

CHAPTER 811. CHOICES

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

ON JUNE 26, 2007, THE TEXAS WORKFORCE COMMISSION PROPOSED THE BELOW RULES WITH PREAMBLE TO BE SUBMITTED TO THE *TEXAS REGISTER*.

Estimated Publication Date of the Proposal in the *Texas Register*: **July 13, 2007**

Estimated End of Comment Period: **August 13, 2007**

The Texas Workforce Commission (Commission) proposes the repeal of the following subchapter of Chapter 811, relating to Choices, in its entirety:

Subchapter F. Appeals

PART I. PURPOSE, BACKGROUND, AND AUTHORITY

PART II. EXPLANATION OF INDIVIDUAL PROVISIONS

PART III. IMPACT STATEMENTS

PART IV. COORDINATION ACTIVITIES

PART I. PURPOSE, BACKGROUND, AND AUTHORITY

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

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

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

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

PART II. EXPLANATION OF INDIVIDUAL PROVISIONS

SUBCHAPTER F. APPEALS

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

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

§811.71. Board Review

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

§811.72. Appeals to the Commission

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

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

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

PART III. IMPACT STATEMENTS

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

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

There are no estimated reductions in costs to the state and to local governments as a result of enforcing or administering the rules.

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

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

There are no anticipated economic costs to persons required to comply with the rules.

There is no anticipated adverse economic impact on small or microbusinesses as a result of enforcing or administering the rules.

Mark Hughes, Director of Labor Market Information, has determined that there is no significant negative impact upon employment conditions in the state as a result of the rules.

Laurence M. Jones, Director, Workforce Development Division, has determined that for each of the first five years the rules are in effect, the public benefit anticipated as a result of enforcing the proposed rules will be to provide a unified and streamlined process regarding the resolution of complaints, hearings, and appeals related to Board-administered services. In addition, due process principles and other legal rights will be protected, program outcomes will be achieved more effectively, and workforce services will be further integrated.

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

PART IV. COORDINATION ACTIVITIES

Comments on the proposed rules may be submitted to TWC Policy Comments, Policy and Development, 101 East 15th Street, Room 440T, Austin, Texas 78778; faxed to 512-475-3577; or e-mailed to TWCPolicyComments@twc.state.tx.us. The Commission must receive comments postmarked no later than 30 days from the date this proposal is published in the *Texas Register*.

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

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

Chapter 811. CHOICES

SUBCHAPTER F. APPEALS

~~§811.71. Board Review.~~

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

~~§811.72. Appeals to the Agency.~~

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

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

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