

1 **CHAPTER 811. CHOICES**

2
3 **PROPOSED RULES WITH PREAMBLE TO BE SUBMITTED TO THE TEXAS**
4 **REGISTER. THIS DOCUMENT WILL HAVE NO SUBSTANTIVE CHANGES BUT IS**
5 **SUBJECT TO FORMATTING CHANGES AS REQUIRED BY THE TEXAS REGISTER.**

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7 **ON JULY 3, 2018, THE TEXAS WORKFORCE COMMISSION PROPOSED THE RULES**
8 **BELOW WITH PREAMBLE TO BE SUBMITTED TO THE TEXAS REGISTER.**

9
10 Estimated Publication Date of the Proposal in the *Texas Register*: **July 20, 2018**
11 Estimated End of Comment Period: **August 20, 2018**

12
13 The Texas Workforce Commission (TWC) proposes amendments to the following sections of
14 Chapter 811, relating to the Choices program:

- 15 Subchapter A. General Provisions, §§811.1 - 811.4
- 16 Subchapter B. Choices Services Responsibilities, §811.11 and §811.14
- 17 Subchapter C. Choices Services, §811.21 and §811.22
- 18 Subchapter D. Choices Activities, §811.51
- 19 Subchapter E. Support Services and Other Initiatives, §811.61 and §811.65

- 20
- 21
- 22 **PART I. PURPOSE, BACKGROUND, AND AUTHORITY**
- 23 **PART II. EXPLANATION OF INDIVIDUAL PROVISIONS**
- 24 **PART III. IMPACT STATEMENTS**
- 25 **PART IV. COORDINATION ACTIVITIES**

26
27 **PART I. PURPOSE, BACKGROUND, AND AUTHORITY**

28 The purpose of the proposed Chapter 811 rule changes is to reflect the changes made to TWC
29 Chapter 809 Child Care Services rules, and other administrative changes as they relate to the
30 Choices program, TWC's work-first employment and training program for Texans receiving
31 Temporary Assistance for Needy Families (TANF).

32
33 On November 19, 2014, the Child Care and Development Block Grant (CCDBG) Act of 2014
34 was reauthorized for the first time since 1996. The US Department of Health and Human
35 Services Administration for Children and Families initiated its rulemaking process December 24,
36 2015, to amend Child Care and Development Fund (CCDF) regulations based on the changes to
37 the CCDBG Act. The reauthorization and subsequent rules made significant changes to the
38 CCDF program.

39
40 Amendments to TWC's Chapter 809 rules implementing the CCDBG Act changes became
41 effective October 1, 2016. However, the amendments to the rules also affect other programs in
42 which child care services are offered, including Choices. The changes made to Chapter 809
43 require child care to be continued for:
44 --at least three months for Choices participants who fail to meet program requirements; or

1 --the remainder of the initial 12-month eligibility period if the individual resumes cooperation
2 with Choices or begins participation in work, job training, or an education program during the
3 three-month continuation period.

4
5 **PART II. EXPLANATION OF INDIVIDUAL PROVISIONS**

6 (Note: Minor editorial changes are made that do not change the meaning of the rules and,
7 therefore, are not discussed in the Explanation of Individual Provisions.)

8
9 **SUBCHAPTER A. GENERAL PROVISIONS**

10 **TWC proposes the following amendments to Subchapter A:**

11
12 **§811.1. Purpose and Goal**

13 Section 811.1(b) is amended to replace the outdated term "Choices eligible" with the term
14 "Choices-eligible individual."

15
16 **§811.2. Definitions**

17 Section 811.2(2), §811.2(3)(A), §811.2(3)(B), and §811.2(25) are amended to replace the
18 outdated term "Choices eligible" with the term "Choices-eligible individual."

19
20 **§811.3. Choices Service Strategy**

21 Section 811.3(a)(3), §811.3(b)(2)(D), §811.3(b)(2)(D)(i), §811.3(B)(2)(D)(ii), and §811.3(B)(6)
22 are amended to replace the outdated term "Choices eligibles" with the term "Choices-eligible
23 individuals."

24
25 **§811.4. Policies, Memoranda of Understanding, and Procedures**

26 Section 811.4(c)(1), and §811.4(d)(5) are amended to replace the outdated term "Choices
27 eligible" with the term "Choices-eligible individual."

28
29 Section 811.4(c)(2) is removed. This section requires Local Workforce Development Boards
30 (Boards) to establish a local-level memorandum of understanding (MOU) in cooperation with the
31 Texas Health and Human Services Commission (HHSC) for coordinated case management that
32 is consistent with the MOU between HHSC and TWC. However, subsequent reviews of state and
33 federal rules and regulations determined that this MOU is no longer necessary to support
34 program operations.

35
36 Section 811.4(c)(3) is renumbered as §811.4(c)(2) and amended to replace the Texas Department
37 of State Health Services (DSHS) with HHSC as the agency with which an MOU must be in place
38 for providing mental health and substance abuse services to Choices participants. DSHS
39 consolidated with its parent organization, HHSC, in 2016. This update reflects the current
40 structure of the program in which HHSC is the agency responsible for mental health and
41 substance abuse services.

42
43 Section 811.4(c)(4) is renumbered as §811.4(c)(3).

