
    - (C) provide employment planning or employment retention services; and
  - (2) Choices eligibles individuals who are identified as being victims of family violence are referred to an individual or an agency that specializes in issues involving family violence.
- (i) A Board shall ensure that documentation is obtained and maintained regarding all contact with Choices participants individuals, including verification of participation hours, and data is entered into The Workforce Information System of Texas (TWIST).
- (j) A Board shall ensure that a referral program is developed to provide Choices eligibles individuals facing with 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.

**§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)TDHS rule 40 T.A.C. §§3.7301-3.7302.

**§811.13. Responsibilities of Choices ParticipantsMandatory Individuals, and Exempt Recipients Who Voluntarily Participate.**

- (a) A Board shall ensure that Choices participants mandatory individuals, and exempt recipients who voluntarily participate in Choices services, comply with the provisions contained in this section.
- (b) Choices participants Mandatory individuals, and exempt recipients who voluntarily participate in Choices services, shall:
  - (1) accept a job offer at the earliest possible opportunity;
  - (2) participate in or receive ancillary services necessary to enable Choices participants mandatory individuals 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 component activities, including hours of employment; and
  - (4) attend scheduled appointments.
- (c) Within two-parent families, Choices participants ~~mandatory individuals, and exempt recipients who voluntarily participate in Choices services,~~ shall participate in assessment and family employment planning sessions ~~appointments~~ and assigned employment and training activities as follows:
- (1) participate in Choices employment and training as specified in §811.25(c)-(d) ~~of this chapter~~;
  - (2) comply with requirements regarding core and non-core activities, as specified in ~~§§811.25–811.34~~ ~~§§811.25–811.32~~ ~~of this chapter~~;
  - (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 ~~of this chapter~~.
- (d) Within single-parent families, Choices participants ~~mandatory individuals, and exempt recipients who voluntarily participate in Choices services,~~ shall participate in assessment and employment planning sessions ~~appointments~~ and assigned employment and training activities as follows:
- (1) participate in Choices employment and training activities as specified in §811.25(b) ~~of this chapter~~;
  - (2) comply with requirements regarding core and non-core activities, as specified in ~~§§811.25–811.34~~ ~~§§811.25–811.32~~ ~~of this chapter~~; 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 ~~recipients who elect to receive the EID through TDHS:~~
- (1) report to the Board actual hours of work ~~to a Board, as defined in §811.34~~; and
  - (2) are provided with information on available post-employment services.

**§811.14. Noncooperation.**

- (a) A Board shall ensure that cooperation by Choices participants ~~mandatory individuals with work requirements~~ is verified each month to ensure that the Choices participants ~~individuals~~:
- (1) comply with work requirements as set forth in the family employment plan; ~~unless the recipient is exempted by TDHS; or~~
  - (2) have good cause as described in this chapter; ~~or~~
  - (3) ~~have not cooperated with work requirements and a penalty is requested.~~

- (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)(b) A Board shall ensure that timely and reasonable attempts, as defined by the Board, are made to contact a mandatory Choices participant recipient prior to requesting initiating a penalty to:
- (1) determine the reason for noncooperation and whether good cause is applicable, as described in §811.16(c) ~~of this subchapter~~;
  - (2) inform the mandatory Choices participant recipient 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)(e) A Board shall ensure that timely and reasonable attempts, as defined by the Board, 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)(d) A Board shall ensure that the reasonable attempts to contact a mandatory Choices participant individual are documented.
- (f)(e) A Board shall ensure that ~~TDHS is notified of:~~
- (1) HHSC is notified of a mandatory Choices participant's recipient's failure to comply with work requirements; and
  - (2) ~~that the~~ notification of noncooperation is submitted as early as possible in the same month in which the noncooperation occurs.

**§811.15. Demonstrated Cooperation.**

- (a) Conditional applicants are required to demonstrate four consecutive weeks ~~one month~~ 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 ~~TDHS~~ 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.

**§811.16. Good Cause for- Choices Participants ~~Mandatory Individuals, and Exempt Recipients Who Voluntarily Participate.~~**

- (a) Good cause applies ~~only to- Choices participants- mandatory individuals, and exempt recipients who voluntarily participate in Choices services.~~ 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 ~~mandatory individuals, or exempt recipients who voluntarily participate in Choices services,~~ 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 ~~Responsibility Agreement.~~
- (c) The following reasons may constitute good cause for purposes of this chapter:
  - (1) Temporary ~~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)(2) Court ~~court~~-appearance;
  - (4)(3) Caring ~~caring~~ for a physically or mentally disabled family household member who does not attend school full time and requires the Choices participant's-recipient's presence in the home. Boards shall ensure the need for such care is supported by medical documentation;
  - (5) Caring for a disabled family member who attends school full time and requires the Choices participant's presence in the home. Boards shall ensure the need for such care is supported by medical documentation;
  - (6)(4) A ~~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;
  - (7)(5) An ~~an~~ inability to obtain needed child care, as defined by the Board and based on the following reasons:

