

## Chapter 811. Job Opportunities and Basic Skills

The Texas Workforce Commission proposes the repeal of §§811.1-811.5, 811.10-811.23, and 811.60 relating to the Job Opportunities and Basic Skills and new §§811.1, 811.2, 811.11-811.20, 811.31-811.34, 811.41-811.45, 811.61-811.65, 811.81-811.87 and 811.101, relating to the Choices services and the participation requirements for persons receiving temporary cash assistance from the Texas Department of Human Services.

Section 811.1 explains the goal and purpose of Choices services, which replace the Job Opportunities and Basic Skills program.

Section 811.2 provides definitions of terms used in the rules.

Section 811.11 sets forth the eligibility requirements for Choices services.

Section 811.12 explains the participation requirements for the Choices services.

Section 811.13 provides for good cause for noncompliance by the participant.

Section 811.14 explains that there are penalties for failure to participate as specified in DHS' rules.

Section 811.15 describes how clients may access the Choices services.

Section 811.16 sets forth the assessment requirements.

Section 811.17 describes the strategies used in Choices services.

Section 811.18 sets forth the monitoring requirements applicable to Choices participants enrolled in employment services activities.

Section 811.19 governs the administration of individual development accounts.

Section 811.20 provides for employment retention and re-employment services to Choices participants.

Sections 811.31-811.34 provide for job search related activities.

Sections 811.41-811.45 govern the development of work-based programs that are legislatively authorized. These programs include the work skills training program (from the 74th Regular Session House Bill 1863), the subsidized employment program (House Bill 1863 and the 75th Regular Session House Concurrent Resolution 204), the Texans Work program (House Bill 1863 and 75th Regular Session Senate Bill 781), and the self-employment assistance program (House Bill 1863 and 75th Regular Session, Appropriations Act, Rider 27(c)).

Sections 811.61-811.65 provide for education and other training activities.

Sections 811.81-811.87 describe the support services available to applicants or recipients of temporary cash assistance, including the Wheels for Work initiative. The Wheels for Work program is legislatively authorized by 75th Regular Session, Senate Bill 1114.

Section 811.101 sets forth the appeals process for the Choices services.

Rules of the Texas Department of Human Services relating to employment services include the following: requirements of applicants and recipients of temporary cash assistance to attend workforce orientation sessions and to participate in employment services; the exemptions from participation requirements; determination of good cause for failure to participate; and financial penalties applied to benefits resulting from noncompliance. The Commission, where applicable, cross references those rules for the purposes of continuity or clarity. Although these rules govern services available through the Temporary Assistance for Needy Families block grant funds, participants are eligible for and receive services funded through other resources, including the Job Training Partnership Act (JTPA), Wagner-Peyser's Employment Services, and the Adult Education Act, as amended by the National Literacy Act.

Local workforce development boards have the jurisdiction and the authority to set local policy and determine service delivery practices and procedures, the services and activities available in each local workforce development area, and the locations where services are available and delivered consistent with federal and state regulations, rules, and policies.

Eligibility requirements for receipt of temporary cash assistance benefits under the jurisdiction of the Texas Department of Human Services (DHS) include the requirement to work or participate in the state's employment services program which replaces the JOBS Program. Failure of an applicant or a recipient of temporary cash assistance to fulfill this requirement results in denial of the application or a financial penalty (sanction) placed on the cash assistance grant each month of noncompliance. The current financial penalty for failure to participate in employment services is a maximum of \$78 per month for one parent. In two parent households, if both parents do not comply, the penalty is a maximum of \$125 per month.

Randy Townsend, Director of Finance, has determined that for each year of the first five years the sections as proposed will be in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Mike Sheridan, Executive Director of the Commission, has determined that the public benefit anticipated as a result of the sections as proposed will be the creation of a state and local partnership in policy making and service delivery that will ensure that recipients of temporary cash assistance receive services to aid them in assuming their responsibility to move quickly into work or work activities leading to self sufficiency. There is no cost to small businesses of compliance with the new sections as proposed. There is no economic cost to persons required to comply with the rules.

Mark Hughes, Director of Labor Market Information, has determined that there is no significant negative impact upon employment conditions in this state as a result of these proposed rule changes.

Comments on the proposed sections may be submitted to Larry Temple, Director of Welfare Reform, Texas Workforce Commission, 101 East 15th Street, Room 458-T, Austin, Texas 78778; Fax Number 512-463-2209; E-mail to [larry.temple@twc.state.tx.us](mailto:larry.temple@twc.state.tx.us).