44
45 **SUBCHAPTER B. CHOICES SERVICES RESPONSIBILITIES**

46 **TWC proposes the following amendments to Subchapter B:**

1
2 **§811.11. Board Responsibilities**

3 Section 811.11(a)(2)(E), §811.11(e), §811.11(g)(1)(A), §811.11(g)(2), and §811.11(i) are
4 amended to replace the outdated term "Choices eligibles" with the term "Choices-eligible
5 individuals."

6
7 **§811.14. Noncooperation**

8 Section 811.14(b)(2) adds language stating that TWC-funded child care is not a service that must
9 be terminated for noncooperation by exempt Choices participants. Section 811.14(b)(3) adds that
10 child care must be provided in accordance with §809.45 of this title.

11
12 **SUBCHAPTER C. CHOICES SERVICES**

13 **TWC proposes the following amendments to Subchapter C:**

14
15 **§811.21. General Provisions**

16 Section 811.21(a) is amended to replace the outdated term "Choices eligibles" with the term
17 "Choices-eligible individuals."

18
19 **§811.22. Assessment**

20 Section 811.22(c) is amended to replace the outdated term "Choices eligibles" with the term
21 "Choices-eligible individuals."

22
23 **SUBCHAPTER D. CHOICES ACTIVITIES**

24 **TWC proposes the following amendments to Subchapter D:**

25
26 **§811.51. Post Employment Services**

27 Section 811.51(c) and §811.51(e)(6) are amended to replace the outdated term "Choices eligible"
28 with the term "Choices-eligible individual."

29
30 **SUBCHAPTER E. SUPPORT SERVICES AND OTHER INITIATIVES**

31 **TWC proposes the following amendments to Subchapter E:**

32
33 **§811.61. Support Services**

34 Section 811.61(b) adds language that stipulates that child care is an exception to this rule, which
35 requires Boards to ensure that support services are *only* provided to Choices participants who are
36 meeting Choices program requirements. This limitation does not apply to child care. The
37 references to Choices program requirements are also updated from §811.16 to §811.13, which is
38 the correct location of the program requirements, and outdated references to §809.45 of this title
39 are removed.

40
41 Section 811.61(c)(1) adds language excepting TWC-funded child care from the support services
42 that Boards must terminate immediately upon a determination of a Choices participant's failure
43 to meet program requirements. The current language in §811.61(c)(2) is removed and replaced
44 with language stating that child care must be provided in accordance with §809.45, as amended
45 in accordance with the CCDBG Act. Section 811.61(c)(3) is no longer applicable and is
46 removed.

1
2 **§811.65. Wheels to Work**

3 Section 811.65(a) and §811.65(b) are amended to replace the outdated term "Choices eligibles"
4 with the term "Choices-eligible individuals."
5

6 **PART III. IMPACT STATEMENTS**

7 Randy Townsend, Chief Financial Officer, has determined that for each year of the first five
8 years the rules will be in effect, the following statements will apply:
9

10 There are no additional estimated costs to the state and to local governments expected as a result
11 of enforcing or administering the rules.
12

13 There are no estimated cost reductions to the state and to local governments as a result of
14 enforcing or administering the rules.
15

16 There are no estimated losses or increases in revenue to the state or to local governments as a
17 result of enforcing or administering the rules.
18

19 There are no foreseeable implications relating to costs or revenue of the state or local
20 governments as a result of enforcing or administering the rules.
21

22 There are no anticipated economic costs to individuals required to comply with the rules.
23

24 There is no anticipated adverse economic impact on small businesses, microbusinesses, or rural
25 communities as a result of enforcing or administering the rules.
26

27 Based on the analyses required by Texas Government Code §2001.024, TWC has determined
28 that the requirement to repeal or amend a rule, as required by House Bill 1290, 85th Texas
29 Legislature, Regular Session (2017), (to be codified at Texas Government Code §2001.0045),
30 does not apply to this rulemaking.
31

32 **Government Growth Impact Statement**

33 TWC has determined that during the first five years the proposed amendments will be in effect:

- 34 --the proposed amendments will not create or eliminate a government program;
- 35 --implementation of the proposed amendments will not require the creation or elimination of
36 employee positions;
- 37 --implementation of the proposed amendments will not require an increase or decrease in future
38 legislative appropriations to TWC;
- 39 --the proposed amendments will not require an increase or decrease in fees paid to TWC;
- 40 --the proposed amendments will not create a new regulation;
- 41 --the proposed amendments will not expand, limit, or eliminate an existing regulation;
- 42 --the proposed amendments will not change the number of individuals subject to the rules; and
- 43 --the proposed amendments will not positively or adversely affect the state's economy.
44
45
46

1 Economic Impact Statement and Regulatory Flexibility Analysis

2 TWC has determined that the proposed rules will not have an adverse economic impact on small
3 businesses or rural communities, as these proposed rules place no requirements on small
4 businesses or rural communities.

5
6 Mariana Vega, Interim Director of Labor Market and Career Information, has determined that
7 there is no significant negative impact upon employment conditions in the state as a result of the
8 rules.

9
10 Courtney Arbour, Director, Workforce Development Division, has determined that for each year
11 of the first five years the rules are in effect, the public benefit anticipated as a result of enforcing
12 the proposed rules will be to align TWC with federal requirements related to publicly subsidized
13 child care.