- (A) ~~Informal~~ ~~informal~~ child care by a relative or under other arrangements is unavailable or unsuitable, and based on, where applicable, Board policy regarding child care as specified in §811.47 ~~of this chapter~~. Informal child care may also be determined unsuitable by the parent;
  - (B) ~~Eligible~~ ~~eligible~~ ~~formal~~ child care providers are unavailable, as defined in Chapter 809 of this title;
  - (C) ~~Affordable~~ ~~affordable~~ ~~formal~~ child care arrangements within maximum rates established by the Board are unavailable; and
  - (D) ~~Appropriate~~ ~~formal or informal~~ child care within a reasonable distance from home or the work site is unavailable;
  - ~~(8)(6)~~ ~~An~~ absence of other support services necessary for participation;
  - ~~(9)(7)~~ ~~Receipt~~ ~~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;
  - ~~(10)(8)~~ ~~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 mandatory individual, or exempt recipient who voluntarily participates in Choices services,~~ engages in problem resolution through appropriate referrals for counseling and support services; or
  - ~~(11)(9)~~ ~~An~~ Choices participant individual is a victim of family violence.
- (d) A Board shall promulgate policies and procedures for determining a family's inability to obtain child care and shall ensure that mandatory Choices participants individuals 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 individual has demonstrated an inability to obtain needed child care, as defined in subsection ~~(c)(7)(A)-(D)~~ ~~(e)(5)(A)-(D)~~ of this section.
  - (2) a Board's policy and procedures for determining a family's inability to obtain needed child care, and any other requirements or procedures, such as fair hearings, associated with this provision, as required by 45 C.F.R. ~~CFR~~ §261.56.
- (e) A Board shall ensure that good cause:
- (1) is reevaluated at least on a monthly basis;
  - (2) is extended if the circumstances giving rise to the good cause exception are not resolved after available resources to remedy the situation have been considered; ~~and~~
  - (3) that is based on the existence of family violence does not exceed a total of twelve consecutive months per occurrence; ~~and~~.

- (4) is determined separately from granting Choices participants short-term excused absences from participation, as defined in §811.34(2).

## **SUBCHAPTER C. CHOICES SERVICES**

### **§811.21. General Provisions.**

- (a) A Board shall ensure that services are available to assist Choices eligibles ~~individuals~~ with obtaining employment as quickly as possible and, if employed, with retaining employment. These services may include:
- (1) job readiness and job search-related services;
  - (2) work-based services;
  - (3) post-employment services;
  - (4) education and training services as described in this chapter; and
  - (5) support services.
- (b) A Board shall ensure that employment and training activities are conducted in compliance with the Fair Labor Standards Act (FLSA) as specified in §811.29. ~~follows:~~
- ~~(1) the amount of time per week that a recipient may be required to participate in activities that are not exempt from minimum wage and overtime under the FLSA shall be determined by the temporary cash assistance and food stamp benefits amount being divided by the minimum wage so that the amount paid to the recipient would be equal to or more than the amount required for payment of wages, including minimum wage and overtime; 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 the FLSA shall be determined by the food stamp benefits amount being divided by the minimum wage so that the amount paid to the sanctioned individual would be 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 set forth in this paragraph, the activity is considered "training" under the FLSA and minimum wage and overtime is not required:~~
    - ~~(A) the training is similar to that given in a vocational school;~~
    - ~~(B) the training is for the benefit of the trainees;~~
    - ~~(C) trainees do not displace regular employees;~~
    - ~~(D) employers derive no immediate advantage from trainees' activities;~~
    - ~~(E) trainees are not entitled to a job after training is completed; and~~
    - ~~(F) employers and trainees understand that trainee is not paid.~~

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

**§811.22. Assessment.**

- (a) A Board shall ensure that initial and ongoing assessments are performed to determine the employability and retention needs, including wage advancement and career development needs, of Choices participants ~~individuals~~ as follows:
  - (1) An assessment is required for Choices participants ~~mandatory individuals, and for exempt recipients who voluntarily participate in Choices services, and~~ who are:
    - (A) at least age 18; or
    - (B) heads of household, as determined by ~~HHSC-TDHS~~, who are not yet age 18, have not completed secondary school or received a GED credential ~~certificate of general equivalency~~, 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, ~~or the need for parenting skills training~~, as one of the factors considered in evaluating employability.
- (c) A Board shall ensure that the assessment identifies Choices eligibles individuals 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 ~~an individual~~ 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 individual 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 individuals 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 certificate of general equivalence and are not attending secondary school:
- (1) The assessments shall also include evaluations of the mandatory Choices participants' individuals:
    - (A) vocational and educational skills, experience, and needs; and
    - (B) literacy level by using a statewide standard literacy assessment instrument ~~with the following exception: —~~ 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 recipients receiving the EID are excluded from the literacy assessment. A Board shall ensure that the grade level results or other literacy information is provided to TDHS for use in determining the appropriateness of the initial state time-

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

- (2) ~~A Board shall ensure that the~~The grade-level results or other literacy information are provided to ~~HHSC-TDHS~~ for use in determining the appropriateness of the initial state time-limit designation for ~~TANF temporary~~ 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 ~~of this subchapter.~~

