

# **CLEAR STATEMENT OF THE WORKSOURCE POLICY TO BE FAXED OR E-MAILED TO APPEALS HEARING OFFICERS**

## **FAILURE TO COOPERATE AS REQUIRED (TANF)**

### **PURPOSE**

The purpose of this document is to provide hearing officers with a clear statement of The WorkSource policy for use in appeals hearings.

### **FAILURE TO COOPERATE AS REQUIRED**

#### ▪ **The WorkSource Policy:**

The WorkSource will initiate a penalty for a TANF customer who fails to cooperate as required and agreed or who does not offer a good cause for non-cooperation within our required timeframe provided in our Non-Cooperation letter.

- Texas Workforce Commission Choices Rules section that permits us to do this:  
**Choices Rules 40 TAC Chapter 811, Section 811.14.**
- The WorkSource procedures: **The WorkSource Expanded Services Standards and Guidelines: Tracking hours of cooperation - TWIST**

#### ▪ **What we will demonstrate:**

- The customer was required to cooperate a specific number of hours.
  - The customer was informed about cooperation requirements and the requirements for reporting hours of cooperation to The WorkSource.
  - The customer agreed to cooperate a specific number of hours.
  - The customer did not present a good reason for non-cooperation.
  - The customer did not cooperate as required or did not report hours of cooperation as required.
  - A non-cooperation letter was mailed to the customer on a specific date.
  - The letter was mailed to the customer's current address.
  - The letter instructed the customer to respond within 7 calendar days of the date on the letter.
  - The customer did not respond and penalty was initiated on the 8<sup>th</sup> calendar day.
- Or,**
- The customer responded within 7 calendar days of the letter, but did not offer a good cause for non-cooperation within the required timeframe and penalty was initiated on the 8<sup>th</sup> calendar day.

#### ▪ **The documents we will present**

- Copy of the customer's Family Employment Plan. The customer signs and dates a statement of agreement to acknowledge she understands receiving TANF means she must cooperate with the requirement of the Family Employment Plan or she will lose her cash assistance and Medicaid.
- Copy of Non-Cooperation Letter. The letter is dated and states that the customer has "7 calendar days from the date of the letter to respond to The WorkSource".
- TWIST Counseling Record. The counseling note is a system entry, automatically created by the system and shows the address and date the letters were created. The address is the same address used by HHSC.
- Copy of The WorkSource Policy Regarding Cooperation Requirements.

## POLICY REGARDING COOPERATION REQUIREMENTS

### Source:

**Texas Workforce Commission Choices Rules: 40 TAC Chapter 811, Section 811.14.**

### **§811.14. Noncooperation.**

- (a) A Board shall ensure that cooperation by mandatory individuals with work requirements is verified each month to ensure that the individuals:
- (1) comply with work requirements as set forth in the family employment plan, unless the recipient is exempted by TDHS;
  - (2) have good cause as described in this chapter; or
  - (3) have not cooperated with work requirements and a penalty is requested.
- (b) A Board shall ensure that timely and reasonable attempts, as defined by the Board, are made to contact a recipient prior to initiating a penalty to:
- (1) determine the reason for noncooperation and whether good cause is applicable, as described in §811.16(c) of this subchapter;
  - (2) inform the recipient of:
    - (A) the violation, if good cause has not been determined;
    - (B) the right to appeal; and
    - (C) the necessary procedures to demonstrate cooperation.
- (c) A Board shall ensure that timely and reasonable attempts, as defined by the Board, are made to contact a sanctioned family and conditional applicants upon discovery of noncooperation to determine if good cause exists.
- (d) A Board shall ensure that the reasonable attempts to contact a mandatory individual are documented.
- (e) A Board shall ensure that TDHS is notified of:
- (1) a mandatory recipient's failure to comply with work requirements; and
  - (2) that the noncooperation is submitted as early as possible in the same month in which the noncooperation occurs.

*The provisions of this §811.14 adopted to be effective November 18, 2003, as published in the TexasRegister, November 14, 2003, 28 TexReg 10261.*

### **§811.16. Good Cause for Mandatory Individuals, and Exempt Recipients Who Voluntarily Participate.**

- (a) Good cause applies only to mandatory individuals, and exempt recipients who voluntarily participate in Choices services. A Board shall ensure that good cause is determined as provided in this chapter.
- (b) A Board shall ensure that a good cause determination:
- (1) is based on individual and family circumstances;
  - (2) is based on face-to-face or telephone contact;
  - (3) covers a temporary period when mandatory individuals, or exempt recipients who voluntarily participate in Choices services, may be unable to attend scheduled appointments or participate in ongoing work activities;