Comments must be received by the Commission no later than 30 days from the date this proposal is published in the Texas Register .  
40 TAC §§811.1-811.5, 811.10-811.23, 811.60

(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Workforce Commission or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The repeals are proposed under the Texas Labor Code, Chapter 301, which authorizes the Commission to adopt rules necessary for the administration of the Commission and the workforce development division. The repeals of old sections are also proposed under the Texas Human Resources Code, Title 2, Subtitle C, Chapter 31, Financial Assistance and Service Programs, which governs employment services for recipients of financial assistance.

The repeals affect the Texas Labor Code, Title 4 and the Texas Human Resources Code, Title 2, Subtitle C, Chapter 31.

§811.1. Who Is Required To Participate.

§811.2. Who May Volunteer.

§811.3. Reporting Change in Status.

§811.4. Employment Services.

§811.5.Volunteering for Jobs.  
§811.10.Target Population.  
§811.11.Levels of Service.  
§811.12.Participant Extended Eligibility for Case Management Services.  
§811.13.Support Services for Participants in Job Opportunities and Basic Skills Training (JOBS) Program.  
§811.14.Case Management Services for Job Opportunities and Basic Skills (JOBS) Participants.  
§811.15.Client Participation Requirements.  
§811.16.Penalties for Failure to Participate.  
§811.17.Good Cause for Failure to Participate.  
§811.18.Conciliation and Fair Hearings.  
§811.19.Payments for General Educational Development (GED) Testing and Texas Certificates of High School Equivalency for Job Opportunities and Basic Skills Training (JOBS) Program Participants.  
§811.20.Work Experience.  
§811.21.Administrative Requirements for the Employment Services Programs.  
§811.22.Audits of Employment Services Contractors.  
§811.23.Basis of Payment for Employment Services Program.  
§811.60.Memorandum of Understanding with the Department of Commerce Regarding Economic Development.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Issued in Austin, Texas, on December 22, 1997.

TRD-9717097

J. Randel (Jerry) Hill

General Counsel

Texas Workforce Commission

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For further information, please call: (512) 463-8812

## Chapter 811. Choices

### Subchapter A. General Provisions

40 TAC §811.1, §811.2

The new sections are proposed under the Texas Labor Code, Chapter 301, which authorizes the Commission to adopt rules necessary for the administration of the Commission and the workforce development division. The new sections are also proposed under the Texas Human Resources Code, Title 2, Subtitle C, Chapter 31, Financial Assistance and Service Programs, which governs employment services for recipients of financial assistance.

The new sections affect the Texas Labor Code, Title 4 and the Texas Human Resources Code, Title 2, Subtitle C, Chapter 31.

#### §811.1.Goal and Purpose.

(a) Goal. All applicants and recipients of temporary cash assistance will obtain employment that leads to self-sufficiency at the earliest opportunity.

(b) Purpose. Choices services provide work-related activities and support to assist eligible participants to prepare for and retain employment and avoid becoming or remaining dependent on public assistance.

#### §811.2.Definitions.

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

Commission -- The Texas Workforce Commission (TWC).

DHS -- The Texas Department of Human Services.

Employability plan -- A plan developed by Choices staff and a participant that is based on an individual and family assessment, that delineates the goal of self-sufficiency through employment, and sets out the steps necessary to achieve the goal. The plan, signed by the participant, is the participation agreement for compliance purposes.

Employment entry -- Entry of a participant into an unsubsidized, paid job or when a participant begins a personal business, a farm, or other self-employment enterprise.

Exempt -- The status of a recipient of temporary cash assistance who is not required to participate in employment services activities, as determined by DHS staff.

Exemptions -- Criteria established by DHS that permanently or temporarily excuse a recipient of temporary cash assistance from the employment services participation requirements.

GED -- Abbreviation for General Educational Development, a trademark for a series of tests measuring skill in writing, social studies, science, reading, and math at the high school level; the initials sometimes refer to the equivalency certificate (formal name in Texas: Certificate of High School Equivalency).

Good cause determination -- A decision by Choices staff that a nonexempt participant is not able at the current time to participate in employment services or in ancillary services required as part of the employability plan.

