

1 **CHAPTER 811. CHOICES**

2
3 **ADOPTED 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.**
6

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

10
11 Subchapter C, Choices Services, §§811.29 - 811.34

12
13 The Commission adopts amendments, *without* changes, to the following sections of Chapter 811,
14 relating to Choices, as published in the November 24, 2006, issue of the *Texas Register* (31
15 TexReg 9576):

- 16 Subchapter A, General Provisions, §§811.1 - 811.3
- 17 Subchapter B, Choices Services Responsibilities, §§811.11 - 811.16
- 18 Subchapter C, Choices Services, §§811.21 - 811.28
- 19 Subchapter D, Choices Work Activities, §§811.42 - 811.51
- 20 Subchapter E, Support Services and Other Initiatives, §§811.65 - 811.67

21
22
23 The Commission adopts amendments, *with* changes, to the following section of Chapter 811,
24 relating to Choices, as published in the November 24, 2006, issue of the *Texas Register* (31
25 TexReg 9576)

- 26 Subchapter D, Choices Work Activities, §811.41
- 27 Subchapter E, Support Services and Other Initiatives, §811.61 and §811.62

28
29
30 The Texas Workforce Commission (Commission) adopts the repeal of the following sections of
31 Chapter 811, relating to Choices, as published in the November 24, 2006, issue of the *Texas*
32 *Register* (31 TexReg 9576):

- 33 Subchapter C, Choices Services, §§811.29 - 811.32
- 34 Subchapter D, Choices Work Activities, §811.52

35
36
37 **PART I. PURPOSE, BACKGROUND, AND AUTHORITY**
38 **PART II. EXPLANATION OF INDIVIDUAL PROVISIONS WITH COMMENTS AND**
39 **RESPONSES**

40
41 **PART I. PURPOSE, BACKGROUND, AND AUTHORITY**

42
43 The purpose of this amendment is to implement the regulatory requirements issued by the United
44 States Health and Human Services Department (DHHS). The interim final regulations (interim
45 regulations) issued by DHHS contain new provisions related to Temporary Assistance for Needy

1 Families (TANF) work activities. In addition, technical changes are needed for clarification and
2 consistency throughout Chapter 811.

3
4 In February 2006, the Deficit Reduction Act (DRA) of 2005 reauthorized the TANF program. In
5 addition to providing ongoing funding for TANF, DRA also changes several provisions in law
6 related to TANF work participation. DRA directed DHHS to issue regulations regarding:
7 --allowable work activities;
8 --verification, documentation, and internal control procedures; and
9 --inclusion of certain child-only cases in the calculation of work participation rates.

10
11 On June 29, 2006, DHHS issued its interim regulations (*Federal Register*, Volume 71, Number
12 125), which provide definitions for each allowable work activity including additional provisions
13 for supervision, verification, and documentation for each allowable work activity.

14
15 The interim regulations also introduce a new term--*work-eligible individuals*--defined as parents
16 who are included in the calculation of work participation rates. The new definition adds certain
17 child-only cases to the calculation of federal work participation rates. Modification of current
18 definitions and addition of new definitions to identify individuals eligible for or participating in
19 Choices services are proposed to simplify and clarify the Choices service delivery for the Local
20 Workforce Development Boards (Boards).

21
22 The interim regulations became effective on October 1, 2006, and Boards were informed of the
23 major changes affecting Choices services prior to proposed amendments to Chapter 811. Boards
24 have been advised to provide Choices services within the parameters of the interim regulations
25 when provisions of Chapter 811 are not supported by the interim regulations. While there may
26 be more stringent requirements under this chapter, the Commission's intent is to provide the
27 Boards the same flexibility offered under the interim regulations.

28
29 In addition to the changes made to comply with the interim regulations and to align the rules
30 with other current federal regulations, technical changes are made to:
31 --simplify and clarify rule language;
32 --update terminology and definitions;
33 --remove obsolete provisions; and
34 --update statutory citations.

35 36 37 **PART II. EXPLANATION OF INDIVIDUAL PROVISIONS WITH COMMENTS AND** 38 **RESPONSES**

39 40 **SUBCHAPTER A. GENERAL PROVISIONS**

41 The Commission adopts amendments to Subchapter A, as follows:

42 43 **§811.2. Definitions**

44 Section 811.2(2), the definition of "TDHS - The Texas Department of Human Services," is
45 removed. TDHS is now part of the Texas Health and Human Services Commission (HHSC) and

1 is defined in §811.2(8). References to TDHS are changed throughout this chapter to reflect this
2 name change.

3
4 Section 811.2(2) replaces the term "Choices individual" with "Choices eligible" to clarify which
5 individuals are eligible to receive Choices services.

6
7 New §811.2(3) adds a definition for Choices participant. Section 811.2(3)(A) defines an
8 "exempt Choices participant" as an adult or teen head of household who is not required under
9 Texas Human Resources Code, Chapter 31 and HHSC rules (1 TAC, Chapter 372, Texas Works)
10 to participate in Choices services, but may volunteer to participate. Section 811.2(3)(B) defines
11 a "mandatory Choices participant" as an adult or teen head of household, including extended
12 TANF recipients, conditional applicants, and sanctioned families, as defined in this section, who
13 are required under HHSC rules to participate in Choices services. The intent of consolidating
14 these definitions is to simplify language throughout the rules and to distinguish between those
15 individuals who are eligible for Choices services--i.e., Choices eligibles--and those individuals
16 who are participating in Choices services--i.e., Choices participants.

17
18 New §811.2(5) clarifies the definition of Earned Income Deduction (EID). Individuals who are
19 working and receiving TANF cash assistance can receive the EID regardless of how many hours
20 they work or how much they earn. Current language in Chapter 811 does not differentiate
21 between individuals who receive the EID and are working fewer than 30 hours per week and
22 individuals who are employed 30 hours per week or more. Specific exclusions or responsibilities
23 listed throughout Chapter 811 for "EID individuals" are applicable only to those individuals
24 coded by HHSC as working 30 hours per week, earning at least \$700 per month, and receiving
25 EID.

26
27 Section 811.2(6), the definition of mandatory individual, is removed. Section 811.2(3), the
28 definition of Choices participant, includes mandatory individuals.

29
30 New §811.2(6) clarifies that the 60-month time limit for TANF cash assistance is federally
31 imposed.

32
33 Section 811.2(10) removes references to exempt and mandatory recipients from the definition of
34 "recipient." These references are now found in §811.2(3)(A) and §811.2(3)(B), relating to the
35 definition of a Choices participant. The definition of recipient retains the prior references to an
36 extended TANF recipient or former recipient formerly set forth in §811.2(8)(B) and
37 §811.2(8)(C), which now are separate definitions set forth in §811.2(6) and §811.2(7).

38
39 Certain paragraphs in §811.2 have been renumbered to accommodate additions or deletions.
40

41 **§811.3. Choices Services Strategy**

42 Section 811.3(c)(2)(D)(i) clarifies that Choices eligibles authorized to receive post-employment
43 services include mandatory Choices participants coded by HHSC as working at least 30 hours
44 per week, earning at least \$700 per month, and receiving the EID.
45

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

3
4
5 **SUBCHAPTER B. CHOICES SERVICES RESPONSIBILITIES**

6 The Commission adopts amendments to Subchapter B, as follows:
7

8 **§811.11. Board Responsibilities**

9 Section 811.11(a)(2) specifies that applicants and conditional applicants have 10 days from the
10 date of their eligibility interview to attend a Workforce Orientation for Applicants (WOA).
11

12 Section 811.11(a)(3)(A) specifies that applicants and conditional applicants are informed of
13 employment services available while attending a WOA.
14

15 Section 811.11(c) replaces the term "recipient status" with the term "a Choices participant's
16 eligibility" for better clarification.
17

18 Section 811.11(f) clarifies that Choices eligibles authorized to receive post-employment services
19 include mandatory Choices participants coded by HHSC as working at least 30 hours per week,
20 earning at least \$700 per month, and receiving the EID.
21

22 Section 811.11(g) adds the phrase "unless otherwise specified in this chapter," to specify that
23 additional criteria for monitoring and tracking work requirements may be specified throughout
24 the chapter.
25

26 Section 811.11(i) adds verification of participation hours in Choices as necessary data to be
27 entered into The Workforce Information System of Texas (TWIST).
28

29 **§811.13. Responsibilities of Choices Participants**

30 Section 811.13(b)(3) clarifies that Choices participants must report "actual" hours of
31 participation as defined in §811.34. In addition, the term "component activities" is replaced with
32 "Choices work activities" to provide consistent terminology throughout the chapter.
33

34 Section 811.13(c) and §811.13(d) replace the term "employment planning appointments" with
35 the term "employment planning sessions" to provide consistent terminology throughout the
36 chapter.
37

38 Section 811.13(e) states that mandatory Choices participants must be coded by HHSC as
39 working at least 30 hours per week, earning at least \$700 per month, and receiving the EID as
40 related to their responsibility of reporting hours and receiving post-employment services.
41

42 **§811.14. Noncooperation**

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

1
2 Section 811.14(d) clarifies that attempts to determine good cause for sanctioned families and
3 conditional applicants must be made upon discovery of noncooperation during their
4 demonstrated cooperation period.

5
6 Certain subsections in §811.14 have been renumbered to accommodate additions or deletions.
7

8 **§811.15. Demonstrated Cooperation**

9 Section 811.15(a) replaces "one month" with "four consecutive weeks," relating to conditional
10 applicants, to provide consistent terminology throughout the chapter.
11

12 **§811.16. Good Cause for Choices Participants**

13 Section 811.16(b)(5) replaces the term "Responsibility Agreement" with "family employment
14 plan" to provide consistent terminology throughout the chapter.
15

16 Section 811.16(c)(2) adds a new good cause reason for Choices participants who participate only
17 to the extent determined able as supported by medical documentation but less than the required
18 hours specified in this chapter.
19

20 Section 811.16(c)(4) replaces the term "household member" with the term "family member."
21 The paragraph also specifies that a disabled family member does not attend school full time and
22 Boards must ensure the need for care is supported by medical documentation.
23

24 Section 811.16(c)(5) adds a new good cause reason for those Choices participants who are caring
25 for a disabled family member who attends school full time. The paragraph also stipulates that
26 Boards must ensure the need for care is supported by medical documentation. Two separate
27 good cause reasons are necessary to determine which Choices participants may be excluded from
28 the calculation of federal work participation rates. Only those participants caring for a disabled
29 family member who does not attend school full-time are disregarded in the calculation of federal
30 work participation rates.
31

32 Section 811.16(c)(7)(B) and §811.16(c)(7)(C) remove the term "formal" to align the description
33 of child care providers with the definition set forth in Chapter 809 of this title.
34

35 Section 811.16(c)(7)(D) replaces the term "formal or informal" with "appropriate" to align the
36 good cause description with federal law.
37

38 Section 811.16(e)(4) is added to clarify that good cause and short-term excused absences are
39 different types of determinations and must be established separately.
40

41 Certain paragraphs in §811.16 have been renumbered to accommodate additions or deletions.
42
43

44 **SUBCHAPTER C. CHOICES SERVICES**

45 The Commission adopts amendments to Subchapter C, as follows:
46

1 **§811.21. General Provisions**

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

4
5 **§811.22. Assessment**

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

9
10 Section 811.22(e)(1)(B) specifies that mandatory Choices participants must be coded by HHSC
11 as employed to be excluded from the literacy assessment. Additionally, the requirement to
12 provide literacy information to HHSC is removed because it is contained in §811.22(e)(2).