**§811.23. Family Employment Plan.**

- (a) Boards must ensure that prior to the development of a family employment plan, ~~Choices participants mandatory individuals, and exempt recipients who voluntarily participate,~~ receive general information about services provided through the One-Stop Service Delivery Network that will assist them in obtaining employment, if the ~~Choices participants recipient~~ did not receive this information during the WOA.
- (b) Family employment plans are required for ~~all Choices participants mandatory individuals, and exempt recipients who voluntarily participate in Choices services.~~
- (c) Family employment plans shall be developed with applicants and former recipients who choose to participate in Choices services.
- (d) A Board shall ensure that a family employment plan is developed during the assessment and:
- (1) is based on assessments, as described in §811.22 ~~of this subchapter;~~
  - (2) contains the goal of self-sufficiency through employment to meet the needs of the local labor market;
  - (3) contains the steps and services to achieve the goal, including:
    - (A) connecting the ~~Choices participant job seeker~~ immediately to the local labor market;
    - (B) addressing potential barriers that limit the ~~Choices participant's job seeker's~~ ability to work or participate in activities;
    - (C) arranging support services for the ~~Choices participant job seeker~~ or the family to address circumstances that limit the ~~Choices participant's individual'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 mandatory individuals~~ 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 individual,~~ unless the Choices participant individual is a mandatory Choices participant coded by HHSC as working at least 30 hours per week, earning at least \$700 per month, recipient and receiving the EID, and a Board's service provider; ~~and~~
  - (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 ~~worker~~ should individual or family circumstances arise that prevent participation.
- ~~(e) A Board shall ensure that mandatory individuals are notified of their responsibility to participate in job readiness activities as set forth in §811.41(d) of this chapter.~~
- ~~(e)(f)~~ A Board shall ensure that progress towards meeting the goals of the family employment plan is evaluated and the family employment plan is modified as appropriate to meet employer needs in the local labor market.

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

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

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

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

- (a) Participation hours are subject to the restrictions regarding TANF core and TANF non-core activities as set forth in 4245 U.S.C. §607, 45 C.F.R. §§261.10, 261.12, 261.31, 261.32, and 261.33, ~~and as set forth in this section,~~ and as set forth in §§811.26, 811.27, and 811.28 ~~of this subchapter.~~
  - (1) TANF core activities are:
    - ~~(A) job search and job readiness assistance, as described in §811.41 of this chapter;~~

- ~~(A)(B)~~ unsubsidized employment, as described in §811.42 ~~of this chapter~~;
  - ~~(B)(C)~~ subsidized employment, as described in §811.43 ~~of this chapter~~;
  - (C) work experience, as described in §811.45;
  - ~~(D)~~ on-the-job training, as described in §811.44 ~~of this chapter~~;
  - (E) job search and job readiness assistance, as described in §811.41;
  - ~~(E)~~ work experience, as described in §811.45 ~~of this chapter~~;
  - ~~(F)~~ community service, as described in §811.46 ~~of this chapter~~;
  - ~~(G)~~ vocational educational training, as described in §811.48 ~~of this chapter~~; or
  - ~~(H)~~ child care services to a Choices participant mandatory individual, or exempt recipient who voluntarily participates in Choices services, who is participating in community service, as described in §811.47 ~~of this chapter~~.
- (2) TANF non-core activities are:
- ~~(A)~~ job skills training, as described in §811.49 ~~of this chapter~~; or
  - ~~(B)~~ educational services for Choices participants mandatory individuals, and exempt recipients who voluntarily participate in Choices services, who have not completed secondary school or received a GED credential certificate of general equivalency, as described in §811.50 ~~of this chapter~~.
  - ~~(C)~~ parenting skills training, as described in §811.52 ~~of this chapter~~.
- (b) Choices participants Mandatory individuals, and exempt recipients who voluntarily participate in Choices services, in a single-parent family are required to participate for at least a minimum weekly average of 30 thirty hours. An average of 20 twenty hours per week must be derived from participation in core activities. Up to an average of 10 ten hours per week may be derived from participation in non-core activities.
- (c) Choices participants Mandatory individuals, and exempt recipients who voluntarily participate in Choices services, 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 thirty five hours. An average of 30 thirty hours per week must be derived from participation in core activities. Up to an average of five hours per week may be derived from participation in non-core activities.
- (d) Choices participants Mandatory individuals, and exempt recipients who voluntarily participate in Choices services, 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 fifty five hours. An average of 50 fifty hours per week must be derived from participation in core activities. Up to an average of five hours per week may be derived from participation in non-core

activities. The following work participation exceptions apply to two-parent families who are receiving Commission-funded child care:

- (1) ~~two-parent families with one adult in good cause status are deemed to be engaged in work during the month if the adult who is not in good cause status participates for at least a minimum weekly average of thirty-five hours. An average of thirty hours per week must be derived from participation in core activities. Up to an average of five hours per week may be derived from participation in non-core activities; or~~
- (2) ~~two-parent families with both adults in good cause status for whom no penalty will be requested for failure to meet the minimum weekly average hours based on the good cause determination.~~