Individual development account (IDA) -- A state-established account for deposits by a recipient of temporary cash assistance and any matching funds from employers or other community organizations to be used for specific purposes.

JTPA -- The Job Training Partnership Act and the programs established under such laws to prepare youth and adults facing barriers to employment for participation in the labor force by providing job training and other job services.

Local workforce development board -- An entity formed under Texas Government Code, Title 10, Subchapter F and as detailed in 40 Texas Administrative Code, §8.801(b) relating to Requirements for Formation of Local Workforce Development Boards.

Nonexempt -- The status of a recipient of temporary cash assistance who is required to participate in employment services activities, as determined by DHS staff.

Participant -- A person who is enrolled in Choices services.

Choices -- The program formerly known as the Job Opportunities and Basic Skills Training (JOBS) program.

Choices staff -- Any personnel assigned to functions responsible for providing direct employment services or support services for applicants and recipients of temporary cash assistance. This term applies to TWC staff, to staff of Local

Workforce Development Boards, and to contracted service providers.

Penalty -- A reduction in a family's temporary cash assistance grant applied by DHS staff when a nonexempt recipient is sanctioned. The financial penalty is equal to the needs amount for one parent each month of the sanction period. In two parent families, if both parents are sanctioned, the penalty is equal to the needs amount for both parents. See definition of sanction.

Sanction -- Action taken by DHS staff when a nonexempt recipient of temporary cash assistance does not comply with employment services requirements. See definition of penalty.

Subsidized employment -- A time-limited training position that meets suitability and non-displacement requirements of the Federal Unemployment Tax Act and other federal laws.

TAC -- Texas Administrative Code.

Temporary cash assistance -- A cash grant provided through DHS to persons who meet certain residency, income, and resource criteria as provided for under the federal Personal Responsibility and Work Opportunity Reconciliation Act and the Temporary Assistance for Needy Families block grant statutes and regulations. The acronym used for this assistance is TANF. The former name was Aid to Families with Dependent Children or AFDC.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

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#### Subchapter B. Eligibility and Participation

40 TAC §§811.11-811.20

The new sections are proposed under the Texas Labor Code, Chapter 301, which authorizes the Commission to adopt rules necessary for the administration of the Commission and the workforce development division. The new sections are also proposed under the Texas Human Resources Code, Title 2, Subtitle C, Chapter 31, Financial Assistance and Service Programs, which governs employment services for recipients of financial assistance.

The new sections affect the Texas Labor Code, Title 4 and the Texas Human Resources Code, Title 2, Subtitle C, Chapter 31.

#### §811.11. Eligibility.

Applicants for and recipients of temporary cash assistance benefits who are at least 13 years of age are eligible for Choices services funded through the TANF block grant funds. Former recipients of temporary cash assistance who participated in Choices services also are eligible for employment retention and re-employment services as stipulated in §811.20 of this title (relating to Employment Retention and Re-Employment Services).

§811.12.Participation Requirements.

(a) To be certified and to remain eligible for temporary cash assistance benefits, applicants and recipients must comply with employment services requirements unless they are exempt as specified in DHS' rules located at 40 TAC §§3.301 of this title (relating to Responsibilities of Clients and the Texas Department of Human Services), 3.7301 of this title (relating to Career Opportunity Orientation Requirements), 3.7302 of this title (relating to Exceptions to the Career Opportunity Orientation Appointments), 3.1101 of this title (relating to Who is Required to Participate), and 3.3907 of this title (relating to Employment Services) or have good cause as stipulated in §811.13 of this title (relating to Good Cause).

(b) Compliance with employment services requirements includes each of the following:

(1) Applicants of temporary cash assistance must attend a scheduled workforce orientation.

(2) Recipients of temporary cash assistance must participate in assessment and employment planning appointments and assigned employment and training activities for the required number of hours per week as stipulated in 42 U.S.C.A. §607 or as designated in an individual employability plan. Compliance shall be based on the assigned number of hours designated in the employability plan, even if greater than the federal minimum expectation.

(3) Recipients must attend scheduled appointments.

(4) Recipients must participate in or receive ancillary services required to remove barriers to employment or participation in employment-related activities. These services include, but are not limited to, counseling, treatment, vocational or physical rehabilitation, and medical or health services.

(5) Recipients must accept a job offer.

§811.13.Good Cause.

A recipient of temporary cash assistance who fails to comply with employment services requirements may have good cause if verified or otherwise demonstrated by the recipient to the satisfaction of Choices staff. Each of the following may constitute good cause.