13
14 **§811.23. Family Employment Plan**

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

17
18 Section 811.23(d)(4) is modified to state that individuals coded by HHSC as working at least 30
19 hours per week, earning at least \$700 per month, and receiving the EID are not required to sign
20 the family employment plan.

21
22 Section 811.23(e), which instructs Boards to enroll mandatory individuals in specific job
23 readiness activities, is removed. The job readiness activities referenced in this subsection are no
24 longer allowable work activities as defined in the interim regulations.

25
26 Certain subsections in §811.23 have been relettered to accommodate additions or deletions.

27
28 **§811.24. Family Work Requirement Form for Two-Parent Families**

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

32
33 **§811.25. TANF Core and TANF Non-Core Activities**

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

36
37 Section 811.25(a)(2)(C) is removed because parenting skills training is not an allowable federal
38 work activity as specified in the interim regulations.

39
40 Section 811.25(d)(1) and §811.25(d)(2), the work participation exceptions for two-parent
41 families, are removed because these exclusions are not allowable in the calculation of federal
42 work participation rates. Two-parent families receiving Commission-funded child care must
43 participate in Choices activities an average of fifty-five hours per week regardless of good cause
44 status.

1
2 **§811.26. Special Provisions Regarding Community Service**

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

5
6 Certain subsections in §811.26 have been relettered to accommodate additions or deletions.
7

8 **§811.27. Special Provisions Regarding Job Search and Job Readiness**

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

12
13 Section 811.27(d), which requires Boards to ensure Choices participants are continuously
14 enrolled in specific job readiness activities listed in §811.41(d)(3), is removed. These job
15 readiness activities related to the health, safety, and welfare of families are no longer allowable
16 under the interim regulations.

17
18 Certain subsections in §811.27 have been relettered to accommodate additions or deletions.
19

20 **§811.29. Special Provisions Regarding the Fair Labor Standards Act**

21 New §811.29(a) is added in order to list all provisions required by FLSA in one section. These
22 provisions are relocated, with minor modifications, from removed §811.21(b)(1) - §811.21(b)(3).
23

24 New §811.29(b) is added in order to list all provisions for FLSA-covered activities in one
25 section. These provisions are relocated, with minor modifications, from removed §811.26(a)(2).
26 In addition, new language is added stating that if a Choices participant's hours of community
27 service or other unpaid work activity do not meet the core work activity requirement in
28 §811.25(b) - (d), Boards must:

- 29 (1) enroll the Choices participant in additional core activities; or
30 (2) deem the remaining core hours as having met the core work activity requirement.
31

32 The Commission adds new §811.29(b)(2) to give Boards the option to deem core participation
33 hours for Choices participants who cannot participate for their full core work activity hours in
34 FLSA-covered activities. For example, a two-parent family with one child receives a maximum
35 TANF benefit of \$250 per month and a maximum Food Stamp benefit of \$399 per month. The
36 total TANF and Food Stamp benefits divided by the minimum wage allows the family to
37 participate only 29 hours per week in FLSA-covered activities.
38

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

1
2 Under the new deeming option, this two-parent family will count as meeting its core work
3 participation requirement--with or without receiving subsidized child care--by participating the
4 maximum of 29 hours allowed by FLSA requirements and participating 5 hours in non-core
5 activities.

6
7 The deeming provision is allowed by the interim regulations as long as a state operates a mini-
8 Simplified Food Stamp Program (mini-SFSP). Under the mini-SFSP, states must notify the
9 Food and Nutrition Service (FNS) only of their *intent* to combine Food Stamp and TANF
10 benefits when calculating participation hours for FLSA-covered activities. In previous guidance
11 issued by the U.S. Department of Labor, states were given the option of combining Food Stamp
12 and TANF benefits in the calculation of FLSA-covered work activities. Because this option
13 always has been available in the Choices rules, the Commission submitted a letter to FNS
14 requesting recognition as a state that operates a mini-SFSP in order to employ the deeming
15 provision. FNS recently approved the Commission's request.

16
17 **§811.30. Special Provisions for Teen Heads of Household**

18 New §811.30 sets out the provisions, with minor modifications, previously located in repealed
19 §811.29.

20
21 **§811.31. Special Provisions for Choices Participants in Single-Parent Families with**
22 **Children under Age Six**

23 New §811.31 sets out the provisions, with minor modifications, previously located in repealed
24 §811.30.

25
26 **§811.32. Special Provisions Regarding Exempt Choices Participants and Choices**
27 **Participants with Reduced Work Requirements**

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

30
31 New §811.32(b)(2) provides that Boards should not request a penalty for Choices participants
32 with disabilities who participate to the extent determined able, as supported by medical
33 documentation, but less than the required hours specified in the chapter.

34
35 New §811.32(b)(3) provides that Boards should not request a penalty for Choices participants
36 caring for a disabled family member, as supported by medical documentation when the Choices
37 participant participates to the extent able but less than the required hours specified in the chapter.

38
39 **§811.33. Other Special Provisions**

40 New §811.33 sets out the provisions, without modifications, previously located in repealed
41 §811.32(b) and §811.32(c). The provisions previously located in repealed §811.32(a), regarding
42 counting participation hours for mandatory participants with disabilities or mandatory
43 participants caring for a disabled family member, are no longer included in this chapter because
44 this method of calculating work participation hours is not consistent with the federal calculation
45 of work participation hours. Section 811.16 and new §811.32 provide good cause provisions and
46 penalty exceptions for Choices participants with reduced work requirements.

1
2 **§811.34. Participation Provisions**

3 New §811.34 is added to provide guidance on counting actual participation hours for all work
4 activities, along with the exceptions to this provision, as required by the interim regulations.
5

6 New §811.34(1) provides that Boards may count holidays or other paid leave as actual
7 participation hours for paid work activities.
8

9 New §811.34(2) provides that Boards may count short-term excused absences as actual
10 participation hours for unpaid work activities.
11

12 New §811.34(2)(A) states that the short-term excused absence must be because of a holiday, or
13 total a maximum of 10 additional days within a 12-month period and not exceed two excused
14 absences per month.
15

16 New §811.34(2)(B) provides that the Choices participant must have been scheduled to
17 participate in an unpaid work activity during the time period in which the holiday or excused
18 absence falls. In addition, Boards must ensure credited participation hours do not exceed the
19 number of hours the Choices participant was scheduled to participate.
20

21 New §811.34(3) states that Boards may project participation hours in paid work activities based
22 on an average of four weeks of current, documented actual hours.
23

24 New §811.34(3)(A) provides that a Board may project participation hours in self-employment for
25 up to six months using an average of three months of current, documented actual hours.
26

27 New §811.34(3)(B) states that a Board may not count more hours toward the work participation
28 rate for self-employed Choices participants than the number derived by dividing the Choices
29 participant's net self-employment income (gross self-employment wages minus business
30 expenses) by the federal minimum wage.
31

32
33 **SUBCHAPTER D. CHOICES WORK ACTIVITIES**

34 The Commission adopts amendments to Subchapter D, as follows:
35

36 **§811.41. Job Search and Job Readiness Assistance**

37 Section 811.41(b)(1)(C) replaces the term "client-directed" with the term "customer-directed";
38 replaces the word "significant" with the word "direct"; and removes the requirement for
39 customers to engage in activities addressing the health, safety, and welfare of their families.
40 These changes are made to align with the definition of allowable job readiness activities
41 provided in the interim regulations.
42

43 Proposed §811.41(b)(1)(C)(i) and §811.41(b)(1)(C)(ii) have been removed based on guidance
44 received from the Administration for Children and Families (ACF). The two sections informed
45 Boards about how to verify and count participation hours in customer-directed job search. The
46 sections stated that daily contact with Choices participants must be maintained to document the

1 contact, verify participation, and discuss the progress of the participant's job search, and also
2 allowed each job contact made by the Choices participant while participating in customer-
3 directed job search to count as two hours of participation. The hours of participation increased if
4 it was documented and verified that the job contact took more than two hours because of travel
5 time or other reasonable explanations.

6
7 ACF has clarified that daily supervision for job search and job readiness activities does not
8 necessarily mean daily contact. In addition, ACF's guidance clarified that Boards must ensure
9 that only actual time spent in any Choices activity will be counted as participation. Boards must
10 not assign a standard set of hours to job search activities, such as two hours for each job contact.
11 The Commission recommends that Boards modify their job search logs to specify time spent for
12 each job search contact or activity.

13
14 **Comment:** One commenter stated daily contact and 100% verification of participation in
15 customer-directed job search was excessive as required by §811.41(b)(1)(C)(i). The
16 commenter stated that case managers would be focusing on documenting daily contact and
17 verifying participation rather than on helping participants find employment. The commenter
18 suggested using a job search log to list daily contacts and having weekly appointments
19 between the case manager and Choices participant.

20
21 **Response:** The Commission appreciates the suggestions. Based on guidance from ACF, the
22 Commission has removed §811.41(b)(1)(C)(i). ACF clarified that daily supervision for job
23 search and job readiness activities does not necessarily mean daily contact. However, Boards
24 must ensure case managers are accessible daily for Choices participants to report their job
25 search progress and receive any additional guidance during their job search. Furthermore,
26 Boards are allowed to perform a random sampling of the job search log to validate contacts
27 made during customer-directed job search. The use of job search logs without any validation
28 is considered self-attestation, which is no longer acceptable. The Commission also
29 encourages Boards to use other methods such as tracking contacts in WorkInTexas.com, e-
30 mail confirmations, or other online job banks to verify job search participation.

31
32
33 Section 811.41(b)(4) is added to require daily supervision of job search and job readiness
34 activities, as required by the interim regulations. As previously stated, Boards are not required to
35 ensure that case managers have daily contact with each Choices participant enrolled in job
36 search. However, Boards must ensure that case managers are accessible daily to allow Choices
37 participants to report their job search progress or seek additional guidance.

38
39 Section 811.41(b)(5) is added to require daily documentation in TWIST of job search and job
40 readiness activities. This section requires Boards to document daily participation hours, as
41 opposed to weekly hours, in TWIST. For example, documentation for participation in job search
42 may reflect eight hours for Monday, eight hours for Wednesday, and eight hours for Friday,
43 instead of 24 hours of job search for the entire week. This requirement does not apply to the
44 frequency of data entry. Boards retain the flexibility to determine how often data entry occurs,
45 as long as it is within the parameters set forth in §811.21. Automation changes in TWIST will be
46 made to accommodate this new requirement.

1
2 Section 811.41(b)(6) is added to include the allowance for counting substance abuse treatment,
3 mental health treatment, or rehabilitation activities as allowable job readiness activities as
4 provided by the interim regulations.

5
6 Section 811.41(c) is modified to define job search activities as acts of seeking and obtaining
7 employment, as specified in the interim regulations.

8
9 Section 811.41(c)(1), §811.41(c)(3), §811.41(c)(6), and §811.41(c)(7), specifying certain types
10 of job search activities, are deleted. These activities do not meet the new definition of job search
11 but do meet the new definition of job readiness. Therefore, these activities are moved to
12 §811.41(d).

13
14 Section 811.41(c)(5), "applying or interviewing for job vacancies," and §811.41(c)(6), "making
15 contacts with potential employers," are added as allowable activities related to job search, as
16 provided in the interim regulations.

17
18 Sections 811.41(d)(3) - 811.41(d)(9) are added to specify other options for job readiness
19 activities such as substance abuse treatment, rehabilitation activities, and job search activities
20 that meet the new definition of job readiness, as defined in the interim regulations.

21
22 Sections 811.41(d)(3)(A) - 811.41(d)(3)(D), specifying activities essential to the health, safety,
23 and welfare of families as a job readiness activity, are removed. The interim regulations
24 specifically prohibit these types of activities to be counted under any work category.