14
15 TWC hereby certifies that the proposal has been reviewed by legal counsel and found to be
16 within TWC's legal authority to adopt.

17
18 **PART IV. COORDINATION ACTIVITIES**

19 In the development of these rules for publication and public comment, TWC sought the
20 involvement of Texas' 28 Boards. TWC provided the concept paper regarding these rule
21 amendments to the Boards for consideration and review on April 17, 2018. TWC also conducted
22 a conference call with Board executive directors and Board staff on April 27, 2018, to discuss the
23 concept paper. During the rulemaking process, TWC considered all information gathered in
24 order to develop rules that provide clear and concise direction to all parties involved.

25
26 Comments on the proposed rules may be submitted to TWC Policy Comments, Workforce
27 Policy and Service Delivery, attn: Workforce Editing, 101 East 15th Street, Room 459T, Austin,
28 Texas 78778; faxed to (512) 475-3577; or e-mailed to TWCPolicyComments@twc.state.tx.us.
29 Comments must be received or postmarked no later than 30 days from the date this proposal is
30 published in the *Texas Register*.

31
32 The rules are proposed under Texas Labor Code §301.0015 and §302.002(d), which provide
33 TWC with the authority to adopt, amend, or repeal such rules as it deems necessary for the
34 effective administration of TWC services and activities.

35
36 The proposed rules affect Texas Labor Code, Title 4, and Texas Human Resources Code,
37 Chapters 31 and 34.

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CHAPTER 811. CHOICES

SUBCHAPTER A. GENERAL PROVISIONS

§811.1. Purpose and Goal

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

§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 (1) Applicant--An adult, or teen head of household, in a family who applies for
2 TANF cash assistance, who previously did not leave TANF in a sanctioned
3 status.
- 4
- 5 (2) ~~Choices Eligible~~Choices-eligible individual--An individual eligible to receive
6 Choices services including an adult or teen head of household who is an
7 applicant, conditional applicant, recipient, nonrecipient parent, former
8 recipient, or sanctioned family as defined in this chapter.
- 9
- 10 (3) Choices participant--~~A Choices eligible~~A Choices-eligible individual
11 participating in or outreached for Choices services, including:
- 12
- 13 (A) Exempt Choices participant--~~A Choices-eligible individual~~ ~~A Choices~~
14 ~~eligible~~ who is not required under Texas Human Resources Code,
15 Chapter 31 or Texas Health and Human Services Commission (HHSC)
16 rules (1 TAC, Chapter 372, Temporary Assistance for Needy Families
17 and Supplemental Nutrition Assistance Programs) to participate in
18 Choices services, but who may voluntarily participate in Choices
19 services.
- 20
- 21 (B) Mandatory Choices participant--A Choices-eligible individual ~~A~~
22 ~~Choices eligible~~ who is required under Texas Human Resources Code,
23 Chapter 31 or HHSC rules (1 TAC, Chapter 372) to participate in
24 Choices services.
- 25
- 26 (4) Community service--A program that provides employment and training
27 activities to Choices participants through unsalaried, work-based positions in
28 the public or private nonprofit sectors. Community service programs contain
29 structured, supervised activities that are a direct benefit to the community and
30 are designed to improve the employability of Choices participants who have
31 been unable to find employment.
- 32
- 33 (5) Conditional applicant--An adult or teen head of household who left TANF in a
34 sanctioned status, but who is reapplying for TANF cash assistance and must
35 demonstrate cooperation with Choices program requirements for four
36 consecutive weeks.
- 37
- 38 (6) Earned Income Deduction (EID)--A standard work-related and income
39 deduction, available for four months through HHSC.
- 40
- 41 (7) Employment Planning Session (EPS)--A meeting with a TANF recipient to
42 introduce Choices services.
- 43
- 44 (8) Extended TANF recipient--A recipient who receives TANF cash assistance
45 past the 60-month federal time limit because of a hardship exemption as

1 defined in Texas Human Resources Code, Chapter 31 and HHSC rules (1
2 TAC, Chapter 372).

- 3
- 4 (9) Former recipient--An adult or teen head of household who no longer receives
5 TANF cash assistance because of employment.
- 6
- 7 (10) HHSC--Texas Health and Human Services Commission.
- 8
- 9 (11) Job readiness--Short-term structured activities or a series of activities lasting
10 less than six months designed to prepare a job seeker for unsubsidized
11 employment and increase the job seeker's employability. Activities may
12 include, but are not limited to: interviewing skills, job retention skills, personal
13 maintenance skills, professional conduct skills, and introductory computer
14 skills.
- 15
- 16 (12) Job search--Acts of seeking or obtaining employment, or preparing to seek or
17 obtain employment, including life skills training, substance abuse treatment,
18 mental health treatment, or rehabilitation activities. Activities may include:
19 information on and referral to available jobs; occupational exploration,
20 including information on local emerging and demand occupations; job fairs;
21 applying or interviewing for job vacancies; and contacting potential employers.
- 22
- 23 (13) Job skills training--Training or education for job skills required by an
24 employer to provide a Choices participant with the ability to obtain
25 employment or to advance or adapt to the changing demands of the workplace.
- 26
- 27 (14) Nonrecipient parent--Adults or minor heads of household not receiving TANF
28 cash assistance, but living with their own children who are receiving TANF
29 cash assistance. Nonrecipient parents include parents who are not eligible for
30 TANF cash assistance:
- 31
- 32 (A) due to a disqualification by the Texas Health and Human Services
33 Commission. These disqualifications include parents who:
- 34
- 35 (i) refuse to comply with Medicaid third-party resource requirements;
- 36
- 37 (ii) do not comply with Social Security number requirements;
- 38
- 39 (iii) are found guilty of an intentional program violation;
- 40
- 41 (iv) fail to report the temporary absence of a certified child;
- 42
- 43 (v) are fugitives fleeing to avoid prosecution of, or confinement for, a
44 felony criminal conviction, or are found by a court to be violating
45 federal or state probation or parole;
- 46