(1) The person is temporarily ill or incapacitated.

(2) The person is incarcerated or has a court appearance.

(3) The person is the parent or caretaker personally providing care for a child under the age of six and shall not be required to participate more than 20 hours per week. This good cause situation shall not apply to custodial parents who have not completed high school or its equivalent or to two parent families where one parent is able to care for the child.

(4) The person is the caretaker of a physically or mentally disabled child who requires the caretaker's presence in the home.

(5) The person demonstrates that there is no available transportation or there is a breakdown in transportation arrangements.

(6) The person demonstrates that there is no available child care or there is a breakdown in child care arrangements.

(7) There is a lack of other necessary support services and participation is not deemed possible without such services.

(8) The person receives a job referral that results in an offer below the minimum wage, except for certain work-related, on-the-job training activities such as work skills training.

(9) There are no available jobs within reasonable commuting distance, which means that travel from home to the job or training would require commuting time of more than two hours round trip, or the distance prohibits walking and transportation is not available.

(10) A family crisis or family circumstances preclude participation, including being a victim of domestic violence. The recipient shall be expected to engage

in problem resolution through appropriate referrals for counseling and supportive services, and the situation shall be reevaluated within three months. Good cause shall not be extended beyond six months for domestic violence purposes.

§811.14. Penalties for Failure to Participate.

Applicants for or recipients of temporary cash assistance are subject to actions and penalties as specified in DHS' rules at 40 TAC §3.7303 of this title (relating to Failure to Comply) and §3.1104 of this title (relating to Failure to Comply with Title IVA Employment Programs).

§811.15. Access to Choices Services.

Applicants and recipients of temporary cash assistance access the Choices services through the following methods:

- (1) direct referrals from DHS eligibility staff;
- (2) outreach methods; or
- (3) requesting services through DHS eligibility, Choices staff, or education and training providers.

§811.16. Assessment.

(a) Choices participants shall have an initial assessment to determine the participant's employability and needs. At a minimum, the assessment shall cover information about the participant's employment and educational history; vocational and educational skills, experiences, and needs; support services needs; and family circumstances that may affect participation. The existence of family violence shall be one of the factors considered in evaluating a participant's employability.

(b) The need for family violence services, or other services to address severe family crisis situations, must be considered when establishing the participant's employability plan and in assigning hours of work or work-related activities. Participation in counseling or other services to address family violence and other crisis situations may be included in the participant's employability plan.

(c) As part of the initial assessment, a literacy assessment shall be conducted for Choices participants using a statewide standard literacy assessment instrument. The grade level results of the literacy assessment shall be compared by DHS to the participant's stated grade completion to determine the appropriateness of the initial time limit designation for cash assistance as stipulated in the Texas Human Resources Code, §31.0065, relating to Time-Limited Benefits.

§811.17. Choices Service Strategies.

(a) Workforce Orientation for Applicants. As a condition of eligibility, applicants for temporary cash assistance are required to attend a workforce orientation that includes information on choices available to allow them to enter the Texas workforce. Applicants are informed about the impact of time-limited benefits, the advantages of working, individual and parental responsibilities, the services available through Choices, and consequences for noncompliance. Following the orientation, applicants are provided an appointment for employment planning which they are required to attend if they are subsequently certified as eligible for temporary cash assistance.

(b) Work First. Services available through Choices are consistent with a Work First service delivery approach which ensures that participants access the labor market before or immediately after certification for temporary cash assistance benefits. A period of assisted job search and job readiness activities is established through written policy guidelines by Local Workforce Development Boards, consistent with state established guidelines. Participants who do not obtain employment during this timeframe are placed in work, education, or

training activities as identified in the participant's employability plan. Planned services shall consider the individual assessment and the participant's time limits for temporary cash assistance.

(c) Adults. Services for adults focus on activities individually designed to lead to employment and self-sufficiency as quickly as possible.

(d) Teens. Services for teenage participants focus on completion of school, graduating or obtaining a high school equivalency certificate, and making the transition from school to work.

(e) Local Contracting. Local Workforce Development Boards may contract for services on a pay-for-performance basis.

(f) Local Flexibility. Local Workforce Development Boards are encouraged to develop additional service strategies that are consistent with Goal and Purpose as set out in §811.1 of this chapter.