25
26 Certain paragraphs in §811.41 have been renumbered to accommodate additions or deletions.

27
28 **§811.43. Subsidized Employment**

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

31
32 Section 811.43(e) is added to provide that subsidized placements must be made with employers
33 that expect to offer unsubsidized employment to Choices participants after the placement has
34 ended.

35
36 **§811.44. On-the-Job Training**

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

39
40 Section 811.44(e) is added to require Boards to ensure on-the-job training is documented in
41 TWIST at least every two weeks.

42
43 **§811.45. Work Experience**

44 Section 811.45(b) removes the requirement that work experience positions are offered only in the
45 private for-profit sector. The interim regulations do not place this restriction on work experience

1 and this change aligns the work experience definition in this chapter with the definition of work
2 experience in the interim regulations.

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

6
7 Section 811.45(f) is added to require that documentation for work experience activities be
8 entered into TWIST as least every two weeks.

9
10 **§811.46. Community Service**

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

18
19 Section 811.46(d) is added to specify examples of allowable placement sites for community
20 service activities.

21
22 Section 811.46(e) is added to list examples of allowable fields for community service activities,
23 as provided in the interim regulations.

24
25 Section 811.46(f) is added to require that Choices participants in community service programs
26 must be supervised on a daily basis, as required by the interim regulations.

27
28 Section 811.46(g) is added to require that community service activities must be documented in
29 TWIST at least every two weeks.

30
31 **§811.47. Child Care Services to Choices Participants in Community Service**

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

34
35 Section 811.47(b)(3), which gives Boards the flexibility to set local policies for determining
36 participation hours in child care activities, is removed. The interim regulations emphasize the
37 need for consistency in the calculation of participation hours. Therefore, the Commission has
38 provided additional guidance in §811.47(f) on calculating participation hours for this activity.

39
40 Section 811.47(c) is added to require that placement in a child care activity must aid the Choices
41 participant in becoming self-sufficient.

42
43 Section 811.47(d) is added to require that Choices participants who provide child care services
44 are supervised on a daily basis, as required by the interim regulations.

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

3
4 Section 811.47(f) is added to require that Boards must count only actual hours of participation in
5 child care activities as allowable work participation hours.

6
7 **§811.48. Vocational Educational Training**

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

19
20 Section 811.48(c)(1), §811.48(c)(2), and §811.48(c)(7) are added to incorporate the interim
21 regulation's definition of vocational educational training. These sections specify that vocational
22 educational training is directly related to a specific occupation, trade, or vocation and list the
23 types of organizations that may provide vocational educational training.

24
25 Section 811.48(c)(3) clarifies that vocational educational training must relate to current or
26 emerging occupations, as provided in the interim regulations.

27
28 Section 811.48(d), which relates to counting study or homework hours for vocational educational
29 training, is modified to align with the interim regulations. The interim regulations allow only
30 supervised study or homework hours to count as participation. The Commission removes the
31 five hour per week limit on study or homework time. If study or homework time must be
32 supervised, a limit on countable participation hours is not necessary because hours can be
33 verified.

34
35 Section 811.48(d)(3) is modified to state that study or homework time must be directly
36 monitored, supervised, and documented.

37
38 Section 811.48(d)(4) is removed because the requirement that a Choices participant is making
39 good progress is no longer limited only to counting study or homework time. Under the interim
40 regulations, a Choices participant's "good or satisfactory" progress must be verified in order to
41 count as participation.

42
43 Section 811.48(e) is added to require that Boards must verify a Choices participant's good or
44 satisfactory progress in vocational educational training, as determined by the educational
45 institution.

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

3
4 Section 811.48(g) is added to require that vocational educational training is documented in
5 TWIST at least every two weeks.

6
7 Certain paragraphs in §811.48 have been renumbered to accommodate additions or deletions.

8
9 **§811.49. Job Skills Training**

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

14
15 Section 811.49(e)(1) also is modified to broaden the specific references to "English as a Second
16 Language (ESL)" as "language instruction" and "Workforce Adult Literacy services" as "literacy
17 instruction." These changes are made to align with terminology contained in the interim
18 regulations. However, ESL and Workforce Adult Literacy services are included under the
19 meaning of the broader terms.

20
21 Section 811.49(f), relating to counting study or homework hours for job skills training, is
22 modified by removing the five hour per week limit on study or homework time. The interim
23 regulations allow only supervised study or homework hours to count as participation. If study or
24 homework time must be supervised, a limit on countable participation hours is not necessary
25 because hours can be verified.

26
27 Section 811.49(f)(3) is modified to clarify that study or homework time must be directly
28 monitored, supervised, and documented.

29
30 Section 811.49(f)(4) is removed because the requirement that a Choices participant is making
31 good progress is no longer limited only to counting study or homework time. Under the inte rim
32 regulations, a Choices participant's "good or satisfactory" progress must be verified in order to
33 count as participation.

34
35 Section 811.49(g) is added to require that Boards must verify a Choices participant's good or
36 satisfactory progress in job skills training.

37
38 Section 811.49(h) is added to require that Choices participants enrolled in job skills training are
39 supervised on a daily basis, as required by the interim regulations.

40
41 Section 811.49(i) is added to require that job skills training is documented in TWIST at least
42 every two weeks.

43
44 Certain paragraphs in §811.49 have been renumbered to accommodate additions or deletions.

1
2 **§811.50. Educational Services for Choices Participants Who Have Not Completed**
3 **Secondary School or Received a General Educational Development Credential**

4 Section 811.50(b)(1) clarifies that Choices participants age twenty and older are to be enrolled in
5 educational services only if it is required for the job position.
6

7 Section 811.50(b)(2) is modified to add ABE and ESL instruction as allowable educational
8 services. The interim regulations reclassified ABE from job skills training to an allowable
9 educational service.
10

11 Section 811.50(b)(2) also is modified to broaden the specific references to "English as a Second
12 Language (ESL)" as "language instruction" and "Workforce Adult Literacy services" as "literacy
13 instruction." These changes are made to align with terminology contained in the interim
14 regulations. However, ESL and Workforce Adult Literacy services are included under the
15 meaning of these broader terms.
16

17 Section 811.50(c) is added to clarify that educational services must provide skills and knowledge
18 directly related to specific occupations or work settings.
19

20 Section 811.50(d), which relates to counting study or homework hours for educational services,
21 is modified by removing the five hour per week limit on study or home work time. The interim
22 regulations only allow supervised study or homework hours to count as participation. If study or
23 homework time must be supervised, a limit on countable participation hours is not necessary
24 because hours can be verified.
25

26 Section 811.50(d)(3) clarifies that study or homework time must be directly monitored,
27 supervised, and documented.
28

29 Section 811.50(e)(4) is removed because the requirement that a Choices participant is making
30 good progress is no longer limited only to counting study or homework time. Under the interim
31 regulations, a Choices participant's "good or satisfactory" progress must be verified in order to
32 count as participation.
33

34 Section 811.50(e) is added to require that Boards must verify a Choices participant's good or
35 satisfactory progress in educational services, as determined by the educational institution.
36

37 Section 811.50(f) is added to require that Choices participants enrolled in educational services be
38 supervised on a daily basis, as required by the interim regulations.
39

40 Section 811.50(g) is added to require that educational services are documented in TWIST at least
41 every two weeks.
42

43 Certain subsections in §811.50 have been relettered to accommodate additions or deletions.
44

45 **§811.51. Post-Employment Services**

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

5
6 Section 811.51(e)(2) replaces the reference to "one month of demonstrated cooperation" with the
7 more general term, "demonstrated cooperation period," because sanctioned families and
8 conditional applicants have different time frames in which to demonstrate cooperation.

9
10 **§811.52. Parenting Skills Training**

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

18
19 **SUBCHAPTER E. SUPPORT SERVICES AND OTHER INITIATIVES**

20 The Commission adopts amendments to Subchapter E, as follows:

21
22 **§811.61. Support Services**

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

28
29 **§811.62. Child Care for Choices Eligibles**

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

32
33
34 **COMMENTS WERE RECEIVED FROM:**

35
36 Gulf Coast Workforce Development Board

37
38
39 The Agency hereby certifies that the proposal has been reviewed by legal counsel and found to
40 be within the Agency's legal authority to adopt.

41
42 The rules are adopted under Texas Labor Code §301.0015 and §302.002(d), which provide the
43 Texas Workforce Commission with the authority to adopt, amend, or repeal such rules as it
44 deems necessary for the effective administration of Agency services and activities; and Texas
45 Human Resources Code, Chapters 31 and 34.

1 The adopted rules affect Texas Labor Code, Title 4 and Texas Human Resources Code, Chapters
2 31 and 34.
3

Chapter 811. CHOICES

SUBCHAPTER A. GENERAL PROVISIONS

§811.1. Purpose and Goal.

- (a) The purposes of Temporary Assistance for Needy Families (TANF), as set forth in Title IV, Social Security Act, §401 (42 U.S.C.A. §601) are:
- (1) provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives;
 - (2) end the dependence of needy parents on government benefits by promoting job preparation, work, and marriage;
 - (3) prevent and reduce the incidence of out-of-wedlock pregnancies; and
 - (4) encourage the formation and maintenance of two-parent families.
- (b) The goal of Choices services is to end the dependence of needy parents on public assistance by promoting job preparation, work, and marriage. A Board may exercise flexibility in providing services to Choices 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 Commission is to ensure delivery of the employment and training activities as described in the TANF State Plan.
- (d) Boards shall identify the workforce needs of local employers and design Choices services to ensure that local employer needs are met and that the services are consistent with the goals and purposes of Choices services as referenced in this section, and as authorized by PRWORA, the applicable federal regulations at 45 C.F.R. Part 260 - 265, the TANF State Plan, this chapter, and consistent with a Board's approved integrated workforce training and services plan as referenced in §801.17 of this title.

§811.2. Definitions.

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

- (1) Applicant -- An adult, or teen head of household, in a family who applies for Temporary Assistance for Needy Families (TANF) cash assistance, who previously did not leave TANF in a sanctioned status.
- (2) Choices eligible -- An individual eligible to receive Choices services including an adult or teen head of household who is an applicant, conditional applicant, recipient, former recipient, or sanctioned family as defined in this chapter.
- (3) Choices participant -- A Choices eligible participating in or outreached for Choices services, including:

- 1 (A) Exempt Choices participant -- An adult or teen head of household who is
2 not required under Texas Human Resources Code, Chapter 31 or Texas
3 Health and Human Services Commission (HHSC) rules (1 TAC, Chapter
4 372, Texas Works), to participate in Choices services, but who may
5 voluntarily participate in Choices services.
- 6 (B) Mandatory Choices participant -- An adult or teen head of household,
7 including an extended TANF recipient, conditional applicant, and
8 sanctioned family, as defined in this section, who is required under Texas
9 Human Resources Code, Chapter 31 or HHSC rules (1 TAC, Chapter 372,
10 Texas Works), to participate in Choices services.
- 11 (4) Conditional applicant -- An adult or teen head of household who left TANF in
12 a sanctioned status, but who is reapplying for TANF cash assistance.
- 13 (5) Earned Income Deduction (EID) -- A standard work-related and income
14 deduction, available for four months through HHSC.
- 15 (6) Extended TANF recipient -- A recipient who receives TANF cash assistance
16 past the 60-month federal time limit because of a hardship exemption as
17 defined in Texas Human Resources Code, Chapter 31 and HHSC rules
18 (1 TAC, Chapter 372, Texas Works).
- 19 (7) Former recipient -- An adult or teen head of household who no longer receives
20 TANF cash assistance because of employment.
- 21 (8) HHSC -- Texas Health and Human Services Commission.
- 22 (9) PRWORA -- The Personal Responsibility and Work Opportunity
23 Reconciliation Act of 1996, Pub. L. No. 104-193, 110 Stat. 2105, as amended.
- 24 (10) Recipient -- An adult or teen head of household who receives TANF cash
25 assistance.
- 26 (11) Sanctioned family -- An adult or teen head of household who must
27 demonstrate cooperation for one month in order to reinstate TANF cash
28 assistance.
- 29 (12) TANF cash assistance -- The cash grant provided through HHSC to individuals
30 who meet certain residency, income, and resource criteria as provided under
31 federal and state statutes and regulations, including the PRWORA, the TANF
32 block grant statutes, the TANF State Plan, TANF cash assistance provided
33 under Texas Human Resources Code, Chapters 31 and 34, and other related
34 regulations.
- 35 (13) Work-based services -- Includes those employment programs defined in Texas
36 Human Resources Code §31.0126.
- 37 (14) Work ready -- A Choices eligible is considered work ready if he or she has the
38 skills that are required by employers in the local workforce development area.
39 A Board must ensure immediate access to the labor market to determine
40 whether the Choices eligible has those necessary skills to obtain employment.

