

CHAPTER 811 CHOICES RULES MATRIX

New, Amended, and Repealed Rules Explanation and Guidance

(For a final version of the adopted rules showing all amendments, see http://www.twc.state.tx.us/twcinfo/rules/20112012/adopch811_010813.pdf)

§811.1. PURPOSE AND GOAL

§811.1(c)

Adds Temporary Assistance for Needy Families (TANF) Work Verification Plan to clarify that the plan is an additional source of guidance for the Choices program.

§811.1(d)

Adds TANF Work Verification Plan to clarify that the plan is an additional source of guidance for the Choices program.

§811.2. DEFINITIONS

§811.2(4)

Defines “community service,” based on information formerly contained in repealed §811.46.

§811.2(5)

Amends the definition of “conditional applicant” to clarify that an adult or teen head of household who left TANF in a sanctioned status, but who is reapplying for TANF assistance, “must demonstrate cooperation with Choices program requirements for four consecutive weeks.”

§811.2(7)

Adds a new definition of “Employment Planning Session.”

§811.2(11)

Defines “job readiness” based on information formerly contained in repealed §811.41(d).

§811.2(12)

Defines “job search” based on information formerly contained in repealed §811.41(c).

§811.2(13)

Defines “job skills” based on information formerly located in repealed §811.49.

§811.2(20)

Adds a new definition of “The Workforce Information System of Texas (TWIST).”

§811.2(21)

Defines “vocational educational training,” based on information formerly located in repealed §811.48.

§811.2(24)

Defines “work experience,” based on information formerly located in §811.45.

§811.2(26)

Amends the definition of “work requirement” by specifying that a Choices participant is deemed to be engaged in work by participating in:

- (A) unsubsidized employment;
- (B) subsidized employment;
- (C) OJT; or
- (D) educational services for Choices participants who have not completed secondary school or received a GED credential as provided in §811.30.

This change is made strictly for the purposes of determining the federal work participation rate and is not for determining if a Choices participant is meeting participation requirements.

§811.4. POLICIES, MEMORANDA OF UNDERSTANDING, AND PROCEDURES

§811.4(a)(2)

Requires Boards to adopt policies regarding limits on the amount of funds per Choices participant and the maximum duration of subsidized employment and OJT placements. This change is made to align with Workforce Investment Act policy, which imposes a limit on the duration and amount of funds provided.

As required by TWC rule at 40 TAC §802.1(f) and as detailed in WD Letter 10-07, Board members must take such actions in an open meeting.

§811.5. DOCUMENTATION, VERIFICATION, AND SUPERVISION OF WORK ACTIVITIES

§811.5(c)

- Removes the term “paid” from work activities to align with the changes in Choices work activities;
- Removes the requirement that “If participation is projected as described in §811.34(3), current and verified participation must be documented in TWIST at least every six months.” The Administration for Children and Families (ACF) issued guidance requiring a recalculation of average weekly projected hours of employment each time new information is received showing a change in a Choices participant’s actual hours. The Commission believes that ACF’s guidance negates the benefits of projecting hours, thus projection of hours was not implemented; and
- Adds a reference to §811.50, a Choices work activity.

New §811.5(d)

Provides that for educational services for teen heads of households who have not completed secondary school or received a GED credential, Boards must ensure that:

- (1) good or satisfactory progress, as determined by the educational institution, is verified and documented in TWIST at least monthly;
- (2) all participation is supervised daily; and
- (3) all participation is verified and documented in TWIST at least monthly.

This change was made to align with the documentation and verification requirements specified in the TANF Work Verification Plan.

§811.5(e) is removed. The limitations relating to unpaid activities no longer apply.

§811.11. BOARD RESPONSIBILITIES**§811.11(f)**

Replaces the reference to “work” requirements with “Choices program requirements” to indicate that monitoring of Choices participants is ongoing at a frequency determined by the Board.

§811.11(f)(2)

Requires that tracking and reporting of all support services be entered into TWIST at least monthly. This clarification is added to emphasize the expectation that the provision of support services to participants be documented in TWIST.

§811.11(f)(3)

Specifies that tracking and reporting actual hours at least monthly is of participation “in Choices work activities.”

§811.11(f)(4)

Replaces the reference to “work” requirements with “Choices program” requirements to indicate that determining and arranging for any intervention needed is specifically to assist the Choices participant in complying with Choices program requirements.

