

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 NOVEMBER 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*: **November 23, 2007**

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

The Texas Workforce Commission (Commission) adopts the repeal of the following subchapter of Chapter 811, relating to Choices, in its entirety, as published in the July 13, 2007, issue of the *Texas Register* (32 TexReg 4353):

Subchapter F. Appeals

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 the adopted rule change is to establish detailed and consistent procedures for complaints, hearings, and appeals related to workforce services administered by Local Workforce Development Boards (Boards). Texas Labor Code §302.065 requires that the Commission integrate the administration of multiple federal block grant programs and identify policy changes that support this integration. The Commission expanded this integration to state-funded workforce services, including examining the existing complaints and appeals processes for workforce services administered by the Boards. An absence of unified and integrated rules on complaints, hearings, and appeals related to workforce services makes the existing rules difficult to understand or interpret consistently and works as a barrier to integrating workforce services.

To maintain uniformity and consistency across all Board-administered workforce services and to protect due process rights of Texas Workforce Center customers, in a separate, but concurrent, rulemaking, the Commission has adopted the repeal of Chapter 823, General Hearings rules, and adopted new Chapter 823, Integrated Complaints, Hearings, and Appeals rules. New Chapter 823 requires Boards to establish local policies related to filing complaints, to provide opportunities for informal resolutions, and to establish procedures for Board hearings and appeals.

The Commission has reviewed sections of Chapter 811 relating to complaints or grievances, local-level appeals, and state-level hearings. The Commission adopts the repeal of these sections

and incorporates similar processes related to complaints, hearings, and appeals in new Chapter 823.

PART II. EXPLANATION OF INDIVIDUAL PROVISIONS WITH COMMENTS AND RESPONSES

SUBCHAPTER F. APPEALS

The Commission adopts the repeal of Subchapter F, as follows:

Under a separate, but concurrent rulemaking, the Commission has adopted new Chapter 823, Integrated Complaints, Hearings, and Appeals, which comprises the complaint, hearing, and appeal procedures for all Board-administered workforce services, including the information in the following sections.

§811.71. Board Review

Section 811.71 is repealed and the information is relocated in new Chapter 823.

§811.72. Appeals to the Commission

Section 811.72 is repealed and the information is relocated in new Chapter 823.

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

Section 811.73 is repealed and the information is relocated in new Chapter 823.

No comments were received.

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 repeal is 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 repeal affects Texas Labor Code, Title 4, and Texas Human Resources Code, Chapters 31 and 34.

Chapter 811. CHOICES

SUBCHAPTER F. APPEALS

~~§811.71. Board Review.~~

- ~~(a) The following may request a review by the respective Board:
 - ~~(1) a Choices individual against whom an adverse action is taken by a Texas Workforce Center Partner, as defined in §800.2 of this title; or~~
 - ~~(2) a person who believes that a Choices individual has displaced the person from employment.~~~~
- ~~(b) A request for review shall be submitted in writing and delivered to a Board within 15 calendar days of the date of the adverse action. The request shall also contain:
 - ~~(1) a concise statement of the disputed adverse action;~~
 - ~~(2) a recommended resolution; and~~
 - ~~(3) any supporting documentation the Choices individual deems relevant to the dispute.~~~~
- ~~(c) On receipt of a request for review, a Board shall coordinate a review by appropriate Board staff.~~
- ~~(d) The parties to the request for review are the aggrieved person, applicant, or individual and the Texas Workforce Center Partner.~~
- ~~(e) Additional information may be requested from the parties. Such information shall be provided within 15 calendar days of the request.~~
- ~~(f) Within 30 calendar days of the date the request for review is received or of the date that additional requested information is received by the reviewing Board staff member, a Board shall send the parties written notification of the results of the review.~~

~~§811.72. Appeals to the Agency.~~

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

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

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