1 (vi) are convicted of a felony drug offense (not deferred adjudication)
2 committed on or after April 1, 2002; or

3
4 (vii) refuse to cooperate with the program integrity assessment process;

5
6 (B) because they are receiving Supplemental Security Income (SSI) or
7 Social Security Disability Insurance (SSDI); or

8
9 (C) because they have exhausted their TANF state time limit.

10
11 (15) PRWORA--The Personal Responsibility and Work Opportunity Reconciliation
12 Act of 1996, Pub. L. No. 104-193, 110 Stat. 2105, as amended.

13
14 (16) Recipient--An adult or teen head of household who receives TANF cash
15 assistance.

16
17 (17) Sanctioned family--An adult or teen head of household who must demonstrate
18 cooperation for one month in order to reinstate TANF cash assistance.

19
20 (18) Secondary school--Educational activities including middle school, high school
21 leading to a high school diploma, or classes leading to the completion of a
22 GED credential.

23
24 (19) TANF cash assistance--The cash grant provided through HHSC to individuals
25 who meet certain residency, income, and resource criteria as provided under
26 federal and state statutes and regulations, including the PRWORA, the TANF
27 block grant statutes, the TANF State Plan, TANF cash assistance provided
28 under Texas Human Resources Code, Chapters 31 and 34, and other related
29 regulations.

30
31 (20) The Workforce Information System of Texas (TWIST)--the Agency's
32 automated data processing and case management system for the Texas
33 workforce system.

34
35 (21) Vocational educational training--Organized educational programs directly
36 related to preparing Choices participants for employment in current or
37 emerging occupations.

38
39 (22) Work-based services--Includes those employment programs defined in Texas
40 Human Resources Code §31.0126.

41
42 (23) Work eligible individual--Work eligible individuals are adults or minor heads
43 of household receiving TANF cash assistance, and nonrecipient parents--with
44 the following exceptions:

- (A) Noncitizens who are ineligible to receive cash assistance because of their immigration status;
 - (B) Parents caring for a disabled family member who lives in the home (provided the need for such care is supported by medical documentation), on a case-by-case basis; and
 - (C) Recipients of SSI or SSDI, on a case-by-case basis.
- (24) Work experience--Unpaid training in the public or private sector designed to improve the employability of Choices participants who have been unable to find employment.
- (25) Work ready--A Choices-eligible individual ~~A Choices-eligible~~ is considered work ready if he or she has the skills that are required by employers in the local workforce development area. A Board must ensure immediate access to the labor market to determine whether the Choices-eligible individual ~~Choices-eligible~~ has those necessary skills to obtain employment.
- (26) Work requirement--For the purposes of 42 USC §607 and 45 CFR §261.10, a Choices participant is deemed to be engaged in work by participating in:
- (A) unsubsidized employment;
 - (B) subsidized employment;
 - (C) on-the-job training (OJT); or
 - (D) educational services for Choices participants who have not completed secondary school or received a GED credential as provided in §811.30.

§811.3. Choices Service Strategy

- (a) A Board shall ensure that its strategic planning process includes an analysis of the local labor market to:
 - (1) determine employers' needs;
 - (2) determine emerging and demand occupations; and
 - (3) identify employment opportunities, which include those with a potential for career advancement that may assist a Choices-eligible individual's ~~Choices-eligible's~~ progression toward self-sufficiency.
- (b) The Choices service strategy shall include:

- 1 (1) Workforce Orientation for Applicants (WOA). As a condition of eligibility,
2 applicants and conditional applicants are required to attend a workforce
3 orientation that includes information on options available to allow them to
4 enter the Texas workforce.
5
- 6 (2) Work First Design.
7
- 8 (A) The work first design:
9
- 10 (i) allows Choices participants to take immediate advantage of the
11 labor market and secure employment, which is critical due to
12 individual time-limited benefits; and
13
- 14 (ii) meets the needs of employers by linking Choices participants with
15 skills that match those job requirements identified by the employer.
16
- 17 (B) Boards shall provide Choices participants access to other services and
18 activities available through the One-Stop Service Delivery Network,
19 which includes the WOA, to assist with employment in the labor market
20 before certification for TANF cash assistance.
21
- 22 (C) Post-employment services shall be provided in order to assist a Choices
23 participant's progress toward self-sufficiency as described in
24 §811.4(a)(1) and §811.51.
25
- 26 (D) In order to assist a Choices-eligible individual's ~~Choices-eligible's~~
27 progress toward self-sufficiency:
28
- 29 (i) Boards shall provide Choices-eligible individuals ~~Choices-eligibles~~
30 who are employed, including mandatory Choices participants
31 coded by HHSC as working at least 30 hours per week, earning at
32 least \$700 per month, and receiving the EID, with information on
33 available post-employment services; or
34
- 35 (ii) Boards may provide Choices-eligible individuals ~~Choices-eligibles~~
36 with post-employment services as determined by Board policy.
37 The length of time these services may be provided is subject to
38 §811.51.
39
- 40 (E) In order to assist employers, Boards shall coordinate with local
41 employers to address needs related to:
42
- 43 (i) employee post-employment education or training;
44
- 45 (ii) employee child care, transportation or other support services
46 available to obtain and retain employment; and