§811.11(f)(6) is removed. With the focus on four work activities, Workforce Solutions Office staff time is better spent assisting Choices participants in obtaining employment quickly rather than monitoring all other Choices activities. Additionally, the requirement is duplicative of monitoring Choices participants’ progression toward achieving the goals and objectives of their family employment plans (FEPs).

§811.13. RESPONSIBILITIES OF CHOICES PARTICIPANTS**§811.13(c)(1)**

Updates the references to align with new §811.25(a)–(c).

§811.13(c)(2) is removed. With the new specification that work activities include only unsubsidized employment, subsidized employment, OJT, and educational services for Choices participants who have not completed secondary school or received a GED as specified in §811.50, the reference to core and non-core hours no longer applies.

§811.13(d)(1)

Updates the references to align with new §811.25(a).

§811.13(d)(2) is removed. With the Commission’s emphasis on four employment activities, the references to core and non-core activities no longer apply.

§811.14. NONCOOPERATION**§811.14(a)(1)**

Replaces the reference to “work” requirements with the term “Choices program requirements” to clarify that the FEP, as provided in §811.23, includes all Choices activities and is not limited to the four employment activities.

§811.14(b)

Replaces the reference to “work” requirements with the term “Choices program requirements” to clarify that failure to comply without good cause with all activities provided in the FEP is subject to a penalty or termination of support services.

§811.14(e)

Specifies that a Board must ensure that reasonable attempts to contact a mandatory Choices participant are documented “in TWIST.” The change is made to emphasize the expectation that all contacts regarding noncooperation are documented in TWIST.

§811.14(f)(1)

Replaces the term “work requirements with the term “Choices program requirements” to clarify that the Texas Health and Human Services Commission (HHSC) is notified of a mandatory Choices participant’s failure to comply with Choices program requirements.

§811.15. DEMONSTRATED COOPERATION**§811.15(a)**

Provides that conditional applicants are required to demonstrate four consecutive weeks of cooperation to be eligible for TANF cash assistance. The term “reinstatement of” is removed to clarify that if a conditional applicant left TANF in a sanction status, the individual must demonstrate cooperation in order to be reconsidered for eligibility for TANF cash assistance.

§811.15(b)

Clarifies that sanctioned families are required to demonstrate one month of cooperation “to reinstate” TANF cash assistance. This change is made because by definition sanctioned families have not yet been denied TANF cash assistance and must demonstrate cooperation in the second month in order to continue receiving TANF cash assistance.

§811.15(c)(1)

Replaces the reference to “work” requirements with the term “Choices program” requirements to clarify that a sanctioned family’s demonstrated cooperation can be in all Choices activities and is not limited to the four employment activities.

§811.15(c)(2)

Replaces the reference to “work” requirements with the term “Choices program” requirements to clarify that conditional applicants’ demonstrated cooperation can be in all Choices activities and is not limited to the four employment activities.

§811.23. FAMILY EMPLOYMENT PLAN**§811.23(d)(5)**

Replaces the reference to “work” requirements with the term “Choices program” requirements to clarify that all Choices activities are included in the FEP, not limited to the four employment activities.

§811.23(e)

Clarifies that the FEP must be regularly evaluated and modified as appropriate to meet job seeker and employer needs in the local labor market. This change emphasizes that the FEP is a living document, not just a compliance document, and it must be regularly evaluated to guide both job seeker and Workforce Solutions Office staff toward mutually agreed goals.

§811.25. TANF CORE AND TANF NON-CORE Activities

§811.25 is repealed. With the emphasis on the four work activities, the references to core and non-core activities no longer apply.

NEW §811.25. TANF PARTICIPATION REQUIREMENTS**New §811.25(a)**

Requires Choices participants in a single-parent family to participate for at least a minimum weekly average of 30 hours.

New §811.25(b)

Requires Choices participants in two-parent families who are not receiving TWC-funded child care to have one or both adults in the family participate for at least a minimum weekly average of 35 hours.

New §811.25(c)

Requires Choices participants in two-parent families who are receiving TWC-funded child care to have one or both adults in the family participate for at least a minimum weekly average of 55 hours.

§811.26. SPECIAL PROVISIONS REGARDING COMMUNITY SERVICE

§811.26 is repealed. With the change to counting only the four work activities in the work participation rate as specified in new §811.41(a), the provisions regarding community service no longer apply.

§811.27. SPECIAL PROVISIONS REGARDING JOB SEARCH AND JOB READINESS

§811.27 is repealed. With the change to counting only the four work activities in the work participation rate as specified in new §811.41(a), the limitations on job search and job readiness no longer apply.