#### §811.18. Monitoring of Participation.

Choices staff shall monitor the activities of participants on a weekly basis, unless less frequent monitoring is approved under written guidelines by the Commission. Monitoring shall consist of tracking and reporting hours of participation, evaluation of the participant's progress in the assigned activity, and determining and arranging for any intervention needed to assist the participant in complying with program requirements.

#### §811.19. Individual Development Accounts.

(a) Subject to available resources, individual development accounts (IDA) shall be established and administered by the Commission or by contract with a nonprofit private or public entity.

(b) The account shall be administered to assist a recipient of temporary cash assistance participating in a work-related activity, including but not limited to the Subsidized Employment Program.

(c) Use of funds in a participant's IDA is limited to expenses related to:

- (1) home ownership;
- (2) medical expenses;
- (3) education and training expenses such as tuition, books, and costs for qualifying examinations;
- (4) small business start-up; or
- (5) other types of asset accumulation.

(d) The Commission reserves the right to place more restrictive limits for use of the individual development accounts through written guidelines.

(e) Deposits made in an IDA may be matched by an employer, a community group, or a financial institution. Match is not considered as income.

#### §811.20. Employment Retention and Re-employment Services.

(a) Monitoring of employment retention and the reporting of hours of employment is required for at least the length of time the participant remains eligible for temporary cash assistance.

(b) Participant follow-up methods and timeframes shall be established through local policy and procedures, but shall occur no less often than monthly.

(c) Employment retention and re-employment services may be made available to participants beyond denial of temporary cash assistance benefits. These services include but are not limited to the following:

- (1) assistance and support for the transition into employment through direct services or referrals to resources available in the area;
- (2) child care, if needed;
- (3) work-related expenses, including those identified in §811.35 of this title (relating to Work- Related Expenses);
- (4) transportation necessary for a period of time to allow a participant who loses employment to engage in short-term, supported job search or related activities;

(5) job readiness services and assisted intensive job search to help a participant who loses employment find another job as quickly as possible;

(6) job placement and job development services to help a participant who loses employment find another job as quickly as possible; or

(7) referrals to available education and training resources, as needed, to increase an employed participant's skills or to help the participant qualify for advancement and longer-term employment goals.

(d) Employment retention and re-employment services may be provided by Commission staff, local workforce development boards, or contracted service providers.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.  
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General Counsel

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#### Subchapter C. Job Search-Related Activities

40 TAC §§811.31-811.34

The new sections are proposed under the Texas Labor Code, Chapter 301, which authorizes the Commission to adopt rules necessary for the administration of the Commission and the workforce development division. The new sections are also proposed under the Texas Human Resources Code, Title 2, Subtitle C, Chapter 31, Financial Assistance and Service Programs, which governs employment services for recipients of financial assistance.

The new sections affect the Texas Labor Code, Title 4 and the Texas Human Resources Code, Title 2, Subtitle C, Chapter 31.

#### §811.31. Job Search-Related Activities.

The Commission or Local Workforce Development Boards shall provide for activities and services to assist participants find employment as early as possible as described in Subchapter C of this title (relating to Job Search-Related Activities).

#### §811.32. Job Readiness.

Job readiness activities are individual assistance or coordinated, planned, and supervised classes for participants to prepare them for seeking employment. Activities include, but are not limited to, the following:

- (1) occupational exploration;
- (2) job skills assessment;
- (3) assistance with applications and resumes;
- (4) job fairs;
- (5) interviewing skills and practice interviews;
- (6) life skills; or
- (7) guidance and motivation for development of positive work attitudes and behaviors necessary for the labor market.

#### §811.33. Job Search.

Job search services are individual and group activities in which participants actively seek employment under the guidance of Choices staff. Job search

services include, but are not limited to, the following:

- (1) counseling;
- (2) job search skills training; or
- (3) information on available jobs.

§811.34. Job Development and Job Placement Services.

Choices staff may provide job development and job placement services to assist participants in finding employment. These services include recruiting employers with job openings, recruiting employers with positions for subsidized employment and other work-related activities, or matching participant's skills and abilities with employer's needs.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

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Subchapter D. Work-Based Programs

40 TAC §§811.41-811.45

The new sections are proposed under the Texas Labor Code, Chapter 301, which authorizes the Commission to adopt rules necessary for the administration of the Commission and the workforce development division. The new sections are also proposed under the Texas Human Resources Code, Title 2, Subtitle C, Chapter 31, Financial Assistance and Service Programs, which governs employment services for recipients of financial assistance.