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- (iii) employer tax credits.
- (F) Boards shall ensure that a family employment plan is based on employer needs, individual skills and abilities, and individual time limits for TANF cash assistance.
- (3) Post-Employment Services. A Board shall ensure that post-employment services are designed to assist Choices participants with job retention, career advancement, and reemployment, as defined in §811.51. Post-employment services are a continuum in the Choices service strategy to support a Choices participant's job retention, wage gains, career progression, and progression to self-sufficiency.
- (4) Adult Services. A Board shall ensure that services for adults shall include activities individually designed to lead to employment and self-sufficiency as quickly as possible.
- (5) Teen Services. A Board shall ensure that services for teen heads of household shall include secondary school, as defined in §811.2(13), and making the transition from school to employment, as described in §811.30 and §811.50.
- (6) Choices-Eligible Individuals ~~Choices-Eligibles~~ with Disabilities. A Board shall ensure that services for Choices-eligible individuals ~~Choices-eligibles~~ with disabilities include reasonable accommodations to allow the Choices-eligible individuals ~~Choices-eligibles~~ to access and participate in services, where applicable by law.
- (7) Target Populations. A Board shall ensure that services are concentrated, as further defined in §811.4(d)(5) and §811.11(d), on the needs of the following:
 - (A) recipients who have six months or less remaining of their state TANF time limit, irrespective of any extension of time due to a hardship exemption;
 - (B) recipients who have 12 months or less remaining of their 60-month federal TANF time limit, irrespective of any extension of time due to a hardship exemption; and
 - (C) recipients who are extended TANF recipients.

- 1
2 (8) Local Flexibility. A Board may develop additional service strategies that are
3 consistent with the goal and purpose of this chapter and the One-Stop Service
4 Delivery Network.
5

6 **§811.4. Policies, Memoranda of Understanding, and Procedures.**
7

- 8 (a) A Board shall establish policies regarding the following:
9

- 10 (1) A Choices service strategy, as defined in §811.3, that coordinates various
11 service delivery approaches to:
12
13 (A) assist applicants and conditional applicants in gaining employment as an
14 alternative to public assistance;
15
16 (B) use a work first design as referenced in §811.3(b)(2) to provide Choices
17 participants access to the labor market; and
18
19 (C) assist former recipients with job retention and career advancement in
20 order to remain independent of TANF cash assistance;
21
22 (2) Limits on the amount of funds per Choices participant and the maximum
23 duration for subsidized employment and OJT placements; and
24
25 (3) The methods and limitations for provision of work-related expenses.
26

- 27 (b) A Board may establish optional policies that:
28

- 29 (1) require the use of the Eligible Training Provider Certification System (ETPS)
30 and Individual Training Account (ITA) systems as described in Chapter 841 of
31 this title to provide for Choices services for Choices participants and paid for
32 with TANF funds; and
33
34 (2) make post-employment services available to:
35
36 (A) former recipients who are denied TANF cash assistance because of
37 earnings; and
38
39 (B) sanctioned families and conditional applicants who obtain employment
40 during their demonstrated cooperation period.
41

- 42 (c) A Board shall ensure that the following mMemoranda of understanding (MOUs)
43 and collaborative partnerships are developed:
44

1 (1) Local-level MOUs with the appropriate agencies to serve Choices-eligible
2 individuals ~~Choices-eligibles~~ with disabilities to maximize their potential for
3 success in employment;
4

5 ~~(2) A local-level MOU in cooperation with HHSC for coordinated case~~
6 ~~management that is consistent with the MOU between HHSC and the Commission;~~
7

8 ~~(2)(3)~~ A local-level MOU with ~~the Texas Department of State Health~~
9 ~~Services~~ HHSC for providing mental health and substance abuse services to
10 Choices participants; and
11

12 ~~(3)(4)~~ A collaborative partnership with housing authorities and sponsors of local
13 housing programs and services to address the unmet housing needs of
14 recipients.
15

16 (d) A Board shall ensure that procedures are developed:
17

18 (1) to ensure that job development services are available to Choices participants.
19 These services include:
20

21 (A) contacting local employers or industry associations to request that job
22 openings be listed with Workforce Solutions Offices, and other entities
23 in the One-Stop Service Delivery Network selected by the Board;
24

25 (B) identifying the hiring needs of employers;
26

27 (C) assisting an employer in creating new positions for Choices participants
28 based on the job developer's and employer's analysis of the employer's
29 business needs; or
30

31 (D) finding opportunities with an employer for a specific Choices participant
32 or a group of Choices participants;
33

34 (2) to ensure that job placement services are available to Choices participants. Job
35 placement services shall include:
36

37 (A) identifying employers' workforce needs;
38

39 (B) identifying Choices participants who have sufficient skills and abilities to
40 be successfully linked with employment; and
41