### **§811.26. Special Provisions Regarding Community Service.**

- (a) ~~Choices participants Mandatory recipients, with the exception of those described in §811.30 811.29 and §811.33811.32 of this subchapter, who are not in an employment activity after four weeks of participation in Choices services, must be placed into community service after four weeks of participation in Choices services. Choices participants Mandatory recipients who are not in an employment activity after reaching their six-week limit per federal fiscal year in job search and job readiness activities must be placed into community service. 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 Mandatory recipients~~ required to participate in a community service activity must be scheduled to participate no less than the minimum weekly average hours calculated as specified in §811.21(b) ~~of this subchapter.~~
  - (1) ~~An employment activity is defined as:~~
    - (A) ~~unsubsidized employment, as described in §811.42 of this chapter;~~
    - (B) ~~subsidized employment, as described in §811.43 of this chapter;~~
    - (C) ~~on the job training, as described in §811.44 of this chapter; or~~
    - (D) ~~work experience, as described in §811.45 of this chapter.~~
  - (2) ~~The number of hours that a recipient is required to participate in community service or another unpaid work activity, must be determined in compliance with the FSLA as described in §811.21(b) of this subchapter. If a recipient's hours of community service or other unpaid work activity are not sufficient to meet the core work activities requirement as set forth in §811.25 (b) (d) of this subchapter, the recipient must be enrolled in additional core activities.~~

- ~~(c)~~(b) Exempt recipients who voluntarily participate in Choices services are not subject to the requirements set forth in ~~subsection (a)~~§811.26(a) of this section.

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

- (a) ~~Choices participants~~ Recipients participating in unsubsidized employment as defined in §811.42, §811.26(a)(1)(A) of this subchapter who lose that employment, may participate in job search activities as defined in §811.41(c) ~~of this chapter~~ and job readiness activities as defined in §811.41(d)(1) ~~(2)~~ unless they have reached the six-week limit per federal fiscal year.
- (b) Job search and job readiness activities as defined in §811.41 ~~of this chapter, with the exception of the job readiness activities set forth in §811.41(d)(3)(A)-(D), of this chapter,~~ are limited as follows:
- (1) ~~Choices participants mandatory recipients, and exempt recipients who voluntarily participate in Choices services~~ may not be enrolled for more than four4 weeks of consecutive activity;
  - (2) ~~Choices participants mandatory recipients, and exempt recipients who voluntarily participate in Choices services,~~ may not be enrolled for more than six6 weeks of total activity in a federal fiscal year;
  - (3) in order for a ~~Choices participants mandatory recipient~~ Choices participants mandatory recipient to qualify for their remaining two 2-weeks of job search and job readiness, they must first comply with §811.26(a) ~~of this subchapter~~, which requires that ~~the Choices participants mandatory recipient~~ the Choices participants mandatory recipient be engaged in an employment activity or in community service; and
- (c) only once per federal fiscal year; may a partial week count as a full week of participation, per Choices participantrecipient.
- ~~(d) A Board shall ensure that mandatory individuals:~~
- ~~(1) are continuously enrolled in the job readiness activities set forth in §811.41(d)(3) of this chapter; and~~
  - ~~(2) receive a three-hour participation credit per week for such activities.~~

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

- (a) ~~Choices participants~~ Mandatory individuals, and exempt recipients who voluntarily participate in Choices services may not be enrolled in vocational educational education-training, as defined in §811.48 ~~of this chapter~~, for more than a cumulative total of 12 months.
- (b) No more than 30% ~~thirty percent~~ of Choices participants mandatory individuals, and exempt recipients who voluntarily participate in Choices services, 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§811.29 ~~of this subchapter~~.

- (c) ~~Choices participants Mandatory individuals, and exempt recipients who voluntarily participate in Choices services,~~ shall ~~only~~ be enrolled only in core and non-core activities.

**§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):
- (1) the Choices participant shall be enrolled in additional core activities; or
  - (2) Boards shall deem the remaining core hours as having met the core work activity requirement.

**§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.

**§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.

**§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).

**§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).

**§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 10 additional days within a 12-month period and does not exceed two 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, 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, 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.

**§811.29. Special Provisions for Teen Heads of Household.**

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

**~~§811.30. Special Provisions for Mandatory Individuals, and Exempt Recipients Who Voluntarily Participate in Choices Services, in Single-Parent Families with Children Under Age Six.~~**

- ~~(a) A Board shall ensure that mandatory individuals, and exempt recipients who voluntarily participate in Choices services, in single parent families with children under age six are notified of the penalty exception to Choices participation as described in §811.16(d) of this chapter.~~
- ~~(b) A mandatory individual, and exempt recipient who voluntarily participates in Choices services, in a single parent family with children under age six will count as engaged in work if he or she participates for at least an average of twenty hours per week in core activities.~~

**~~§811.31. Special Provisions Regarding Exempt Recipients Who Voluntarily Participate.~~**

- ~~(a) Boards are not required to provide Choices services as set forth in §§811.25-811.32 of this subchapter to exempt recipients who fail to meet work requirements.~~
- ~~(b) Boards shall ensure that a penalty is not requested for exempt recipients who voluntarily participate in Choices.~~

**~~§811.32. Other Special Provisions.~~**

- ~~(a) Persons with Disabilities.
 