The new sections affect the Texas Labor Code, Title 4 and the Texas Human Resources Code, Title 2, Subtitle C, Chapter 31.

§811.41. Work-Based Programs.

(a) The Commission or Local Workforce Development Boards may provide for the development of work and work-based training activities as specified in Texas Human Resources Code, §31.0126 (relating to Employment Programs) and as described in Subchapter D of this title (relating to Work-Based Programs).

(b) A participant who has good cause as described in §811.13 of this title (relating to Good Cause) or who is incapable of performing a particular job shall not be required to participate in that activity or may cease to participate in that activity.

(c) When requested, the Commission may provide technical assistance to Local Workforce Development Boards on the work activities described in Subchapter D of this title (relating to Work-Based Programs).

§811.42. Subsidized Employment.

(a) Enrollment.

(1) Participants who, after an objective assessment of their skills, are determined by Choices staff to have the basic skills and attitudes necessary to succeed in the workplace may be placed in subsidized employment positions.

(2) Participants, age 18 and older, who are unemployed after completing an initial job readiness and job search period may be required to enter into a

subsidized employment position based on available resources and the participant's skills, interests, and employability plan.

(3) Other participants may volunteer for a subsidized employment position.

(b) Duration of the Activity. Participants in a subsidized employment position are encouraged to work between 35 and 40 hours per week for no more than four full months. Overtime is allowed by mutual agreement between the participant and the employer.

(c) Wages.

(1) Wages shall be at least minimum wage.

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

(3) If overtime is earned, the employer is responsible for all wages in excess of 40 hours per week.

(4) Upon submission of a monthly voucher supported by weekly time and attendance documentation, employers will be subsidized a portion of wages paid, as determined by contract. The subsidy is derived from the participant's temporary cash assistance and food stamp benefits which are diverted to the Commission to be distributed to the employer.

(d) Status of Enrollment at Denial of Benefits. If a participant's temporary cash assistance benefits are denied while enrolled in a subsidized employment position, the employment subsidy ends with the effective date of denial.

Employers may decide whether or not to retain the participant in an unsubsidized employment position.

#### §811.43. Work Skills Training.

Choices participants may be placed in unsalaried, work-based, training positions in either the private, for profit or nonprofit sector or the public sector to improve the employability of participants who have been unable to find employment. The placements are time-limited, and individual positions must be designed to move participants quickly into regular employment. Additional requirements relating to work skills training include the following:

(1) each training position must have designated hours, tasks, skill attainment objectives, and staff supervision;

(2) training must not result in the displacement of currently employed workers or impair existing contracts for services or collective bargaining agreements;

(3) entities that enter into nonfinancial agreements with the Commission or Local Workforce Development Boards shall identify training positions and provide job training and work skills training within their organization that will enable participants to gain the skills necessary to compete in the labor market; and

(4) all non-exempt participants who are unemployed after completing job search activities must be evaluated on an individual basis to determine if enrollment in work skills training will be required, based on available resources and the local labor market.

#### §811.44. Texans Work Program.

(a) Description. The Texans Work Program is on-the-job training for Choices participants.

(b) Participating Employers. Employers or employer alliances or consortia may participate in the program upon approval by the Commission or by the Local Workforce Development Boards.

(c) Approval of the Employer's Training Program. An employer's training program must be approved by the Commission in collaboration with the Texas Skills Standards Board following written guidelines to be developed by the Commission.

(d) Employer Responsibilities. Employers, other approved organizations as stipulated in subsection (b) of this section, or subcontracted training providers are responsible for the following:

(1) designing the training curriculum and providing the training;

(2) providing one or more training positions for Choices participants;  
(3) contributing \$300 per month, to the Commission, for each trainee for the duration of the training program; and  
(4) reporting the trainee's attendance and other necessary information as established in written guidelines by the Commission or the Local Workforce Development Boards.

(e) Participants in the Texans Work Program.

(1) Participants who are unemployed after completing job search activities may be required to participate in a Texans Work assignment.

(2) Choices staff shall make arrangements with the employers to provide candidates for the training positions. Employers may conduct interviews or use other objective means to select appropriate trainees for the available positions.