1 (15) Work requirement -- For the purposes of 42 U.S.C. §607 and 45 C.F.R.
2 §261.10, a Choices eligible is deemed to be engaged in work by cooperating
3 with:

4 (A) all requirements set forth in the family employment plan, as described in
5 this chapter; and

6 (B) all TANF core and non-core activities, as set forth in this chapter.

7 **§811.3. Choices Service Strategy.**

8 (a) A Board shall ensure that its strategic planning process includes an analysis of the
9 local labor market to:

10 (1) determine employers' needs;

11 (2) determine emerging and demand occupations; and

12 (3) identify employment opportunities, which include those with a potential for
13 career advancement that may assist a Choices eligible's progression towards
14 self-sufficiency.

15 (b) A Board shall set local policies for a Choices service strategy that coordinates
16 various service delivery approaches to:

17 (1) assist applicants and conditional applicants in gaining employment as an
18 alternative to public assistance;

19 (2) utilize a work first design as referenced in subsection (c)(2) of this section to
20 provide Choices participants access to the labor market; and

21 (3) assist former recipients in job retention and career advancement to remain
22 independent of TANF cash assistance.

23 (c) The Choices service strategy shall include:

24 (1) Workforce Orientation for Applicants (WOA). As a condition of eligibility,
25 applicants and conditional applicants are required to attend a workforce
26 orientation that includes information on options available to allow them to
27 enter the Texas workforce.

28 (2) Work First Design.

29 (A) The work first design:

30 (i) allows Choices participants to take immediate advantage of the labor
31 market and secure employment, which is critical due to individual
32 time-limited benefits; and

33 (ii) meets the needs of employers by linking Choices participants with
34 skills that match those job requirements identified by the employer.

35 (B) Boards shall provide Choices participants access to other services and
36 activities available through the One-Stop Service Delivery Network,
37 which includes the WOA, to assist with employment in the labor market
38 before certification for TANF cash assistance.

- 1 (C) Post-employment services shall be provided in order to assist a Choices
2 participant's progress toward self-sufficiency as described in subsection
3 (b)(3) of this section and §811.51.
- 4 (D) In order to assist a Choices eligible's progress toward self-sufficiency:
- 5 (i) Boards shall provide Choices eligibles who are employed, including
6 mandatory Choices participants coded by HHSC as working at least
7 30 hours per week, earning at least \$700 per month, and receiving
8 the EID, with information on available post-employment services; or
- 9 (ii) Boards may provide Choices eligibles with post-employment
10 services as determined by Board policy. The length of time these
11 services may be provided is subject to §811.51.
- 12 (E) In order to assist employers, Boards shall coordinate with local employers
13 to address needs related to:
- 14 (i) employee post-employment education or training;
- 15 (ii) employee child care, transportation or other support services
16 available to obtain and retain employment; and
- 17 (iii) employer tax credits.
- 18 (F) Boards shall ensure that a family employment plan is based on employer
19 needs, individual skills and abilities, and individual time limits for TANF
20 cash assistance.
- 21 (3) Post-Employment Services. A Board shall ensure that post-employment
22 services are designed to assist Choices participants with job retention, career
23 advancement, and reemployment, as defined in §811.51. Post-employment
24 services are a continuum in the Choices service strategy to support a Choices
25 participant's job retention, wage gains, career progression, and progression to
26 self-sufficiency.
- 27 (4) Adult Services. A Board shall ensure that services for adults shall include
28 activities individually designed to lead to employment and self-sufficiency as
29 quickly as possible.
- 30 (5) Teen Services. A Board shall ensure that services for teen heads of household
31 shall include assistance with completion of secondary school or a General
32 Educational Development (GED) credential and making the transition from
33 school to employment, as described in §811.30 and §811.50.
- 34 (6) Choices Eligibles with Disabilities. A Board shall ensure that services for
35 Choices eligibles with disabilities include reasonable accommodations to allow
36 the Choices eligibles to access and participate in services, where applicable by
37 law. A Board shall ensure that Memoranda of Understanding (MOUs) are
38 established with the appropriate agencies to serve Choices eligibles with
39 disabilities, and that referrals are made, as appropriate, to allow Choices
40 eligibles with disabilities to maximize their potential for success in
41 employment.

- 1 (7) Target Populations. A Board shall ensure that services are concentrated, as
2 further defined in §811.11(d) and (e), on the needs of the following:
- 3 (A) recipients who have six months or less remaining of their state TANF time
4 limit, irrespective of any extension of time due to a hardship exemption;
- 5 (B) recipients who have 12 months or less remaining of their 60-month federal
6 TANF time limit, irrespective of any extension of time due to a hardship
7 exemption; and
- 8 (C) recipients who are extended TANF recipients.
- 9 (8) Local Flexibility. A Board may develop additional service strategies that are
10 consistent with the goal and purpose of this chapter and the One-Stop Service
11 Delivery Network.
- 12 (9) Local-Level MOU. A Board shall ensure the development of a local-level
13 MOU in cooperation with HHSC for coordinated case management that is
14 consistent with the MOU between HHSC and the Commission.
- 15 (10) Housing Partnerships. A Board shall establish a collaborative partnership with
16 housing authorities and sponsors of local housing programs and services to
17 address the unmet housing needs of recipients.

18

19 **SUBCHAPTER B. CHOICES SERVICES RESPONSIBILITIES**

20 **§811.11. Board Responsibilities.**

- 21 (a) A Board shall ensure that:
- 22 (1) procedures are developed, in conjunction with HHSC, to notify applicants and
23 conditional applicants on the availability of regularly scheduled Workforce
24 Orientations for Applicants (WOAs) and alternative WOAs;
- 25 (2) 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 (3) during a regularly scheduled WOA or alternative WOA, applicants and
30 conditional applicants are informed of:
- 31 (A) employment services available through the One-Stop Service Delivery
32 Network to assist applicants and conditional applicants in achieving self-
33 sufficiency without the need for TANF cash assistance;
- 34 (B) benefits of becoming employed;
- 35 (C) impact of time-limited benefits;
- 36 (D) individual and parental responsibilities; and
- 37 (E) other services and activities, including education and training, available
38 through the One-Stop Service Delivery Network, including services and
39 referrals for services available to Choices eligibles with disabilities;

- 1 (4) alternative WOAs are developed that allow applicants and conditional
2 applicants with extraordinary circumstances to receive the information listed in
3 paragraph (3) of this subsection;
- 4 (5) procedures are developed to notify HHSC of applicants and conditional
5 applicants who contacted a Texas Workforce Center to request alternative
6 WOAs;
- 7 (6) verification that applicants and conditional applicants attend a scheduled or
8 alternative WOA is completed and HHSC is notified in accordance with HHSC
9 rules (1 TAC, Chapter 372, Texas Works); and
- 10 (7) applicants and conditional applicants are provided with an appointment to
11 develop a family employment plan.
- 12 (b) A Board shall ensure that:
 - 13 (1) Choices services are offered to applicants who attend a WOA; and
 - 14 (2) conditional applicants who attend a WOA are immediately scheduled to begin
15 Choices services.
- 16 (c) A Board shall ensure that a Choices participant's eligibility is verified monthly.
- 17 (d) A Board shall develop policies and procedures to ensure that services are
18 concentrated on Choices eligibles approaching their state or federal time limit, as
19 identified in §811.3(c)(7)(A) and (B). Concentrated services may include targeted
20 outreach, enhanced analysis of circumstances that may limit a Choices eligible's
21 ability to participate, and targeted job development.
- 22 (e) A Board shall ensure that all extended TANF recipients are outreached and offered
23 the opportunity to participate in Choices activities.
- 24 (f) A Board shall ensure that post-employment services, including job retention and
25 career advancement services, are available to Choices eligibles including mandatory
26 Choices participants coded by HHSC as working at least 30 hours per week, earning
27 at least \$700 per month, and receiving EID.
- 28 (g) A Board shall ensure that the monitoring of work requirements is ongoing and
29 frequent, as determined by a Board, unless otherwise specified in this chapter, and
30 consists of the following:
 - 31 (1) ensuring receipt of support services;
 - 32 (2) tracking and reporting support services;
 - 33 (3) tracking and reporting actual hours of participation, at least monthly, unless
34 otherwise specified in this chapter;
 - 35 (4) determining and arranging for any intervention needed to assist the Choices
36 participant in complying with work requirements;
 - 37 (5) ensuring that the Choices participant is progressing toward achieving the goals
38 and objectives in the family employment plan; and
 - 39 (6) monitoring all other work requirements.

1 (h) A Board shall ensure that:

2 (1) no less than four hours of training regarding family violence is provided to
3 staff who:

4 (A) provide information to Choices eligibles;

5 (B) request penalties or grant good cause; or

6 (C) provide employment planning or employment retention services; and

7 (2) Choices eligibles who are identified as being victims of family violence are
8 referred to an individual or an agency that specializes in issues involving
9 family violence.

10 (i) A Board shall ensure that documentation is obtained and maintained regarding all
11 contact with Choices participants, including verification of participation hours, and
12 data is entered into The Workforce Information System of Texas (TWIST).

13 (j) A Board shall ensure that a referral program is developed to provide Choices
14 eligibles facing higher than average barriers to employment, as described in this
15 chapter, with referrals to pre-employment and post-employment services offered by
16 community-based and other organizations.

17 **§811.12. Applicant and Conditional Applicant Responsibilities.**

18 Applicants and conditional applicants are required to attend a scheduled or an alternative
19 WOA, in accordance with HHSC rules (1 TAC, Chapter 372, Texas Works).

20 **§811.13. Responsibilities of Choices Participants.**

21 (a) A Board shall ensure that Choices participants comply with the provisions contained
22 in this section.

23 (b) Choices participants shall:

24 (1) accept a job offer at the earliest possible opportunity;

25 (2) participate in or receive ancillary services necessary to enable Choices
26 participants to work or participate in employment-related activities, including
27 counseling, treatment, vocational or physical rehabilitation, and medical or
28 health services;

29 (3) report actual hours of participation in Choices work activities, including hours
30 of employment; and

31 (4) attend scheduled appointments.