42 (C) matching the skills of the Choices participant pool to the hiring needs of
43 local employers;
44

- 1 (3) to notify applicants and conditional applicants--in conjunction with HHSC--on
2 the availability of regularly scheduled Workforce Orientations for Applicants
3 (WOAs) and alternative WOAs;
4
5 (4) to notify HHSC of applicants and conditional applicants who contacted a
6 Workforce Solutions Office to request alternative WOAs;
7
8 (5) to ensure that services are concentrated on Choices-eligible individuals
9 ~~Choices-eligibles~~ approaching their state or federal time limit, as identified in
10 §811.3(b)(7)(A) and (B). Concentrated services may include targeted outreach,
11 enhanced analysis of circumstances that may limit a Choices-eligible
12 individual's ~~Choices-eligible's~~ ability to participate, and targeted job
13 development; and
14
15 (6) to determine a family's inability to obtain child care.
16
17 (e) If a Board elects to establish one or more of the optional policies described in
18 subsection (b) of this section, the Board must ensure that corresponding procedures
19 are developed for those policies.
20

21 **SUBCHAPTER B. CHOICES SERVICES RESPONSIBILITIES**

22 **§811.11 Board Responsibilities**

- 23 (a) A Board shall ensure that:
24
25 (1) the WOA is offered frequently enough to allow applicants and conditional
26 applicants to comply with the HHSC requirement that gives applicants and
27 conditional applicants 10 calendar days from the date of their eligibility
28 interview to attend a WOA;
29
30 (2) during a regularly scheduled WOA or alternative WOA, applicants and
31 conditional applicants are informed of:
32
33 (A) employment services available through the One-Stop Service Delivery
34 Network to assist applicants and conditional applicants in achieving self-
35 sufficiency without the need for TANF cash assistance;
36
37 (B) benefits of becoming employed;
38
39 (C) impact of time-limited benefits;
40
41 (D) individual and parental responsibilities; and
42
43 (E) other services and activities, including education and training, available
44 through the One-Stop Service Delivery Network, including services and
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referrals for services available to Choices-eligible individuals ~~Choices eligible~~-with disabilities;

- (3) alternative WOAs are developed that allow applicants and conditional applicants with extraordinary circumstances to receive the information listed in paragraph (2) of this subsection;
- (4) verification that applicants and conditional applicants attend a scheduled or alternative WOA is completed and HHSC is notified in accordance with HHSC rules (1 TAC, Chapter 372, Temporary Assistance for Needy Families and Supplemental Nutrition Assistance Programs); and
- (5) applicants and conditional applicants are provided with an appointment to develop a family employment plan (FEP).

(b) A Board shall ensure that:

- (1) Choices services are offered to applicants who attend a WOA; and
- (2) conditional applicants who attend a WOA are immediately scheduled to begin Choices services.

(c) A Board shall ensure that a Choices participant's eligibility is verified monthly.

(d) A Board shall ensure that all extended TANF recipients are outreached and offered the opportunity to participate in Choices activities.

(e) A Board shall ensure that post-employment services, including job retention and career advancement services, are available to Choices-eligible individuals, ~~Choices eligibles~~-including mandatory Choices participants coded by HHSC as working at least 30 hours per week, earning at least \$700 per month, and receiving EID.

(f) A Board shall ensure that monitoring of Choices program requirements is ongoing and frequent, as determined by the Board, unless otherwise specified in this chapter, and consists of the following:

- (1) ensuring receipt of support services;
- (2) tracking and reporting all support services and entering them into TWIST at least monthly;
- (3) tracking and reporting actual hours of participation in Choices work activities, at least monthly, unless otherwise specified in this chapter;
- (4) determining and arranging for any intervention needed to assist the Choices participant in complying with Choices program requirements; and

1
2 (5) ensuring that the Choices participant is progressing toward achieving the goals
3 and objectives in the FEP.
4

5 (g) A Board shall ensure that:
6

7 (1) no ~~less~~ fewer than four hours of training regarding family violence is provided
8 to staff who:
9

10 (A) provide information to Choices-eligible individuals ~~Choices-eligibles~~;

11 (B) request penalties or grant good cause; or
12

13 (C) provide employment planning or employment retention services; and
14

15
16 (2) Choices-eligible individuals ~~Choices-eligibles~~ who are identified as being
17 victims of family violence are referred to an individual or an agency that
18 specializes in issues involving family violence.
19

20 (h) A Board shall ensure that documentation is obtained and maintained regarding all
21 contact with Choices participants, including verification of participation hours, and
22 data is entered into TWIST.
23

24 (i) A Board shall ensure that a referral program is developed to provide Choices-eligible
25 individuals ~~Choices-eligibles~~ facing higher than average barriers to employment, as
26 described in this chapter, with referrals to pre-employment and post-employment
27 services offered by community-based and other organizations.
28

29 **§811.14. Noncooperation.** 30

31 (a) A Board shall ensure that cooperation by Choices participants is verified each month
32 to ensure that the Choices participants:
33

34 (1) comply with Choices program requirements as set forth in the FEP, as
35 specified in §811.23; or
36

37 (2) have good cause as described in this chapter.
38

39 (b) If Choices participants have not cooperated with Choices program requirements and
40 do not have good cause, a Board shall ensure that:
41

42 (1) a penalty is requested for mandatory Choices participants; or
43

44 (2) Choices services, ~~including~~ and support services, except Commission-funded
45 child care, are terminated for exempt Choices participants; and-.
46

1 (3) Choices child care is provided as needed, as specified in §809.45 of this title.