(3) Excessive, unexcused absences by a participant, as defined by the employer and based on the participant's employability plan, shall be subject to a pro-rata reduction in the amount of the training stipend received under subsection (g) of this section.

(f) Duration of the Placement. The length of a training course shall be in compliance with the Texas Labor Code, Subtitle B, Title 4, Chapter 308.

(g) Exception to Duration. The workforce development division may approve an exception to subsection (f) of this section. The workforce development division will consider the specific training needs in granting an exception.

(h) Training Stipend. Each participant making satisfactory progress in the training program as set forth in the course curriculum shall receive a monthly training stipend of \$600 in addition to the temporary cash assistance and other financial assistance authorized by DHS staff.

#### §811.45. Self-Employment Assistance.

(a) Subject to available resources, the Commission shall, or Local Workforce Development Boards may, provide for self-employment assistance services for appropriate Choices participants to enable them to begin or continue a small business. For the purpose of this subsection, a small business has five or fewer employees.

(b) Self-employment assistance may include a microenterprise development program, centrally administered by the Commission. The Commission may contract with credit organizations to provide individual loans and business counseling services to eligible participants for authorized services. These loans must be repaid.

(c) Participants shall be selected for self-employment assistance through an objective assessment process that will identify participants that are likely to succeed as a business owner.

(d) Self-employment assistance may include, but is not limited to:

- (1) entrepreneurial training;
- (2) business counseling;
- (3) financial assistance; or
- (4) technical assistance.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

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J. Randel (Jerry) Hill

General Counsel

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Subchapter E. Education and Other Training Activities  
40 TAC §§811.61-811.65

The new sections are proposed under the Texas Labor Code, Chapter 301, which authorizes the Commission to adopt rules necessary for the administration of the Commission and the workforce development division. The new sections are also proposed under the Texas Human Resources Code, Title 2, Subtitle C, Chapter 31, Financial Assistance and Service Programs, which governs employment services for recipients of financial assistance.

The new sections affect the Texas Labor Code, Title 4 and the Texas Human Resources Code, Title 2, Subtitle C, Chapter 31.

§811.61.Education and Training Activities.

The education and training activities specified in this subchapter may be included in a participant's employability plan, if needed, to support the participant's movement toward employment. Consideration shall be given to the participant's employability assessment, the local labor market, and the participant's time-limited benefits when authorizing or arranging these activities.

§811.62.Educational Activities.

Choices staff may authorize, arrange, or refer participants for the following educational activities if deemed necessary for finding employment:

- (1) secondary school leading to a high school diploma;
- (2) a course of study leading to a certificate of high school equivalency;
- (3) basic skills and literacy;
- (4) English proficiency; or
- (5) post-secondary vocational education, for up to 12 months, that prepares participants for employment in current and emerging occupations that do not require a baccalaureate or advanced degree.

§811.63.Vocational and Job Skills Training.

Choices staff may authorize, arrange, or refer participants for training in vocational job skills or knowledge in specific occupational areas. The training must be related to the types of jobs available in the labor market. When possible, the training should be consistent with employment goals identified in the participant's employability plan.

§811.64.On-the-Job Training.

Choices staff may authorize subsidized, time-limited training activities, such as JTPA on-the-job training programs, where a participant obtains knowledge and skills which are essential to the workplace while in a job setting.

§811.65.Parenting Skills Training.

Parenting skills training shall be incorporated in the participant's employability plan as needed or required in the Texas Human Resources Code, §31.0135(b).

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

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General Counsel

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Subchapter F. Support Services  
40 TAC §§811.81-811.87

The new sections are proposed under the Texas Labor Code, Chapter 301, which authorizes the Commission to adopt rules necessary for the administration of the Commission and the workforce development division. The new sections are also proposed under the Texas Human Resources Code, Title 2, Subtitle C, Chapter 31, Financial Assistance and Service Programs, which governs employment services for recipients of financial assistance.

The new sections affect the Texas Labor Code, Title 4 and the Texas Human Resources Code, Title 2, Subtitle C, Chapter 31.

§811.81.Support Services.

Support services identified in this subchapter shall be provided, if needed, to an applicant or recipient of temporary cash assistance to remove barriers to employment or participation in Choices services, subject to availability of resources and funding.

§811.82.Child Care.