§811.28. SPECIAL PROVISIONS REGARDING VOCATIONAL EDUCATIONAL TRAINING AND EDUCATIONAL SERVICES

§811.28 is repealed. With the change to counting only the four work activities in the work participation rate as specified in new §811.41(a), the limitations regarding vocational educational training and education services no longer apply.

§811.29. SPECIAL PROVISIONS REGARDING THE FAIR LABOR STANDARDS ACT
§811.29(a)(1)

Removes the term “Food Stamp” benefits and replaces it with the current term “SNAP” benefits.

§811.29(a)(2)

Removes the term “Food Stamp” benefits and replaces it with the current term “SNAP” benefits.

§811.29(b)

Removes the reference to “core work activity” requirements and replaces it with a reference to “participation” requirements. The term “core” also is removed. With the change to counting only the four work activities in the work participation rate as specified in new §811.41(a), the limitations on job search and job readiness no longer apply.

Additionally, references to §811.25(b)–(d) are replaced with §811.25(a)–(c).

§811.31. SPECIAL PROVISIONS FOR CHOICES PARTICIPANTS IN SINGLE-PARENT FAMILIES WITH CHILDREN UNDER AGE SIX**§811.31(b)**

Removes the reference to “core” activities and replaces it with the “Choices” activities. With the change to counting only the four work activities in the work participation rate as specified in new §811.41(a), the limitations on job search and job readiness no longer apply.

§811.32. SPECIAL PROVISIONS REGARDING EXEMPT CHOICES PARTICIPANTS AND CHOICES PARTICIPANTS WITH REDUCED WORK REQUIREMENTS**§811.32(a)**

Specifies that Boards may provide Choices services or support services as set forth in this subchapter to exempt Choices participants who participate to the extent determined able, as supported by medical documentation, but less than the required participation hours. This change allows support services to be provided to exempt Choices participants if they cannot fully participate.

§811.32(b)(2)

Updates the references to §811.25(b)–(d) to align with new §811.25(a)–(c).

§811.32(b)(3)

Updates the references to §811.25(b)–(d) to align with new §811.25(a)–(c).

§811.33. OTHER SPECIAL PROVISIONS

§811.33 is repealed. Conditional applicants and sanctioned families can participate in all Choices activities and receive necessary support services during their demonstrated cooperation period. Therefore, these provisions no longer apply

§811.34. PARTICIPATION PROVISIONS**§811.34**

Replaces the reference to “TANF core and non-core” activities with “Choices work” activities. With the change to counting only the four work activities in the work participation rate as specified in new §811.41(a), the limitations on job search and job readiness no longer apply.

§811.34(1)

Removes the term “paid” from work activities to align with the changes in Choices work activities.

New §811.34(2)

Addresses self-employment and requires Boards not to count more hours toward the work participation rate for a self-employed Choices participant than the number derived from dividing the participant’s net self-employment income (gross self-employment earnings minus business expenses) by the federal minimum wage.

§811.34(2) is removed. Under TANF federal regulations, short-term excused absences are not allowable for paid work activities.

§811.34(3) is removed. ACF issued guidance requiring a recalculation of average weekly projected hours of employment each time new information was received that showed a Choices participant’s actual hours had changed. The Commission believes that ACF’s guidance negates the benefits of projecting hours, thus projection of hours was not implemented.

§811.41. JOB SEARCH AND JOB READINESS ASSISTANCE

§811.41 is repealed. Due to the change in activities included in the work participation rate, the following activities are consolidated in new §811.52, Other Choices Activities. To give Boards the most flexibility, all restrictions and limitations on these activities are removed:

- Job search and job readiness assistance
- Community service
- Work experience
- Vocational educational training
- Job skills training
- Post-employment services, as set forth in §811.51

NEW §811.41. CHOICES WORK ACTIVITIES**New §811.41(a)**

Specifies that, for purposes of the work participation rate, a Choices participant is considered to be engaged in work by participating in:

- (1) unsubsidized employment, as specified in §811.42;
- (2) subsidized employment, as specified in §811.43;
- (3) OJT, as specified in §811.44; and
- (4) educational services for Choices participants who have not completed secondary school or received a GED, as specified in §811.50.

New §811.41(b)

Provides that educational services, as specified in new §811.41(a)(4), are limited to teen heads of household, as specified in §811.30.