- 2
- 3 (c) A Board shall ensure that timely and reasonable attempts, as defined by the Agency,
- 4 are made to contact a mandatory Choices participant prior to requesting a penalty to:
- 5
- 6 (1) determine the reason for noncooperation and whether good cause is applicable,
- 7 as described in §811.16(c);
- 8
- 9 (2) inform the mandatory Choices participant of:
- 10 (A) the violation, if good cause has not been determined;
- 11 (B) the right to appeal; and
- 12 (C) the necessary procedures to demonstrate cooperation.
- 13
- 14
- 15
- 16
- 17 (d) A Board shall ensure that timely and reasonable attempts, as defined by the Agency,
- 18 are made to contact a sanctioned family and conditional applicants upon discovery of
- 19 noncooperation during their demonstrated cooperation period to determine if good
- 20 cause exists.
- 21
- 22 (e) A Board shall ensure that the reasonable attempts to contact a mandatory Choices
- 23 participant are documented in TWIST.
- 24
- 25 (f) A Board shall ensure that:
- 26
- 27 (1) HHSC is notified of a mandatory Choices participant's failure to comply with
- 28 Choices program requirements; and
- 29
- 30 (2) the notification of noncooperation is submitted as early as possible in the same
- 31 month in which the noncooperation occurs.
- 32

33 **SUBCHAPTER C. CHOICES SERVICES**

34 **§811.21. General Provisions.**

- 35
- 36
- 37 (a) A Board shall ensure that services are available to assist Choices-eligible individuals
- 38 ~~Choices-eligible~~ with obtaining employment as quickly as possible and, if employed,
- 39 with retaining employment. These services may include:
- 40
- 41 (1) job readiness and job search-related services;
- 42
- 43 (2) work-based services;
- 44
- 45 (3) post-employment services;
- 46

1 (4) education and training services as described in this chapter; and

2
3 (5) support services.

4
5 (b) A Board shall ensure that employment and training activities are conducted in
6 compliance with the Fair Labor Standards Act (FLSA) as specified in §811.29.

7
8 (c) A Board shall ensure that placement in work-based services does not result in the
9 displacement of currently employed workers or impair existing contracts for services
10 or collective bargaining agreements.

11
12 (d) A Board shall ensure that job development services identify, at a minimum, job
13 openings for current mandatory Choices participants.

14
15 **§811.22. Assessment.**

16
17 (a) A Board shall ensure that initial and ongoing assessments are performed to
18 determine the employability and retention needs, including wage advancement and
19 career development needs, of Choices participants as follows:

20
21 (1) An assessment is required for Choices participants who are:

22
23 (A) at least age 18; or

24
25 (B) heads of household, as determined by HHSC, who are not yet age 18,
26 have not completed secondary school or received a GED credential, and
27 are not attending secondary school.

28
29 (2) An assessment shall be provided to applicants who choose to participate in
30 Choices services.

31
32 (3) Ongoing assessments shall be provided to former recipients who choose to
33 participate in Choices services.

34
35 (b) Assessments shall include evaluations of strengths and potential barriers to obtaining
36 and retaining employment, such as:

37
38 (1) skills and abilities, employment, and educational history in relation to
39 employers' workforce needs in the local labor market;

40
41 (2) pre- and post-employment skills development needs to determine the necessity
42 for job-specific training;

43
44 (3) unmet housing needs and whether those needs are a barrier to full participation
45 in the workforce and progression to self-sufficiency;

46

- 1 (4) support services needs; and
2
3 (5) individual and family circumstances that may affect participation, including
4 the existence of family violence, substance abuse, mental health, or disability-
5 related issues, as one of the factors considered in evaluating employability.
6

7 (c) A Board shall ensure that the assessment identifies Choices-eligible individuals
8 ~~Choices-eligibles~~ with higher-than-average barriers to employment, as defined by
9 the Board.

10
11 (d) A Board shall ensure that if the skills assessment indicates that a Choices participant
12 requires job-specific training for placement in a job paying wages that equal or
13 exceed the Board's identified self-sufficiency wage, the Board shall, to the extent
14 funds are available and to the extent allowed under this chapter, place the Choices
15 participant in vocational educational training activities or job skills training activities
16 that are designed to improve employment and wage outcomes and job retention; and
17

18 (e) For mandatory Choices participants who are at least age 18, or who are heads of
19 household but are not yet age 18 and have not completed secondary school or
20 received a GED credential and are not attending secondary school:

21
22 (1) The assessments shall also include evaluations of the mandatory Choices
23 participants':

24 (A) vocational and educational skills, experience, and needs; and
25

26 (B) literacy level by using a statewide standard literacy assessment
27 instrument unless the Choices participants are mandatory Choices
28 participants coded by HHSC as working at least 30 hours per week,
29 earning at least \$700 per month, and receiving the EID.
30

31 (2) A Board shall ensure that the grade-level results or other literacy information
32 are provided to HHSC for use in determining the appropriateness of the initial
33 state time-limit designation for TANF cash assistance as described in the Texas
34 Human Resources Code §31.0065, relating to state time-limited benefits.
35

36 (f) Assessment Outcome. Assessments shall result in the development of a family
37 employment plan, as described in §811.23.
38
39

40 **SUBCHAPTER D. CHOICES ACTIVITIES**

41 **§811.51. Post-Employment Services.**

42
43 (a) A Board shall ensure that post-employment services, which include job retention,
44 career advancement, and reemployment services, are offered to Choices participants
45 who are employed, and to applicants, conditional applicants, and former recipients
46

1 who have obtained employment but require additional assistance in retaining
2 employment and achieving self-sufficiency.