  - ~~(1) Mandatory individuals, who are disabled shall count as engaged in work to the extent that the individuals:
 
    - ~~(A) participate in Choices employment and training activities for the time period and to the extent determined able as specified by a physician; or~~~~~~

- ~~(B) participate in activities as directed by the Texas Rehabilitation Commission or similar organization.~~
- ~~(2) Mandatory individuals, needed at home to care for a disabled adult in the household shall count as engaged in work if the recipient participates in Choices services for a time period and to the extent determined able as specified by a physician.~~
- ~~(3) Mandatory individuals, who are needed at home to care for an ill or disabled child in the household shall count as engaged in work if the recipient participates in Choices services for a time period and to the extent determined able as specified by a physician.~~
- ~~(b) 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) of this chapter.~~
- ~~(c) 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) of this chapter.~~

## SUBCHAPTER D. CHOICES WORK ACTIVITIES

### §811.41. Job Search and Job Readiness Assistance.

- (a) Job search and job readiness are core activities as defined in §811.25(a)(1) ~~of this chapter.~~
  - (b) A Board shall ensure that job search and job readiness activities ~~services~~:
    - (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 ~~job seekers~~, 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-~~client~~-directed activities that do not require direct ~~significant~~ staff involvement, and include activities in which Choices participants ~~clients~~ independently identify employment opportunities based upon their employment strengths, and perform preparatory activities that are essential to obtaining and retaining employment, ~~and activities that address the health, safety, and welfare of their families.~~
- ~~(i) A Board shall ensure that daily contact with the Choices participant is maintained to document contact, verify participation, and to discuss the progress of the job search.~~
- ~~(ii) A Board shall count two hours of participation for each job contact made while participating in customer-directed job~~

~~**search, unless it is documented and verified that the job contact required more than two hours of participation due to travel time or another reasonable explanation. A Board shall ensure that all exceptions for customer-directed job search are documented daily in TWIST.**~~

- (2) are limited to activities necessary for Choices ~~participants~~ individuals to secure immediate employment.
  - (3) provide individual assistance or coordinated, planned, and supervised activities that prepare Choices ~~participants~~ individuals for seeking employment.
  - ~~(4) are supervised daily.~~
  - ~~(5) are documented daily in TWIST.~~
  - ~~(6) are allowable treatment or therapy activities that include substance abuse treatment, mental health treatment, or rehabilitation activities determined to be necessary to assist Choices participants with seeking, obtaining, or retaining employment. Boards shall ensure treatment and therapy activities are certified by a qualified medical or mental health professional.~~
- (c) Job search activities are defined as acts of seeking and obtaining employment, including~~include~~:
- ~~(1) job skills assessment;~~
  - ~~(1)(2) job referrals placement;~~
  - ~~(3) counseling;~~
  - ~~(2)(4) information on available jobs;~~
  - ~~(3)(5) occupational exploration, including information on local emerging and demand occupations;~~
  - ~~(6) interviewing skills and practice interviews;~~
  - ~~(7) assistance with applications and resumes;~~
  - ~~(4)(8) 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~~ individuals 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; ~~or~~
  - (3) job skills assessment;
  - (4) substance abuse treatment;

- (5) mental health treatment;
- (6) rehabilitation activities;
- (7) job counseling;
- (8) interviewing skills and practice interviews; and
- (9) assistance with applications and resumes.
- ~~(3) activities essential to the health, safety, and welfare of their families, as follows:
 
  - ~~(A) activities associated with maintenance of their children's health and dental checkups, as required by §3.301 of this title;~~
  - ~~(B) activities associated with maintenance of their children's immunizations, as required by §3.301 of this title;~~
  - ~~(C) activities necessary to ensure their children's school attendance, as required by §3.301 of this title; and~~
  - ~~(D) activities necessary to abstain from the use, possession, or sale of controlled substances, and to abstain from alcohol abuse, including participation in counseling.~~~~
- (e) Job search and job readiness activities are time-limited as defined in §811.27 ~~of this chapter.~~

**§811.42. Unsubsidized Employment.**

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

**§811.43. Subsidized Employment.**

- (a) Subsidized employment is a core activity as defined in §811.25(a)(1) ~~of this chapter.~~
- (b) Subsidized employment is full-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~~ individuals enrolled in a subsidized employment activity. Subsidized employment includes but is not limited to the following:
  - (1) subsidized internship with a portion of the Choices ~~participant's~~ individual's wages subsidized;
  - (2) subsidized employment with a staffing agency acting as the employer of record; and

- (3) subsidized employment with the actual employer acting as the employer of record.
- (c) Wages.
  - (1) Wages shall be at least federal or State minimum wage, whichever is higher. Boards must set a policy to establish the amount of the wage that is subsidized.
  - (2) Employers must provide the same wages and benefits to subsidized employees as for unsubsidized employees with similar skills, experience, and position.
- (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.

**§811.44. On-the-Job Training.**

- (a) On-the-job training is a core activity as defined in §811.25(a)(1) ~~of this chapter.~~
- (b) A Board shall ensure that a determination is made on a case-by-case basis whether to authorize, arrange, or refer a Choices participant individual for subsidized, time-limited training activities, to assist the Choices participant individual with obtaining knowledge and skills that are essential to the workplace while in a job setting. On-the-job training is training by an employer that is provided to a Choices participant individual while engaged in productive work in a job that:
  - (1) provides knowledge or skills essential to the full and adequate performance of the job;
  - (2) provides reimbursement to the employer of a percent of the wage rate of the Choices participant individual for the extraordinary costs of providing the training and additional supervision related to the training;
  - (3) is limited in duration as appropriate to the occupation for which the Choices participant individual is being trained, taking into account the content of the training, the prior work experience of the Choices- participant individual, and the service strategy of the Choices- participant individual, as appropriate; and
  - (4) includes training specified by the employer.