32 (c) Within two-parent families, Choices participants shall participate in assessment and
33 family employment planning sessions and assigned employment and training
34 activities as follows:

35 (1) participate in Choices employment and training as specified in §811.25(c)-(d);

36 (2) comply with requirements regarding core and non-core activities, as specified
37 in §§811.25 - 811.34;

38 (3) comply with all requirements specified in the family employment plan; and

- 1 (4) sign a form that contains all the information identified in the Commission's
2 Family Work Requirement form, as described in §811.24.
- 3 (d) Within single-parent families, Choices participants shall participate in assessment
4 and employment planning sessions and assigned employment and training activities
5 as follows:
- 6 (1) participate in Choices employment and training activities as specified in
7 §811.25(b);
- 8 (2) comply with requirements regarding core and non-core activities, as specified
9 in §§811.25 - 811.34; and
- 10 (3) comply with all requirements specified in the family employment plan.
- 11 (e) A Board shall ensure that mandatory Choices participants coded by HHSC as
12 working at least 30 hours per week, earning at least \$700 per month, and receiving
13 the EID:
- 14 (1) report to the Board actual hours of work, as defined in §811.34; and
15 (2) are provided with information on available post-employment services.

16 **§811.14. Noncooperation.**

- 17 (a) A Board shall ensure that cooperation by Choices participants is verified each month
18 to ensure that the Choices participants:
- 19 (1) comply with work requirements as set forth in the family employment plan; or
20 (2) have good cause as described in this chapter.
- 21 (b) If Choices participants have not cooperated with work requirements and do not have
22 good cause, a Board shall ensure that:
- 23 (1) a penalty is requested for mandatory Choices participants; or
24 (2) Choices services, including support services, are terminated for exempt
25 Choices participants.
- 26 (c) A Board shall ensure that timely and reasonable attempts, as defined by the Board,
27 are made to contact a mandatory Choices participant prior to requesting a penalty to:
- 28 (1) determine the reason for noncooperation and whether good cause is applicable,
29 as described in §811.16(c);
- 30 (2) inform the mandatory Choices participant of:
- 31 (A) the violation, if good cause has not been determined;
32 (B) the right to appeal; and
33 (C) the necessary procedures to demonstrate cooperation.

1 (d) A Board shall ensure that timely and reasonable attempts, as defined by the Board,
2 are made to contact a sanctioned family and conditional applicants upon discovery of
3 noncooperation during their demonstrated cooperation period to determine if good
4 cause exists.

5 (e) A Board shall ensure that the reasonable attempts to contact a mandatory Choices
6 participant are documented.

7 (f) A Board shall ensure that:

8 (1) HHSC is notified of a mandatory Choices participant's failure to comply with
9 work requirements; and

10 (2) the notification of noncooperation is submitted as early as possible in the same
11 month in which the noncooperation occurs.

12 **§811.15. Demonstrated Cooperation.**

13 (a) Conditional applicants are required to demonstrate four consecutive weeks of
14 cooperation to become eligible for reinstatement of TANF cash assistance.

15 (b) Sanctioned families are required to demonstrate one month of cooperation as a
16 condition of eligibility for TANF cash assistance.

17 (c) A Board shall ensure that HHSC is immediately notified if:

18 (1) a sanctioned family denied TANF cash assistance because of one month of
19 noncooperation has demonstrated full cooperation with work requirements for
20 the program month immediately following the program month in which the
21 family noncooperated;

22 (2) a conditional applicant whose TANF case is closed because of two or more
23 months of noncooperation has demonstrated full cooperation with work
24 requirements for four consecutive weeks; or

25 (3) a sanctioned family or conditional applicant has been granted good cause
26 during the demonstrated cooperation period.

27 **§811.16. Good Cause for Choices Participants.**

28 (a) Good cause applies to Choices participants. A Board shall ensure that good cause is
29 determined as provided in this chapter.

30 (b) A Board shall ensure that a good cause determination:

31 (1) is based on individual and family circumstances;

32 (2) is based on face-to-face or telephone contact;

33 (3) covers a temporary period when Choices participants may be unable to attend
34 scheduled appointments or participate in ongoing work activities;

35 (4) is made at the time the change in circumstances is made known to the Board's
36 service provider; and

37 (5) is conditional upon efforts to address circumstances that limit the ability to
38 participate in Choices services as required in the family employment plan.

- 1 (c) The following reasons may constitute good cause for purposes of this chapter:
2 (1) Temporary illness or incapacitation;
3 (2) Choices participants with disabilities or caring for a disabled family member
4 who participate to the extent determined able, as supported by medical
5 documentation, but less than the required participation hours, as set forth in
6 §811.25(b) - (d) and §811.31(b);
7 (3) Court appearance;
8 (4) Caring for a disabled family member who does not attend school full time and
9 requires the Choices participant's presence in the home. Boards shall ensure
10 the need for such care is supported by medical documentation;
11 (5) Caring for a disabled family member who attends school full time and requires
12 the Choices participant's presence in the home. Boards shall ensure the need
13 for such care is supported by medical documentation;
14 (6) A demonstration that there is:
15 (A) no available transportation and the distance prohibits walking; or
16 (B) no available job within reasonable commuting distance, as defined by the
17 Board;
18 (7) An inability to obtain needed child care, as defined by the Board and based on
19 the following reasons:
20 (A) Informal child care by a relative or under other arrangements is
21 unavailable or unsuitable, and based on, where applicable, Board policy
22 regarding child care as specified in §811.47. Informal child care may also
23 be determined unsuitable by the parent;
24 (B) Eligible child care providers are unavailable, as defined in Chapter 809 of
25 this title;
26 (C) Affordable child care arrangements within maximum rates established by
27 the Board are unavailable; and
28 (D) Appropriate child care within a reasonable distance from home or the
29 work site is unavailable;
30 (8) An absence of other support services necessary for participation;
31 (9) Receipt of a job referral that results in an offer below the federal minimum
32 wage, except when a lower wage is permissible under federal minimum wage
33 law;
34 (10) An individual or family crisis or a family circumstance that may preclude
35 participation, including substance abuse, mental health, and disability-related
36 issues, provided the Choices participant engages in problem resolution through
37 appropriate referrals for counseling and support services; or
38 (11) A Choices participant is a victim of family violence.

- 1 (d) A Board shall promulgate policies and procedures for determining a family's
 2 inability to obtain child care and shall ensure that mandatory Choices participants in
 3 single-parent families caring for children under age six are informed of:
- 4 (1) the penalty exception to the family work requirement, including the criteria
 5 and applicable definitions for determining whether a mandatory Choices
 6 participant has demonstrated an inability to obtain needed child care, as
 7 defined in subsection (c)(7)(A) - (D) of this section.
- 8 (2) a Board's policy and procedures for determining a family's inability to obtain
 9 needed child care, and any other requirements or procedures, such as fair
 10 hearings, associated with this provision, as required by 45 C.F.R. §261.56.
- 11 (e) A Board shall ensure that good cause:
- 12 (1) is reevaluated at least on a monthly basis;
- 13 (2) is extended if the circumstances giving rise to the good cause exception are not
 14 resolved after available resources to remedy the situation have been
 15 considered;
- 16 (3) that is based on the existence of family violence does not exceed a total of
 17 twelve consecutive months per occurrence; and
- 18 (4) is determined separately from granting Choices participants short-term excused
 19 absences from participation, as defined in §811.34(2).
- 20

21 **SUBCHAPTER C. CHOICES SERVICES**

22 **§811.21. General Provisions.**

- 23 (a) A Board shall ensure that services are available to assist Choices eligibles with
 24 obtaining employment as quickly as possible and, if employed, with retaining
 25 employment. These services may include:
- 26 (1) job readiness and job search-related services;
- 27 (2) work-based services;
- 28 (3) post-employment services;
- 29 (4) education and training services as described in this chapter; and
- 30 (5) support services.
- 31 (b) A Board shall ensure that employment and training activities are conducted in
 32 compliance with the Fair Labor Standards Act (FLSA) as specified in §811.29.
- 33 (c) A Board shall ensure that placement in work-based services does not result in the
 34 displacement of currently employed workers or impair existing contracts for services
 35 or collective bargaining agreements.
- 36 (d) A Board may, through local policies and procedures, require the use of the Eligible
 37 Training Provider Certification System (ETPS) and Individual Training Account

1 (ITA) systems as described in Chapter 841 of this title to provide for Choices
2 services for Choices participants and paid for with TANF funds.

- 3 (e) A Board shall, through local policies and procedures, make available job
4 development services, which include:
- 5 (1) contacting local employers or industry associations to request that job openings
6 be listed with Texas Workforce Centers, and other entities in the One-Stop
7 Service Delivery Network selected by the Board;
 - 8 (2) identifying the hiring needs of employers;
 - 9 (3) assisting the employer in creating new positions for Choices participants based
10 on the job developer's and employer's analysis of the employer's business
11 needs; or
 - 12 (4) finding opportunities with an employer for a specific Choices participant or a
13 group of Choices participants.
- 14 (f) A Board shall ensure that job development services identify, at a minimum, job
15 openings for current mandatory Choices participants.
- 16 (g) A Board shall, through local policies and procedures, make available job placement
17 services. Job placement services shall include:
- 18 (1) identifying employers' workforce needs;
 - 19 (2) identifying Choices participants who have sufficient skills and abilities to be
20 successfully linked with employment; and
 - 21 (3) matching the skills of the Choices participant pool to the hiring needs of local
22 employers.

23 **§811.22. Assessment.**

- 24 (a) A Board shall ensure that initial and ongoing assessments are performed to
25 determine the employability and retention needs, including wage advancement and
26 career development needs, of Choices participants as follows:
- 27 (1) An assessment is required for Choices participants who are:
 - 28 (A) at least age 18; or
 - 29 (B) heads of household, as determined by HHSC, who are not yet age 18, have
30 not completed secondary school or received a GED credential, and are not
31 attending secondary school.
 - 32 (2) An assessment shall be provided to applicants who choose to participate in
33 Choices services.
 - 34 (3) Ongoing assessments shall be provided to former recipients who choose to
35 participate in Choices services.

- 1 (b) Assessments shall include evaluations of strengths and potential barriers to obtaining
2 and retaining employment, such as:
- 3 (1) skills and abilities, employment, and educational history in relation to
4 employers' workforce needs in the local labor market;
- 5 (2) pre- and post-employment skills development needs to determine the necessity
6 for job-specific training;
- 7 (3) unmet housing needs and whether those needs are a barrier to full participation
8 in the workforce and progression to self-sufficiency;
- 9 (4) support services needs; and
- 10 (5) individual and family circumstances that may affect participation, including
11 the existence of family violence, substance abuse, mental health, or disability-
12 related issues, as one of the factors considered in evaluating employability.
- 13 (c) A Board shall ensure that the assessment identifies Choices eligibles with higher
14 than average barriers to employment, as defined by the Board.
- 15 (d) A Board shall ensure that if the skills assessment indicates that a Choices participant
16 requires job-specific training for placement in a job paying wages that equal or
17 exceed the Board's identified self-sufficiency wage, the Board shall, to the extent
18 funds are available and to the extent allowed under this chapter, place the Choices
19 participant in vocational educational training activities or job skills training activities
20 that are designed to improve employment and wage outcomes and job retention; and
- 21 (e) For mandatory Choices participants who are at least age 18, or who are heads of
22 household but are not yet age 18 and have not completed secondary school or
23 received a GED credential and are not attending secondary school:
- 24 (1) The assessments shall also include evaluations of the mandatory Choices
25 participants':
- 26 (A) vocational and educational skills, experience, and needs; and
- 27 (B) literacy level by using a statewide standard literacy assessment instrument
28 unless the Choices participants are mandatory Choices participants coded
29 by HHSC as working at least 30 hours per week, earning at least \$700 per
30 month, and receiving the EID.
- 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 (f) Assessment Outcome. Assessments shall result in the development of a family
36 employment plan, as described in §811.23.