New §811.41(c)

Provides Boards the flexibility to use any other Choices activity set forth in new §811.52 that would reasonably be expected to assist Choices participants in obtaining and retaining employment.

This change incorporates the TWC's goal of promoting employment at the earliest opportunity by focusing on outcome-driven measures rather than process-driven measures concerned solely with whether individuals are being kept busy for their required hours of participation.

§811.42. UNSUBSIDIZED EMPLOYMENT

§811.42(a) is removed. With the emphasis on the four work activities, the references to core activities no longer apply.

New §811.42(b)

Defines self-employment as an income-producing enterprise intended to lead an individual on a clear pathway to self-sufficiency by lessening the family's reliance on public benefits. This subsection is added to give clear direction that self-employment must generate revenue for the family and to eliminate the use of in-kind employment or bartering situations.

Certain subsections were relettered to accommodate additions and deletions.

§811.43. SUBSIDIZED EMPLOYMENT

§811.43(a) is removed. With the emphasis on the four work activities, the references to core activities no longer apply.

§811.44. ON-THE-JOB TRAINING

§811.44(a) is removed. With the emphasis on the four work activities, the references to core activities no longer apply.

New §811.44(a)

Defines OJT as training in the public or private sector for a paid employee while he or she is engaged in productive work that provides knowledge and skills essential to the full and adequate performance of the job. The definition aligns with the federal definition of OJT in 45 CFR §261.2(f).

§811.44(c)

Removes the statement “Unsubsidized employment after satisfactory completion of the training is expected”; it is unnecessary because the Choices participant is already a paid employee.

§811.45. WORK EXPERIENCE

§811.45 is repealed. Because of the change in activities included in the work participation rate, all other activities, such as work experience, are consolidated in new §811.52, Other Choices Activities. To give Boards the most flexibility in providing other Choices activities, all restrictions and limitations on these activities are removed.

§811.46. COMMUNITY SERVICE

§811.46 is repealed. Because of the change in activities included in the work participation rate, all other activities, such as community service, are consolidated in new §811.52, Other Choices Activities. To give Boards the most flexibility in providing other Choices activities, all restrictions and limitations on these activities are removed.

§811.48. VOCATIONAL EDUCATIONAL TRAINING

§811.48 is repealed. Because of the change in activities included in the work participation rate, all other activities, such as vocational educational training, are consolidated in new §811.52, Other Choices Activities. To give Boards the most flexibility in providing other Choices activities, all restrictions and limitations on these activities are removed.

§811.49. JOB SKILLS TRAINING

§811.49 is repealed. Because of the change in activities included in the work participation rate, all other activities, such as job skills training, are consolidated in new §811.52, Other Choices Activities. To give Boards the most flexibility in providing other Choices activities, all restrictions and limitations on these activities are removed.

§811.50. EDUCATIONAL SERVICES FOR CHOICES PARTICIPANTS WHO HAVE NOT COMPLETED SECONDARY SCHOOL OR RECEIVED A GENERAL EDUCATIONAL DEVELOPMENT CREDENTIAL

§811.50(a)

Removes the reference to non-core activities; with the emphasis on the four work activities, the reference no longer applies.

§811.50(b)(1)

Replaces the reference to §811.2(13) with §811.2(18), the renumbered definition of secondary school.

§811.51. POST-EMPLOYMENT SERVICES

§811.51(f)(2)

Replaces the term “food stamp” with the current term “SNAP.”

NEW §811.52. OTHER CHOICES ACTIVITIES

Allows Boards to provide any of the following Choices activities, without restriction, if the activities are reasonably expected to assist Choices participants in obtaining and retaining employment:

- (1) Job readiness and job search assistance, as defined in §811.2(11) and (12), respectively;
- (2) Community service, as defined in §811.2(4);
- (3) Work experience, as defined in §811.2(24);
- (4) Vocational educational training, as defined in §811.2(21);
- (5) Job skills training, as defined in §811.2(13); and
- (6) Post-employment services, as set forth in §811.51.

§811.61. SUPPORT SERVICES***§811.61(b)***

Replaces the term “work” requirements with “Choices program” requirements. This change clarifies that Boards have flexibility in the provision of support services and acknowledges that a Choices participant can be meeting all Choices requirements set forth in Subchapter C of this chapter through activities other than the four work activities.

§811.61(c)(1)–(3)

Replaces the term “work” requirements with “Choices program” requirements. This change clarifies that Boards have flexibility in the provision of support services and acknowledges that a Choices participant can be meeting all Choices requirements through activities other than the four work activities.