- (a) Child care shall be provided, if needed, to an applicant or recipient of temporary cash assistance to enable the person to accept employment and remain employed.
- (b) For recipients of temporary cash assistance, child care shall be available for participants only, when needed, to participate in authorized Choices services.
- (c) Child care services are governed by rules contained in Chapter 809 of this title (relating to Child Care and Development Rules).
- (d) Child care may be subject to a parent fee as set by rule by the Commission.

§811.83.Transitional Child Care.

Transitional child care shall be provided, if needed, to participants who lose eligibility for temporary cash assistance due to earnings from employment or expiration of time-limited benefits as follows.

- (1) Nonexempt, employed participants may receive transitional child care for a period of 12 months following denial of temporary cash assistance if they remain employed.
- (2) Employed participants may receive transitional child care for 18 months if they were exempt from employment services due to child-related needs (caring for a child under age four or needed at home due to illness or incapacity of a child) but they voluntarily participated.
- (3) Transitional child care may be provided for unemployed participants who lose eligibility due to the expiration of their time-limited benefits. Transitional child care for unemployed participants is available for up to eight weeks following the end of the participant's time limits if needed to complete an education or training program and for up to four weeks if needed to seek employment.
- (4) Eligibility for transitional child care is subject to an income limit as specified in §809.67 of this title (relating to Income Limits for Child Care Services).
- (5) Transitional child care is subject to parent fees based on income as specified in §809.89 of this title (relating to Assessing Required Parent Fees).

§811.84.Transportation.

(a) Transportation assistance shall be provided if needed to enable an applicant or a recipient of temporary cash assistance to attend and participate in required Choices employment services activities if alternative transportation resources are not available to the participant.

(b) The methods and amounts used to provide transportation assistance shall be determined by each Local Workforce Development Board, consistent with state policy which requires use of the most economical means of transportation that meets the participant's needs.

§811.85.Work-related Expenses.

(a) If other resources are not available, work-related expenses necessary for an applicant or a recipient to accept or retain a specific and verified job offer paying at least the federal minimum wage may be provided or reimbursed.

(b) Local Workforce Development Boards shall develop written policy related to the methods and limitations for provision of work-related expenses.

(c) Work-related expenses may include, but are not limited to, tools, uniforms, equipment, transportation, car repairs, housing or moving expenses, and the cost of vocationally required examinations or certificates.

§811.86.Wheels for Work.

(a) The Commission may provide for development of a Wheels for Work Program in which local non-profit organizations provide low cost automobiles for Choices participants who have secured employment but are unable to accept or retain the employment solely because of a lack of transportation.

(b) The Commission or Local Workforce Development Boards may assist participants who verify the need for an automobile to accept or retain employment by referring them to available providers.

(c) Persons or organizations donating automobiles to the program shall receive a charitable donation receipt for federal income tax purpose for the value of the donated vehicle as documented in official automobile price guides.

(d) Liability insurance is the responsibility of the participant. Necessary repairs, state inspection, and license fees not covered by the donating entity may be covered by other community resources or through the Choices work-related expenses up to any local or state authorized limit.

§811.87.GED Testing Payments.

The cost of GED testing and issuance of the certificate shall be paid by the Commission or Local Workforce Development Board through direct payments to the GED test centers and the Texas Education Agency for participants referred for testing by Choices staff.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

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Subchapter G. Appeals

40 TAC §811.101

The new section is proposed under the Texas Labor Code, Chapter 301, which

authorizes the Commission to adopt rules necessary for the administration of the Commission and the workforce development division. The new sections are also proposed under the Texas Human Resources Code, Title 2, Subtitle C, Chapter 31, Financial Assistance and Service Programs, which governs employment services for recipients of financial assistance.

The new section affects the Texas Labor Code, Title 4 and the Texas Human Resources Code, Title 2, Subtitle C, Chapter 31.

§811.101.Fair Hearings or Appeals.

(a) Applicants and recipients of temporary cash assistance may appeal adverse action taken on their application for benefits or amount of benefits to DHS in accordance with DHS' rules located at 40 TAC §3.2406 of this title (relating to Right to Appeal).

(b) Persons who are dissatisfied with decisions of Choices staff relating to Choices activities or support services may file an appeal of the decision. The request must be submitted in writing to the Appeals Department, Texas Workforce Commission, 101 East 15th Street, Room 410; Austin, Texas 78778-0001, within 30 calendar days after being notified in writing of the decision. Choices staff shall inform participants, upon request, of the procedures for requesting a fair hearing.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

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