37 **§811.23. Family Employment Plan.**

- 38 (a) Boards must ensure that prior to the development of a family employment plan
39 Choices participants receive general information about services provided through the

1 One-Stop Service Delivery Network that will assist them in obtaining employment,
2 if the Choices participants did not receive this information during the WOA.

- 3 (b) Family employment plans are required for all Choices participants.
- 4 (c) Family employment plans shall be developed with applicants and former recipients
5 who choose to participate in Choices services.
- 6 (d) A Board shall ensure that a family employment plan is developed during the
7 assessment and:
- 8 (1) is based on assessments, as described in §811.22;
- 9 (2) contains the goal of self-sufficiency through employment to meet the needs of
10 the local labor market;
- 11 (3) contains the steps and services to achieve the goal, including:
- 12 (A) connecting the Choices participant immediately to the local labor market;
- 13 (B) addressing potential barriers that limit the Choices participant's ability to
14 work or participate in activities;
- 15 (C) arranging support services for the Choices participant or the family to
16 address circumstances that limit the Choices participant's ability to work
17 or participate, including services for substance abuse, mental health,
18 family violence, and disability-related issues;
- 19 (D) developing specific post-employment service strategies with methods and
20 time frames for reaching the goal of an identified self-sufficiency wage;
21 and
- 22 (E) requiring Choices participants to notify the Board's service provider of
23 changes in family circumstances that may preclude participation in
24 Choices services;
- 25 (4) is signed by the Choices participant--unless the Choices participant is a
26 mandatory Choices participant coded by HHSC as working at least 30 hours
27 per week, earning at least \$700 per month, and receiving the EID--and a
28 Board's service provider;
- 29 (5) assigns required hours and sets forth the participation agreement for
30 compliance with work requirements. Family employment plans for two-parent
31 families must include a description of how the required hours of participation
32 will be distributed between one or both adults in the two-parent household; and
- 33 (6) provides information about the penalty process, good cause process, right of
34 appeal, and the importance of immediately contacting a case manager should
35 individual or family circumstances arise that prevent participation.
- 36 (e) A Board shall ensure that progress towards meeting the goals of the family
37 employment plan is evaluated and the family employment plan is modified as
38 appropriate to meet employer needs in the local labor market.

39 **§811.24. Family Work Requirement Form for Two-Parent Families.**

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

- 3 (1) contains an agreement by both adults in the family to comply with the family
4 work requirements through distribution of required hours of participation
5 between one or both adults in the two-parent family; and
- 6 (2) is signed by the adults in the household that are required to participate in
7 Choices services, unless the Choices participants:
 - 8 (A) are mandatory Choices participants who are temporarily unable to sign the
9 form, such as a Choices participant who is temporarily unavailable; or
 - 10 (B) are mandatory Choices participants coded by HHSC as working at least 30
11 hours per week, earning at least \$700 per month, and receiving the EID
12 whose only participation requirement is to report their hours of
13 employment.

14 **§811.25. TANF Core and TANF Non-Core Activities.**

- 15 (a) Participation hours are subject to the restrictions regarding TANF core and TANF
16 non-core activities as set forth in 42 U.S.C. §607, 45 C.F.R. §§261.10, 261.12,
17 261.31, 261.32, and 261.33, as set forth in this section, and as set forth in §§811.26,
18 811.27, and 811.28.
 - 19 (1) TANF core activities are:
 - 20 (A) unsubsidized employment, as described in §811.42;
 - 21 (B) subsidized employment, as described in §811.43;
 - 22 (C) work experience, as described in §811.45;
 - 23 (D) on-the-job training, as described in §811.44;
 - 24 (E) job search and job readiness assistance, as described in §811.41;
 - 25 (F) community service, as described in §811.46;
 - 26 (G) vocational educational training, as described in §811.48; or
 - 27 (H) child care services to a Choices participant in community service, as
28 described in §811.47.
 - 29 (2) TANF non-core activities are:
 - 30 (A) job skills training, as described in §811.49; or
 - 31 (B) educational services for Choices participants who have not completed
32 secondary school or received a GED credential, as described in §811.50.
- 33 (b) Choices participants in a single-parent family are required to participate for at least a
34 minimum weekly average of 30 hours. An average of 20 hours per week must be
35 derived from participation in core activities. Up to an average of 10 hours per week
36 may be derived from participation in non-core activities.
- 37 (c) Choices participants in two-parent families who are not receiving Commission-
38 funded child care are required to have one or both adults in the family participate for

1 at least a minimum weekly average of 35 hours. An average of 30 hours per week
2 must be derived from participation in core activities. Up to an average of five hours
3 per week may be derived from participation in non-core activities.

- 4 (d) Choices participants in two-parent families who are receiving Commission-funded
5 child care are required to have one or both adults in the family participate for at least
6 a minimum weekly average of 55 hours. An average of 50 hours per week must be
7 derived from participation in core activities. Up to an average of five hours per week
8 may be derived from participation in non-core activities.

9 **§811.26. Special Provisions Regarding Community Service.**

- 10 (a) Choices participants, with the exception of those described in §811.30 and §811.33,
11 who are not in an employment activity, must be placed into community service after
12 four weeks of participation in Choices services. Choices participants who are not in
13 an employment activity after reaching their six-week limit per federal fiscal year in
14 job search and job readiness activities must be placed into community service. An
15 employment activity is defined as:

- 16 (1) unsubsidized employment, as described in §811.42;
17 (2) subsidized employment, as described in §811.43;
18 (3) on-the-job training, as described in §811.44; or
19 (4) work experience, as described in §811.45.

- 20 (b) Choices participants required to participate in a community service activity must be
21 scheduled to participate no less than the minimum weekly average hours calculated
22 as specified in §811.21(b).

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

25 **§811.27. Special Provisions Regarding Job Search and Job Readiness.**

- 26 (a) Choices participants in unsubsidized employment as defined in §811.42, who lose
27 that employment, may participate in job search activities as defined in §811.41(c)
28 and job readiness activities as defined in §811.41(d) unless they have reached the
29 six-week limit per federal fiscal year.

- 30 (b) Job search and job readiness activities as defined in §811.41 are limited as follows:

- 31 (1) Choices participants may not be enrolled for more than four weeks of
32 consecutive activity;
33 (2) Choices participants may not be enrolled for more than six weeks of total
34 activity in a federal fiscal year;
35 (3) in order for Choices participants to qualify for their remaining two weeks of
36 job search and job readiness, they must first comply with §811.26(a), which
37 requires that Choices participants be engaged in an employment activity or in
38 community service; and

- 1 (c) only once per federal fiscal year may a partial week count as a full week of
2 participation, per Choices participant.

3 **§811.28. Special Provisions Regarding Vocational Educational Training and**
4 **Educational Services.**

- 5 (a) Choices participants may not be enrolled in vocational educational training, as
6 defined in §811.48, for more than a cumulative total of 12 months.
- 7 (b) No more than 30% of Choices participants engaged in work activities in a month
8 may be included in the Board's numerator because they are:
- 9 (1) participating in vocational educational training; and
- 10 (2) teen heads of household participating in educational activities as described in
11 §811.30.
- 12 (c) Choices participants shall be enrolled only in core and non-core activities.

13 **§811.29. Special Provisions Regarding the Fair Labor Standards Act.**

- 14 (a) A Board shall ensure that employment and training activities are conducted in
15 compliance with FLSA as follows.
- 16 (1) The amount of time per week that a Choices participant may be required to
17 participate in activities that are not exempt from minimum wage and overtime
18 under FLSA shall be determined by the TANF cash assistance and Food Stamp
19 benefits amount being divided by the minimum wage, so that the amount paid
20 to the Choices participant is equal to or more than the amount required for
21 payment of wages, including minimum wage and overtime; or
- 22 (2) The amount of time per week that a sanctioned family or conditional applicant
23 may be required to participate in activities that are not exempt from minimum
24 wage and overtime under FLSA shall be determined by the Food Stamp
25 benefits amount being divided by the minimum wage, so that the amount paid
26 to the sanctioned family is equal to or more than the amount required for
27 payment of wages, including minimum wage and overtime; and
- 28 (3) If a Board provides activities that meet all of the following categories, the
29 activity is considered training under FLSA and minimum wage and overtime
30 are not required:
- 31 (A) The training is similar to that given in a vocational school;
- 32 (B) The training is for the benefit of the trainees;
- 33 (C) The trainees do not displace regular employees;
- 34 (D) The employers derive no immediate advantage from trainees' activities;
- 35 (E) The trainees are not entitled to a job after training is completed; and
- 36 (F) The employers and trainees understand that trainees are not paid.
- 37 (b) The number of hours that a Choices participant is required to participate in
38 community service or another unpaid work activity shall be determined in
39 compliance with FLSA as described in subsection (a) of this section. If a

1 Choices participant's hours of community service or other unpaid work activity are
2 not sufficient to meet the core work activity requirement as set forth in §811.25(b) -
3 (d):

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

7 **§811.30. Special Provisions for Teen Heads of Household.**

8 (a) A Board shall ensure that teen heads of household who have not completed
9 secondary school or received a GED credential are enrolled in educational activities
10 as defined in §811.50.

11 (b) Teen heads of household who have not completed secondary school or received a
12 GED credential count as engaged in work if they:

- 13 (1) maintain satisfactory attendance at a secondary school or the equivalent during
14 months in which school is in session;
- 15 (2) participate in allowable activities, as described in §811.25, during months in
16 which school is not in session;
- 17 (3) participate in education directly related to employment for at least an average
18 of 20 hours per week during the month; or
- 19 (4) participate in Choices employment and training activities as specified in
20 §811.25.

21 **§811.31. Special Provisions for Choices Participants in Single-Parent Families with**
22 **Children under Age Six.**

23 (a) A Board shall ensure that Choices participants in single-parent families with children
24 under age six are notified of the penalty exception to Choices participation as
25 described in §811.16(d).

26 (b) A Choices participant in a single-parent family with children under age six shall
27 count as engaged in work if he or she participates in core activities for at least an
28 average of 20 hours per week.

29 **§811.32. Special Provisions Regarding Exempt Choices Participants and Choices**
30 **Participants with Reduced Work Requirements.**

31 (a) A Board shall not provide Choices services or support services as set forth in
32 §§811.25 - 811.33 to exempt Choices participants who fail to meet work
33 requirements.

34 (b) A Board shall ensure that a penalty is not requested for:

- 35 (1) exempt Choices participants;
- 36 (2) Choices participants with disabilities who participate to the extent determined
37 able, as supported by medical documentation, but less than the required
38 participation hours, as specified in §811.25(b) - (d) and §811.31(b); or

- 1 (3) Choices participants who are caring for a disabled family member, as
2 supported by medical documentation, when the Choices participant participates
3 to the extent determined able, but less than the required participation hours, as
4 specified in §811.25(b) - (d) and §811.31(b).

5 **§811.33. Other Special Provisions.**

- 6 (a) Conditional Applicants. A Board shall ensure that conditional applicants enrolled in
7 job search activities, as described in this chapter, receive staff-assisted services as
8 defined in §811.41(b)(1)(B).
9 (b) Sanctioned Families. A Board shall ensure that sanctioned families enrolled in job
10 search activities, as described in this chapter, receive staff-assisted services as
11 defined in §811.41(b)(1)(B).