- (c) Unsubsidized employment after satisfactory completion of the training is expected. A Board shall not contract with employers who have previously exhibited a pattern of failing to provide Choices participants ~~individuals~~ in on-the-job training with continued long-term employment, which provides wages, benefits, and working conditions that are equal to those that are provided to regular employees who have worked a similar length of time and are doing a similar type of work.
- (d) A Board shall ensure Choices participants enrolled in on-the-job training are supervised daily.
- (e) A Board shall ensure on-the-job training is documented in TWIST at least every two weeks.

**§811.45. Work Experience.**

- (a) Work experience is a core activity as defined in §811.25(a)(1) ~~of this chapter.~~
- (b) A Board shall ensure that a determination is made on a case-by-case basis whether to authorize, arrange, or refer Choices participants ~~mandatory individuals, and exempt recipients who voluntarily participate in Choices services,~~ for unsalaried, work-based training positions ~~in the private for-profit sector~~ to improve the employability of Choices participants ~~a mandatory individual who have~~ has been unable to find unsubsidized employment.
- (c) A Board shall ensure that all Choices participants ~~mandatory individuals, and exempt recipients who voluntarily participate in Choices services,~~ 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 ~~the mandatory individuals, and exempt recipients who voluntarily participate in Choices services,~~ quickly into regular employment; and
  - (3) has designated hours, tasks, skills attainment objectives, and daily staff supervision.
- (e) A Board shall ensure that entities that enter into non-financial agreements with a Board, identify work experience positions and provide job training and work experience within their organization. These positions shall enable Choices participants ~~mandatory individuals, and exempt recipients who voluntarily participate in Choices services,~~ to gain the skills necessary to compete for positions within the entity as well as positions in the labor market.
- (f) A Board shall ensure work experience activities are documented in TWIST at least every two weeks.

**§811.46. Community Service.**

- (a) Community service is a core activity as defined in §811.25(a)(1) ~~of this chapter.~~
- (b) A Board shall ensure that a determination is made, on a case-by-case basis, whether to authorize, arrange, or refer Choices participants ~~mandatory individuals, and exempt recipients who voluntarily participate in Choices services,~~ to a community service program that provides employment or training activities to Choices participants ~~recipients~~ 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 ~~recipients~~ who have been unable to find employment.
- (c) A Board shall ensure that all mandatory Choices participants ~~recipients~~ subject to §811.26(a) ~~of this chapter~~ 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.
- (f) A Board shall ensure Choices participants in community service programs are supervised daily.
- (g) A Board shall ensure community service activities are documented in TWIST at least every two weeks.

**§811.47. Child Care Services to Choices Participants ~~a Mandatory Individual, or Exempt Recipient Who Voluntarily Participates in Choices Services, Participating in Community Service.~~**

- (a) Child care services to Choices participants ~~a mandatory individual, or exempt recipient who voluntarily participates in Choices services, participating in~~ community service are ~~is~~ a core activity as defined in §811.25 ~~of this chapter.~~
- (b) A Choices participant ~~mandatory individual, or exempt recipient who voluntarily participates in Choices services,~~ may provide child care services for another recipient who is engaged in a community service activity, as described in §811.46 ~~of this subchapter.~~ ~~The hours spent by the recipient providing child care are considered a core activity.~~ Boards that elect to allow this activity must set local policies that ~~which~~ include:
  - (1) ensuring the health, safety, and well-being of the children in care; and

- ~~(2) limiting limits on the maximum number of children that may be cared for; and~~
- ~~(3) the methodology and mechanism for reporting hours of participation by recipients.~~
- (c) A Board shall ensure an assignment to provide child care services is effective in moving the provider toward self-sufficiency.
- (d) A Board shall ensure Choices participants providing child care services are supervised daily.
- (e) A Board shall ensure child care services provided by Choices participants are documented at least every two weeks.
- (f) A Board shall count only actual hours of participation in child care activities as allowable work participation hours. Actual hours cannot exceed the number of hours in which Choices participants for whom they are providing child care participate in community service activities plus two additional hours per day for the time the children are in the participant's care while the parent is traveling to and from the child care location. Any exceptions to the two-hour travel time must be documented in TWIST.

**§811.48. Vocational Educational Training.**

- (a) Vocational educational training is a core activity as defined in §811.25(a)(1) ~~of this chapter.~~
- (b) A Board shall ensure that a determination is made, on a case-by-case basis, whether to authorize, arrange, or refer Choices participants ~~individuals~~ for vocational educational training. ~~Services provided by the Texas Rehabilitation Commission may be counted as vocational education training if the service provided to the Choices individual leads to employment.~~
- (c) The vocational educational training shall:
  - (1) 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)(4) relate to- current or emerging occupationsthe types of jobs available in the labor market;~~
  - ~~(4)(2) be consistent with employment goals identified in the family employment plan, when possible;~~
  - ~~(5)(3) be provided only if there is an expectation that employment will be secured upon completion of the training; and~~
  - ~~(6)(4) 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.