3
4 (b) A Board shall ensure that post-employment services are monitored, and ensure that
5 hours of employment are required and reported by Choices participants for at least
6 the length of time the Choices participants receive TANF cash assistance.

7
8 (c) A Board shall ensure that ongoing contact is established with Choices-eligible
9 individuals ~~Choices-eligible~~ receiving post-employment services at least monthly.

10
11 (d) A Board may include mentoring techniques as part of a post-employment strategy.

12
13 (e) The post-employment services may include the following:

14
15 (1) assistance and support for the transition into employment through direct
16 services or referrals to resources available in the workforce area;

17
18 (2) child care, if needed, as specified in rules at Chapter 809 of this title;

19
20 (3) work-related expenses, including those identified in §811.64;

21
22 (4) transportation, if needed;

23
24 (5) job search, job placement, and job development services to help a former
25 recipient who loses a job to obtain employment;

26
27 (6) referrals to available education or training resources to increase an employed
28 Choices-eligible individual's ~~Choices-eligible's~~ skills or to help the individual
29 qualify for advancement and long-term employment goals;

30
31 (7) additional career planning and counseling; or

32
33 (8) referral to support services available in the community.

34
35 (f) The maximum length of time a former recipient, conditional applicant, and
36 sanctioned family may receive services under this section is dependent upon:

37
38 (1) family circumstances;

39
40 (2) the risk of returning to public assistance. A person is considered at risk of
41 returning to TANF cash assistance if he or she is a SNAP recipient, or receives
42 Commission-funded child care;

43
44 (3) the ongoing need for these services; and

45
46 (4) the availability of funds for these services.

- 1
2 (g) Post-employment service providers may include employers, community colleges,
3 technical colleges, career schools and colleges, faith-based and community-based
4 organizations.
5

6 **SUBCHAPTER E. SUPPORT SERVICES AND OTHER INITIATIVES**
7

8 **§811.61. Support Services.**
9

- 10 (a) A Board shall ensure that support services as specified in this subchapter are
11 provided, if needed, to Choices participants to address barriers to employment or
12 participation in Choices services, subject to availability of resources and funding. A
13 Board shall ensure that support services provided to Choices participants are
14 coordinated with the employer, when appropriate.
15
- 16 (b) A Board shall ensure that support services, ~~including except~~ Commission-funded
17 child care, are not provided ~~only~~ to Choices participants who fail to meet ~~are meeting~~
18 Choices program requirements set forth in ~~§811.13~~§811.16, Subchapter B of this
19 chapter, ~~and Commission-funded child care must be provided~~ as set forth in
20 §809.45 of this title. ~~In applying this provision, a Board shall ensure that support~~
21 ~~services are provided to Choices participants if it is determined that support services~~
22 ~~are needed to comply with Choices program requirements set forth in~~
23 ~~§811.13~~§811.16, Subchapter B of this chapter, ~~and as set forth in §809.45 of this~~
24 ~~title.~~
25
- 26 (c) A Board shall ensure that:
27
- 28 (1) support services, except Commission-funded child care, are terminated
29 immediately upon a determination of failure to meet Choices program
30 requirements by Choices participants unless otherwise determined by the
31 Board's service provider as referenced in subsection (b) of this section; and
32
- 33 (2) Choices child care is provided as needed, as specified in §809.45 of this title.
34 ~~the Board's child care contractor is notified immediately of the failure to meet~~
35 ~~Choices program requirements; and~~
36
- 37 ~~(3) upon notification, the Board's child care contractor immediately notifies the~~
38 ~~child care provider that services are terminating due to failure to meet Choices~~
39 ~~program requirements.~~
40
- 41 (d) A Board shall ensure that support services, classified as cash assistance, for:
42
- 43 (1) applicants and former recipients do not extend beyond four months for those
44 who are unemployed and not receiving TANF cash assistance; and
45

- 1 (2) unemployed conditional applicants and sanctioned families do not extend
2 beyond their demonstrated cooperation period.
3

4 **§811.65. Wheels to Work.**
5

- 6 (a) The Commission may develop a Wheels to Work initiative in which local nonprofit
7 organizations provide automobiles for Choices-eligible individuals ~~Choices-eligibles~~
8 who have obtained employment but are unable to accept or retain the employment
9 solely because of a lack of transportation.
10
11 (b) A Board may, through local policies and procedures, establish services to assist
12 Choices-eligible individuals ~~Choices-eligibles~~ who verify the need for an automobile
13 to accept or retain employment by referring them to available providers.
14
15 (c) Persons or organizations donating automobiles under a Wheels to Work initiative shall
16 receive a charitable donation receipt for federal income tax purposes.
17