12 **§811.34. Participation Provisions.**

13 A Board shall count only actual hours of participation in TANF core and non-core
14 activities as allowable work participation hours with the following exceptions, unless
15 otherwise specified in this chapter:

- 16 (1) For paid work activities set forth in §§811.42 - 811.44, Boards may count paid
17 holidays or other paid leave as actual participation hours.
18 (2) For unpaid work activities set forth in §811.41 and §§811.45 - 811.50, Boards
19 may count short-term excused absences as actual participation if they meet the
20 following conditions:
21 (A) A short-term excused absence:
22 (i) is because of a holiday; or
23 (ii) totals a maximum of 10 additional days within a 12-month period
24 and does not exceed two excused absences per month.
25 (B) The Choices participant must have been scheduled to participate in an
26 unpaid work activity during the time period in which the holiday or
27 excused absence falls. Boards shall ensure credited participation hours do
28 not exceed the number of hours the Choices participant was scheduled to
29 participate.
30 (3) A Board may project participation hours in unsubsidized employment (except
31 self-employment), subsidized employment, and on-the-job training, up to six
32 months at a time, using an average of four weeks of current, documented actual
33 hours. For self-employment, a Board:
34 (A) may project participation hours in self-employment, up to six months at a
35 time, using an average of three months of current, documented actual
36 hours.
37 (B) may not count more hours toward the work participation rate for self-
38 employed Choices participants than the number derived by dividing the
39 Choices participant's net self-employment income (gross self-employment
40 wages minus business expenses) by the federal minimum wage.

1 **SUBCHAPTER D. CHOICES WORK ACTIVITIES**

2 **§811.41. Job Search and Job Readiness Assistance.**

3 (a) Job search and job readiness are core activities as defined in §811.25(a)(1).

4 (b) A Board shall ensure that job search and job readiness activities:

5 (1) incorporate the following:

6 (A) individual and group activities;

7 (B) staff-assisted services in which Texas Workforce Center staff provide
8 direction and guidance to Choices participants, including appropriate
9 referrals based on their skills and abilities to pre-scheduled job interviews;
10 and preparatory activities that are essential to obtaining and retaining
11 employment; and

12 (C) customer-directed activities that do not require direct staff involvement,
13 and include activities in which Choices participants independently identify
14 employment opportunities based upon their employment strengths, and
15 perform preparatory activities that are essential to obtaining and retaining
16 employment.

17 (2) are limited to activities necessary for Choices participants to secure immediate
18 employment.

19 (3) provide individual assistance or coordinated, planned, and supervised activities
20 that prepare Choices participants for seeking employment.

21 (4) are supervised daily.

22 (5) are documented daily in TWIST.

23 (6) are allowable treatment or therapy activities that include substance abuse
24 treatment, mental health treatment, or rehabilitation activities determined to be
25 necessary to assist Choices participants with seeking, obtaining, or retaining
26 employment. Boards shall ensure treatment and therapy activities are certified
27 by a qualified medical or mental health professional.

28 (c) Job search activities are defined as acts of seeking and obtaining employment,
29 including:

30 (1) job referrals;

31 (2) information on available jobs;

32 (3) occupational exploration, including information on local emerging and demand
33 occupations;

34 (4) job fairs;

35 (5) applying or interviewing for job vacancies; and

36 (6) making contacts with potential employers.

- 1 (d) Job readiness activities are designed to assist Choices participants with addressing
2 issues that will aid them in seeking, obtaining, and retaining employment, including:
3 (1) life skills;
4 (2) guidance and motivation for development of positive work behaviors necessary
5 for the labor market;
6 (3) job skills assessment;
7 (4) substance abuse treatment;
8 (5) mental health treatment;
9 (6) rehabilitation activities;
10 (7) job counseling;
11 (8) interviewing skills and practice interviews; and
12 (9) assistance with applications and resumes.
13 (e) Job search and job readiness activities are time-limited as defined in §811.27.

14 **§811.42. Unsubsidized Employment.**

- 15 (a) Unsubsidized employment is a core activity as defined in §811.25(a)(1).
16 (b) Unsubsidized employment includes the following:
17 (1) full-time or part-time employment, in which wages are paid in full by the
18 employer;
19 (2) unsubsidized internship with wages paid by the internship employer; and
20 (3) self-employment.

21 **§811.43. Subsidized Employment.**

- 22 (a) Subsidized employment is a core activity as defined in §811.25(a)(1).
23 (b) Subsidized employment is full-time or part-time employment that is subsidized in
24 full or in part and complies with this section. Subsidized employment may occur in
25 either the private sector or public sector. A Board shall not be the employer of
26 record for Choices participants enrolled in a subsidized employment activity.
27 Subsidized employment includes but is not limited to the following:
28 (1) subsidized internship with a portion of the Choices participant's wages
29 subsidized;
30 (2) subsidized employment with a staffing agency acting as the employer of
31 record; and
32 (3) subsidized employment with the actual employer acting as the employer of
33 record.
34 (c) Wages.
35 (1) Wages shall be at least federal or State minimum wage, whichever is higher.
36 Boards must set a policy to establish the amount of the wage that is subsidized.

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

3 (d) Boards shall ensure subsidized employment placements prepare and move Choices
4 participants into unsubsidized employment.

5 (e) Boards shall ensure subsidized employment placements are allotted to employers
6 who expect to retain Choices participants as regular unsubsidized employees once
7 the subsidized placement has ended.

8 **§811.44. On-the-Job Training.**

9 (a) On-the-job training is a core activity as defined in §811.25(a)(1).

10 (b) A Board shall ensure that a determination is made on a case-by-case basis whether to
11 authorize, arrange, or refer a Choices participant for subsidized, time-limited training
12 activities, to assist the Choices participant with obtaining knowledge and skills that
13 are essential to the workplace while in a job setting. On-the-job training is training
14 by an employer that is provided to a Choices participant while engaged in productive
15 work in a job that:

16 (1) provides knowledge or skills essential to the full and adequate performance of
17 the job;

18 (2) provides reimbursement to the employer of a percent of the wage rate of the
19 Choices participant for the extraordinary costs of providing the training and
20 additional supervision related to the training;

21 (3) is limited in duration as appropriate to the occupation for which the Choices
22 participant is being trained, taking into account the content of the training, the
23 prior work experience of the Choices participant, and the service strategy of
24 the Choices participant, as appropriate; and

25 (4) includes training specified by the employer.

26 (c) Unsubsidized employment after satisfactory completion of the training is expected.
27 A Board shall not contract with employers who have previously exhibited a pattern
28 of failing to provide Choices participants in on-the-job training with continued long-
29 term employment, which provides wages, benefits, and working conditions that are
30 equal to those that are provided to regular employees who have worked a similar
31 length of time and are doing a similar type of work.

32 (d) A Board shall ensure Choices participants enrolled in on-the-job training are
33 supervised daily.

34 (e) A Board shall ensure on-the-job training is documented in TWIST at least every two
35 weeks.

36 **§811.45. Work Experience.**

37 (a) Work experience is a core activity as defined in §811.25(a)(1).

38 (b) A Board shall ensure that a determination is made on a case-by-case basis whether to
39 authorize, arrange, or refer Choices participants for unsalaried, work-based training

1 positions to improve the employability of Choices participants who have been unable
2 to find unsubsidized employment.

3 (c) A Board shall ensure that all Choices participants who are unemployed after
4 completing job search services are evaluated on an individual basis to determine if
5 enrollment in work experience shall be required, based on available resources and
6 the local labor market.

7 (d) A Board shall ensure that each work experience placement:

8 (1) is time-limited;

9 (2) is designed to move Choices participants quickly into regular employment; and

10 (3) has designated hours, tasks, skills attainment objectives, and daily supervision.

11 (e) A Board shall ensure that entities that enter into nonfinancial agreements with a
12 Board, identify work experience positions and provide job training and work
13 experience within their organization. These positions shall enable Choices
14 participants to gain the skills necessary to compete for positions within the entity as
15 well as positions in the labor market.

16 (f) A Board shall ensure work experience activities are documented in TWIST at least
17 every two weeks.

18 **§811.46. Community Service.**

19 (a) Community service is a core activity as defined in §811.25(a)(1).

20 (b) A Board shall ensure that a determination is made, on a case-by-case basis, whether
21 to authorize, arrange, or refer Choices participants to a community service program
22 that provides employment or training activities to Choices participants through
23 unsalaried, work-based positions in the public or private nonprofit sectors. A Board
24 shall not allow Choices participants to arrange their own community service
25 placements. A Board shall ensure community service programs contain structured,
26 supervised activities that are a direct benefit to the community and are designed to
27 improve the employability of Choices participants who have been unable to find
28 employment.

29 (c) A Board shall ensure that all mandatory Choices participants subject to §811.26(a)
30 are referred to a community service program.

31 (d) Community service positions may include, but are not limited to, work performed in:

32 (1) a school or Head Start program;

33 (2) a church;

34 (3) a government or nonprofit agency; or

35 (4) Americorps, VISTA, or other volunteer organizations.

- 1 (e) A Board shall ensure community service placements are limited to positions that
2 serve a useful community purpose in fields such as health, social service,
3 environmental protection, education, urban and rural redevelopment, welfare,
4 recreation, public facilities, public safety, and child care.
- 5 (f) A Board shall ensure Choices participants in community service programs are
6 supervised daily.
- 7 (g) A Board shall ensure community service activities are documented in TWIST at least
8 every two weeks.

9 **§811.47. Child Care Services to Choices Participants in Community Service.**

- 10 (a) Child care services to Choices participants in community service are a core activity
11 as defined in §811.25.
- 12 (b) A Choices participant may provide child care services for another recipient who is
13 engaged in a community service activity, as described in §811.46. Boards that elect
14 to allow this activity must set local policies that include:
 - 15 (1) ensuring the health, safety, and well-being of the children in care; and
 - 16 (2) limiting the maximum number of children that may be cared for.
- 17 (c) A Board shall ensure an assignment to provide child care services is effective in
18 moving the provider toward self-sufficiency.
- 19 (d) A Board shall ensure Choices participants providing child care services are
20 supervised daily.
- 21 (e) A Board shall ensure child care services provided by Choices participants are
22 documented at least every two weeks.
- 23 (f) A Board shall count only actual hours of participation in child care activities as
24 allowable work participation hours. Actual hours cannot exceed the number of hours
25 in which Choices participants for whom they are providing child care participate in
26 community service activities plus two additional hours per day for the time the
27 children are in the participant's care while the parent is traveling to and from the
28 child care location. Any exceptions to the two-hour travel time must be documented
29 in TWIST.

30 **§811.48. Vocational Educational Training.**

- 31 (a) Vocational educational training is a core activity as defined in §811.25(a)(1).
- 32 (b) A Board shall ensure that a determination is made, on a case-by-case basis, whether
33 to authorize, arrange, or refer Choices participants for vocational educational
34 training.
- 35 (c) The vocational educational training shall:
 - 36 (1) prepare Choices participants for a specific trade, occupation, or vocation that
37 requires training other than a baccalaureate or advanced degree;
 - 38 (2) include activities that provide Choices participants with the knowledge and
39 skills to perform a specific trade, occupation, or vocation;

- 1 (3) relate to current or emerging occupations;
- 2 (4) be consistent with employment goals identified in the family employment plan,
3 when possible;
- 4 (5) be provided only if there is an expectation that employment will be secured
5 upon completion of the training;
- 6 (6) be subject to the time limitations as detailed in this subchapter; and
- 7 (7) be provided by education or training organizations, including but not limited
8 to, vocational or technical schools, community colleges, postsecondary
9 institutions, career schools and colleges, nonprofit organizations, and
10 secondary schools offering vocational education.
- 11 (d) Boards may count supervised study or homework time toward a Choices participant's
12 family participation requirement if:
- 13 (1) study or homework time is directly correlated to the demands of the course
14 work for out-of-class preparation as described by the educational institution;
- 15 (2) the educational institution's policy requires a certain number of out-of-class
16 preparation hours for the class; and
- 17 (3) study or homework time is directly monitored, supervised, and documented.
- 18 (e) A Board shall verify whether the Choices participant is making good or satisfactory
19 progress as determined by the educational institution.
- 20 (f) A Board shall ensure Choices participants enrolled in vocational educational training
21 are supervised daily.
- 22 (g) A Board shall ensure vocational educational training is documented in TWIST at
23 least every two weeks.