- (d) Boards may count supervised up to 5 hours per week of study or homework time toward a Choices participant's mandatory individual, and exempt recipient who voluntarily participates in Choices services, family participation requirement if:
  - (1) study or homework time is directly correlated to the demands of the course work for out-of-class preparation as described by the educational institution;
  - (2) the educational institution's policy requires a certain number of out-of-class preparation hours for the class; and
  - (3) study or homework time ~~is has been~~ directly monitored, supervised, and documented, verified from the educational institution; and
  - (4) ~~the mandatory individual, or exempt recipient who voluntarily participates in Choices services, is making progress as determined by the educational institution.~~
- (e) A Board shall verify whether the Choices participant is making good or satisfactory progress as determined by the educational institution.
- (f) A Board shall ensure Choices participants enrolled in vocational educational training are supervised daily.
- (g) A Board shall ensure vocational educational training is documented in TWIST at least every two weeks.

**§811.49. Job Skills Training.**

- (a) Job skills training is a non-core activity as defined in §811.25(a)(2) ~~of this chapter.~~
- (b) Job skills training services are designed to increase a Choices participant's individual's employability. Job skills training may also include activities ensuring that Choices participants individuals become familiar with workplace expectations and exhibit work behavior and attitudes necessary to compete successfully in the labor market. Various types of activities, which are directly related to employment, may qualify, such as personal development and preemployment classes.
- (c) A Board shall ensure that a determination is made on a case-by-case basis whether to authorize, arrange, or refer Choices participants individuals 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 ~~Adult Basic Education (ABE), English as a Second Language (ESL), or literacy instruction~~ Workforce Adult Literacy services;
  - (2) entrepreneurial training provided prior to business start up; and
  - (3) self-employment assistance:

- (A) ~~for to-Choices participants individuals~~ currently engaged in operating a small business;
- (B) ~~for to-Choices participants individuals~~ based upon an objective assessment process that identifies Choices participants individuals who are likely to succeed; and
- (C) ~~that which~~ may include microenterprise services such as:
  - (i) business counseling;
  - (ii) financial assistance; and
  - (iii) technical assistance.
- (f) Boards may count ~~supervised up to 5 hours per week of~~ study or homework time toward a Choices participant's mandatory individual, and exempt recipient who voluntarily participates in Choices services, family participation requirement if:
  - (1) study or homework time is directly correlated to the demands of the course work for out-of-class preparation as described by the educational institution;
  - (2) the educational institution's policy requires a certain number of out-of-class preparation hours ~~for the class;~~ and
  - (3) study or homework time ~~is has been~~ directly monitored, supervised, and documented. ~~verified from the educational institution;~~ and
  - ~~(4) the mandatory individual, or exempt recipient who voluntarily participates in Choices services, is making progress as determined by the educational institution.~~
- (g) A Board shall verify whether the Choices participant is making good or satisfactory progress as determined by the job skills training provider.
- (h) A Board shall ensure Choices participants enrolled in job skills training are supervised daily.
- (i) A Board shall ensure job skills training is documented in TWIST at least every two weeks.

**§811.50. Educational Services for Choices Participants Mandatory Individuals, and Exempt Recipients Who Voluntarily Participate in Choices Services, Who Have Not Completed Secondary School or Received a General Educational Development Credential Certificate of General Equivalency.**

- (a) Educational services are only available for Choices participants mandatory individuals and exempt recipients who voluntarily participate in Choices services, who have not completed secondary school or who have not received a GED credential certificate of general equivalency as follows:
  - (1) Educational services for Choices participants mandatory individuals, and exempt recipients who voluntarily participate in Choices services, age 20 or older are non-core activities as defined in §811.25(a)(2) ~~of this chapter.~~

- (2) Educational services for Choices participants ~~mandatory individuals, and exempt recipients who voluntarily participate in Choices services,~~ who are teen heads of household age 19 and younger are core activities as defined in §811.30811.29 of this chapter.
- (b) A Board shall ensure that a determination is made, on a case-by-case basis, whether to authorize, arrange, or refer Choices participants ~~mandatory individuals, and exempt recipients who voluntarily participate in Choices services,~~ who are age 20 and older for the following educational or other training services:
- (1) secondary school leading to a high school diploma or a GED credential certificate of general equivalency, when required as a prerequisite for employment;
  - (2) Adult Basic Education (ABE), language instruction, or literacy instruction ~~Workforce Adult Literacy;~~ 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.
- (d)(e) Boards may count supervised up to 5 hours per week of study or homework time toward a Choices participant's ~~mandatory individual, and exempt recipient who voluntarily participates in Choices services,~~ family participation requirement if:
- (1) study or homework time is directly correlated to the demands of the course work for out-of-class preparation as described by the educational institution;
  - (2) the educational institution's policy requires a certain number of out-of-class preparation hours ~~for the class;~~ and
  - (3) study or homework time is has been directly monitored, supervised, and documented. ~~verified from the educational institution; and~~
  - (4) ~~the mandatory individual, or exempt recipient who voluntarily participates in Choices services, is making progress as determined by the educational institution.~~
- (e) A Board shall verify whether the Choices participant is making good or satisfactory progress as determined by the educational institution.
- (f) A Board shall ensure Choices participants enrolled in educational services are supervised daily.
- (g) A Board shall ensure educational services are documented in TWIST at least every two weeks.

#### **§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 ~~mandatory individuals, and exempt recipients who voluntarily participate in Choices services,~~ 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 mandatory recipients, and exempt recipients who voluntarily participate in Choices services, for at least the length of time the Choices participants mandatory recipients, and exempt recipients who voluntarily participate in Choices services, receive TANF temporary cash assistance.
- (c) A Board shall ensure that ongoing contact is established with Choices eligibles individuals receiving post-employment services at least monthly.
- (d) A Board may include mentoring techniques as part of a post-employment strategy.
- (e) A Board may, through local policies and procedures, make post-employment services available to:
  - (1) former recipients who are denied TANF temporary cash assistance because of earnings; and
  - (2) sanctioned families and conditional applicants who obtain employment during their the one month of demonstrated cooperation period.
- (f) 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 ~~40 T.A.C. Chapter 809~~ of this title;
  - (3) work-related expenses, including those identified in §811.64 ~~of this chapter~~;
  - (4) transportation, if needed;
  - (5) job search, job placement, and job development services to help a former recipient who loses a job to obtain employment;
  - (6) referrals to available education or training resources to increase an employed Choices eligible's individual'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.
- (g) 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 temporary 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.

- (h) Post-employment service providers may include employers, community colleges, technical colleges, career proprietary schools and colleges, faith-based and community-based organizations.

**~~§811.52. Parenting Skills Training.~~**

~~Parenting skills training activities are intended to assist families in maintaining their health, safety, and welfare; these activities are also intended to assist Choices individuals with relevant family issues that contribute to their ability to obtain and retain employment. These activities may address:~~

- ~~(1) nutrition education;~~
- ~~(2) budgeting and life skills;~~
- ~~(3) instruction on the necessity of physical and emotional safety for children;~~
- ~~(4) instruction on the necessity of maintaining children's health to include immunizations and dental checkups;~~
- ~~(5) instruction on the necessity of ensuring children's school attendance;~~
- ~~(6) instruction on the necessity of abstaining from using, possessing, or selling controlled substances; and~~
- ~~(7) instruction on the necessity of abstaining from abusing alcohol.~~

**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 individuals to address barriers to employment or participation in Choices services, subject to availability of resources and funding. A Board shall ensure that support services provided to Choices participants individuals are coordinated with the employer, when appropriate.
- (b) A Board shall ensure that support services, including Commission-funded child care, are provided only to Choices participants mandatory individuals, and ~~exempt recipients who voluntarily participate in Choices services~~, who are meeting work requirements set forth in §§811.16, 811.23, and 811.25–811.34 ~~811.25–811.32 of this chapter~~, and as set forth in ~~§809.45§809.102~~ of this title. In applying this provision, a Board shall ensure support services are provided to Choices participants a mandatory individual, and ~~an exempt recipient who voluntarily participates in Choices services~~, 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 ~~811.25–811.32 of this chapter~~, and as set forth in ~~§809.45§809.102~~ 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 mandatory individuals, or ~~exempt recipients who voluntarily participates in Choices services~~, failure to

~~meet work requirements~~, 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 ~~temporary~~ cash assistance; and
  - (2) unemployed conditional applicants and sanctioned families do not extend beyond ~~their~~ ~~the one month~~ of demonstrated cooperation period.

**§811.62. Child Care for Choices Eligibles Individuals.**

- (a) A Board shall ensure that child care is provided if needed, as specified in Chapter 809 of this title.
- (b) Transitional child care is provided as needed, as specified in ~~§809.48~~§809.101 of this title.
- (c) Choices child care is provided as needed, as specified in ~~§809.45~~§809.102 of this title.
- (d) TANF Applicant child care is provided as needed, as specified in ~~§809.46~~§809.103 of this title.

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

**§811.66. General Educational Development Credential Certificate of General Equivalence (GED) Testing Payments.**

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

**§811.67. Individual Development Accounts (~~IDAs~~).**

- (a) A Board may set local policy and procedures to provide for implementation and oversight of 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 ~~individuals~~ may be eligible for IDAs if all of the requirements of this section are met.
- (d) IDAs may be established for an eligible individual, and may be contributed to with the individual's earned income and up to fifty percent of the individual's federal Earned Income Tax Credit refund. Federal Earned Income Tax Credit refunds shall not be matched with TANF funds.
- (e) Federal TANF funds, as well as public or private funds, may be used to provide matching funds for qualified expenses and to administer IDAs, and shall be expended in a manner consistent with applicable federal and state statutes and regulations, with the exception of federal Earned Income Tax Credit refunds.
- (f) Use of funds in an individual's IDA, shall be in accordance with the Social Security Act §404(h) (42 U.S.C. §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 ~~TDHS~~ within seven working days of the unauthorized withdrawal.