24 **§811.49. Job Skills Training.**

- 25 (a) Job skills training is a non-core activity as defined in §811.25(a)(2).
- 26 (b) Job skills training services are designed to increase a Choices participant's
27 employability. Job skills training may also include activities ensuring that Choices
28 participants become familiar with workplace expectations and exhibit work behavior
29 and attitudes necessary to compete successfully in the labor market. Various types of
30 activities, which are directly related to employment, may qualify, such as personal
31 development and preemployment classes.
- 32 (c) A Board shall ensure that a determination is made on a case-by-case basis whether to
33 authorize, arrange, or refer Choices participants for job skills training as set forth in
34 the family employment plan.
- 35 (d) Job skills training shall be:
- 36 (1) directly related to employment; and
- 37 (2) consistent with employment goals identified in the family employment plan,
38 when possible.

- 1 (e) Job skills training includes:
- 2 (1) language instruction or literacy instruction;
- 3 (2) entrepreneurial training provided prior to business start up; and
- 4 (3) self-employment assistance:
- 5 (A) for Choices participants currently engaged in operating a small business;
- 6 (B) for Choices participants based upon an objective assessment process that
- 7 identifies Choices participants who are likely to succeed; and
- 8 (C) that may include microenterprise services such as:
- 9 (i) business counseling;
- 10 (ii) financial assistance; and
- 11 (iii) technical assistance.
- 12 (f) Boards may count supervised study or homework time toward a Choices participant's
- 13 family participation requirement if:
- 14 (1) study or homework time is directly correlated to the demands of the course
- 15 work for out-of-class preparation as described by the educational institution;
- 16 (2) the educational institution's policy requires a certain number of out-of-class
- 17 preparation hours; and
- 18 (3) study or homework time is directly monitored, supervised, and documented.
- 19 (g) A Board shall verify whether the Choices participant is making good or satisfactory
- 20 progress as determined by the job skills training provider.
- 21 (h) A Board shall ensure Choices participants enrolled in job skills training are
- 22 supervised daily.
- 23 (i) A Board shall ensure job skills training is documented in TWIST at least every two
- 24 weeks.

25 **§811.50. Educational Services for Choices Participants Who Have Not Completed**

26 **Secondary School or Received a General Educational Development Credential.**

- 27 (a) Educational services are only available for Choices participants who have not
- 28 completed secondary school or who have not received a GED credential as follows:
- 29 (1) Educational services for Choices participants age 20 or older are non-core
- 30 activities as defined in §811.25(a)(2).
- 31 (2) Educational services for Choices participants who are teen heads of household
- 32 age 19 and younger are core activities as defined in §811.30.
- 33 (b) A Board shall ensure that a determination is made, on a case-by-case basis, whether
- 34 to authorize, arrange, or refer Choices participants who are age 20 and older for the
- 35 following educational or other training services:
- 36 (1) secondary school leading to a high school diploma or a GED credential, when
- 37 required as a prerequisite for employment;

- 1 (2) Adult Basic Education (ABE), language instruction, or literacy instruction; or
2 (3) other educational activities which are directly related to employment.
- 3 (c) A Board shall ensure educational services related to employment directly provide
4 education, knowledge, and skills for specific occupations, work settings, jobs, or job
5 offers.
- 6 (d) Boards may count supervised study or homework time toward a Choices participant's
7 family participation requirement if:
- 8 (1) study or homework time is directly correlated to the demands of the course
9 work for out-of-class preparation as described by the educational institution;
- 10 (2) the educational institution's policy requires a certain number of out-of-class
11 preparation hours; and
- 12 (3) study or homework time is directly monitored, supervised, and documented.
- 13 (e) A Board shall verify whether the Choices participant is making good or satisfactory
14 progress as determined by the educational institution.
- 15 (f) A Board shall ensure Choices participants enrolled in educational services are
16 supervised daily.
- 17 (g) A Board shall ensure educational services are documented in TWIST at least every
18 two weeks.

19 **§811.51. Post-Employment Services.**

- 20 (a) A Board shall ensure that post-employment services, which include job retention,
21 career advancement, and reemployment services, are offered to Choices participants
22 who are employed, and to applicants, conditional applicants and former recipients
23 who have obtained employment but require additional assistance in retaining
24 employment and achieving self-sufficiency.
- 25 (b) A Board shall ensure that post-employment services are monitored, and ensure that
26 hours of employment are required and reported by Choices participants for at least
27 the length of time the Choices participants receive TANF cash assistance.
- 28 (c) A Board shall ensure that ongoing contact is established with Choices eligibles
29 receiving post-employment services at least monthly.
- 30 (d) A Board may include mentoring techniques as part of a post-employment strategy.
- 31 (e) A Board may, through local policies and procedures, make post-employment
32 services available to:
- 33 (1) former recipients who are denied TANF cash assistance because of earnings;
34 and
- 35 (2) sanctioned families and conditional applicants who obtain employment during
36 their demonstrated cooperation period.

- 1 (f) The post-employment services may include the following:
- 2 (1) assistance and support for the transition into employment through direct
- 3 services or referrals to resources available in the workforce area;
- 4 (2) child care, if needed, as specified in rules at Chapter 809 of this title;
- 5 (3) work-related expenses, including those identified in §811.64;
- 6 (4) transportation, if needed;
- 7 (5) job search, job placement, and job development services to help a former
- 8 recipient who loses a job to obtain employment;
- 9 (6) referrals to available education or training resources to increase an employed
- 10 Choices eligible's skills or to help the individual qualify for advancement and
- 11 long-term employment goals;
- 12 (7) additional career planning and counseling; or
- 13 (8) referral to support services available in the community.
- 14 (g) The maximum length of time a former recipient, conditional applicant, and
- 15 sanctioned family may receive services under this section is dependent upon:
- 16 (1) family circumstances;
- 17 (2) the risk of returning to public assistance. A person is considered at risk of
- 18 returning to TANF cash assistance if he or she is a food stamp recipient, or
- 19 receives Commission-funded child care;
- 20 (3) the ongoing need for these services; and
- 21 (4) the availability of funds for these services.
- 22 (h) Post-employment service providers may include employers, community colleges,
- 23 technical colleges, career schools and colleges, faith-based and community-based
- 24 organizations.
- 25

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

27 **§811.61. Support Services.**

- 28 (a) A Board shall ensure that support services as specified in this subchapter are
- 29 provided, if needed, to Choices participants to address barriers to employment or
- 30 participation in Choices services, subject to availability of resources and funding. A
- 31 Board shall ensure that support services provided to Choices participants are
- 32 coordinated with the employer, when appropriate.
- 33 (b) A Board shall ensure that support services, including Commission-funded child care,
- 34 are provided only to Choices participants who are meeting work requirements set
- 35 forth in §§811.16, 811.23, and 811.25 - 811.34 , and as set forth in §809.45 of this
- 36 title. In applying this provision, a Board shall ensure support services are provided
- 37 to Choices participants if it is determined support services are needed to comply with

1 work requirements set forth in §§811.16, 811.23, and 811.25 - 811.34, and as set
2 forth in §809.45 of this title.

3 (c) A Board shall ensure that:

- 4 (1) support services are terminated immediately upon a determination of failure to
5 meet work requirements by Choices participants unless otherwise determined
6 by the Board's service provider as referenced in subsection (b) of this section;
7 (2) the Board's child care contractor is notified immediately of the failure to meet
8 work requirements; and
9 (3) upon notification, the Board's child care contractor immediately notifies the
10 child care provider that services are terminating due to failure to meet work
11 requirements.

12 (d) A Board shall ensure that support services, classified as cash assistance, for:

- 13 (1) applicants and former recipients do not extend beyond four months for those
14 who are unemployed and not receiving TANF cash assistance; and
15 (2) unemployed conditional applicants and sanctioned families do not extend
16 beyond their demonstrated cooperation period.

17 **§811.62. Child Care for Choices Eligibles.**

- 18 (a) A Board shall ensure that child care is provided if needed, as specified in Chapter
19 809 of this title.
20 (b) Transitional child care is provided as needed, as specified in §809.48 of this title.
21 (c) Choices child care is provided as needed, as specified in §809.45 of this title.
22 (d) TANF Applicant child care is provided as needed, as specified in §809.46 of this
23 title.

24 **§811.65. Wheels to Work.**

- 25 (a) The Commission may develop a Wheels to Work initiative in which local nonprofit
26 organizations provide automobiles for Choices eligibles who have obtained
27 employment but are unable to accept or retain the employment solely because of a
28 lack of transportation.
29 (b) A Board may, through local policies and procedures, establish services to assist
30 Choices eligibles who verify the need for an automobile to accept or retain
31 employment by referring them to available providers.
32 (c) Persons or organizations donating automobiles under a Wheels to Work initiative
33 shall receive a charitable donation receipt for federal income tax purposes.

34 **§811.66. General Educational Development Credential Testing Payments.**

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

38 **§811.67. Individual Development Accounts.**

- 1
- 2 (a) A Board may set local policy and procedures to provide for implementation and
3 oversight of Individual Development Accounts (IDAs) under this section using
4 TANF funds in accordance with 45 C.F.R. §§263.20-263.23. An IDA means an
5 account established by, or for, an eligible individual to allow the individual to
6 accumulate funds for specific purposes.
- 7 (b) A Board shall ensure that any IDAs created and matched with TANF funds are
8 established and administered through a contract with a private nonprofit entity or
9 through a state or local government entity acting in cooperation with a private
10 nonprofit entity. The private nonprofit entity, or cooperating state or local entity,
11 must coordinate with a financial institution in administering the accounts.
- 12 (c) Choices participants may be eligible for IDAs if all of the requirements of this
13 section are met.
- 14 (d) IDAs may be established for an eligible individual, and may be contributed to with
15 the individual's earned income and up to fifty percent of the individual's federal
16 Earned Income Tax Credit refund. Federal Earned Income Tax Credit refunds shall
17 not be matched with TANF funds.
- 18 (e) Federal TANF funds, as well as public or private funds, may be used to provide
19 matching funds for qualified expenses and to administer IDAs, and shall be
20 expended in a manner consistent with applicable federal and state statutes and
21 regulations, with the exception of federal Earned Income Tax Credit refunds.
- 22 (f) Use of funds in an individual's IDA, shall be in accordance with the Social Security
23 Act §404(h) (42 U.S.C. §604(h)) and 45 C.F.R. §§263.20-263.23 and limited to
24 expenses related to:
- 25 (1) postsecondary educational expenses;
- 26 (2) first home purchase; or
- 27 (3) business capitalization.
- 28 (g) A Board shall ensure that only qualified withdrawals are made by eligible
29 individuals, and must develop policies and procedures to address unauthorized
30 withdrawals, to include notification:
- 31 (1) to the individual that unauthorized withdrawals may impact the individual's
32 eligibility for public assistance programs;
- 33 (2) to the individual of forfeiture of the entitlement to the matching funds for an
34 unauthorized withdrawal; and
- 35 (3) to HHSC within seven working days of the unauthorized withdrawal.
- 36