- (4) is made at the time the change in circumstances is made known to the Board's service provider; and
  - (5) is conditional upon efforts to address circumstances that limit the ability to participate in Choices services as required in the Responsibility Agreement.
- (c) The following reasons may constitute good cause for purposes of this chapter:
- (1) temporary illness or incapacitation;
  - (2) court appearance;
  - (3) caring for a physically or mentally disabled household member who requires the recipient's presence in the home;
  - (4) a demonstration that there is:
    - (A) no available transportation and the distance prohibits walking; or
    - (B) no available job within reasonable commuting distance, as defined by the Board;
  - (5) an inability to obtain needed child care, as defined by the Board and based on the following reasons:
    - (A) informal child care by a relative or under other arrangements is unavailable or unsuitable, and based on, where applicable, Board policy regarding child care as specified in §811.47 of this chapter. Informal child care may also be determined unsuitable by the parent;
    - (B) eligible formal child care providers are unavailable, as defined in Chapter 809 of this title;
    - (C) affordable formal child care arrangements within maximum rates established by the Board are unavailable; and
    - (D) formal or informal child care within a reasonable distance from home or the work site is unavailable;
  - (6) an absence of other support services necessary for participation;
  - (7) receipt of a job referral that results in an offer below the federal minimum wage, except when a lower wage is permissible under federal minimum wage law;
  - (8) an individual or family crisis or a family circumstance that may preclude participation, including substance abuse, mental health, and disability-related issues, provided the mandatory individual, or exempt recipient who voluntarily participates in Choices services, engages in problem resolution through appropriate referrals for counseling and support services; or
  - (9) an individual is a victim of family violence.
- (d) A Board shall promulgate policies and procedures for determining a family's inability to obtain child care and shall ensure that mandatory individuals in single-parent families caring for children under age six are informed of:
- (1) the penalty exception to the family work requirement, including the criteria and applicable definitions for determining whether a mandatory individual has demonstrated an inability to obtain needed child care, as defined in §811.16(c)(5)(A)-(D) of this section.
  - (2) a Board's policy and procedures for determining a family's inability to obtain needed childcare, and any other requirements or procedures, such as fair hearings, associated with this provision, as required by 45 CFR §261.56.
- (e) A Board shall ensure that good cause:
- (1) is reevaluated at least on a monthly basis;
  - (2) is extended if the circumstances giving rise to the good cause exception are not resolved after available resources to remedy the situation have been considered; and
  - (3) that is based on the existence of family violence does not exceed a total of twelve consecutive months per occurrence.

*The provisions of this §811.16 adopted to be effective November 18, 2003, as published in the Texas Register, November 14, 2003, 28 TexReg 10261.*

---

## **The WorkSource Procedures for TANF Recipients Cooperation Requirements** **Source: The WorkSource Expanded Services Standards and Guidelines**

**Tracking hours of cooperation - TWIST** – In order to maintain receipt of benefits TANF recipients and some Food Stamp recipients must track the number of hours they look for work or prepare to work as agreed to in an Employment/Family Employment Plan. The number of hours is data entered into TWIST.

- *TWIST/Service Tracking* – Hours must be tracked under the appropriate Program Type and Fund in TWIST. The customer must have a record in TWIST/Program Detail. Enter the appropriate service in TWIST/Service Tracking. Click on the “Participation” button, record the month of participation and the hours of participation. Customers recording hours under more than one service code must have hours tracked under each code. The Program Tracking Specialist enters hours of participation.
- *Paper Documents* – Job search logs and other paper documents will be used by the customer to record hours as noted above. Each job search contact, regardless of the means of contact, will be considered as 2 hours of participation. A customer who makes 15 contacts in a week will have 30 hours of participation in job search. Job search logs and other documents tracking participation will be filed in the individual file folder.

**Sending Non-Cooperation Notices Warning of Loss of TANF Benefits – TWIST** – *See Information Resources for Staff VIII. D. Utilizing the Outreach Letter Process in TWIST Phase 4 Scheduler* – Use the recruitment letter found in the Basic Services Standard/Information Resources for Staff VIII. 4 for TANF non-cooperation. This letter will be sent to the customer by the third Monday of each month in which cooperation is not adequate. The non-cooperation letter will ask the customer to call a Personal Service Representative. After speaking to the customer the PSR may decide to update hours of participation for customers who have in fact complied with the employment plan or determine that the customer has good cause not to cooperate. The PSR will enter the good cause reason into TWIST. In these instances the customer’s TANF cash assistance is not affected. If the customer does not have a good reason for not co-operating the Program Tracking Specialist will notify HHSC of the non-cooperation and the customer will likely lose benefits for a time.

In some cases the name of the PSR on the customer non-cooperation letter will be a staff member who has been guiding the customer’s job search or work readiness activities. In other cases the PSR may not have spoken previously to the customer. [See this standard, VIII. C. Information Resources for Staff, Resident Services Process Maps, 1. Customer

Requests Services to Allow Her TANF Certification and 2. Customer Requests Services to Continue Receipt of Food Stamps.] These process maps indicate how the PSR will help each customer who calls, in response to a non-cooperation letter, and what will be documented in TWIST. The PSR will receive a roster, generated in TWIST, of the letters that were sent in her name. The PSR will data enter into TWIST counselor notes information from the conversation with the customer. She will also data enter good cause reasons for non-cooperation and will give the Program Tracking Specialist any documents verifying additional hours of cooperation. The Program Tracking Specialist will notify HHSC of non-cooperation.

**Documenting Customer Responses to Non-cooperation Letters in TWIST-Program Detail – Program Type- Choices** – A summary of the conversation with a customer responding to a non-cooperation letter will be entered into the TWIST counselor notes by the staff member (usually a PSR) who has the conversation.

- If the customer responds that she has gone to work:
  1. The PSR will get information about where the customer is working, expected work hours and pay and enter it into TWIST/Services (39) Unsubsidized Employment.
  2. The PSR will inactivate the work application in WorkInTexas.com if the customer does not want to continue looking, check WorkInTexas.com to determine if the customer's job is the result of The WorkSource referral to the employer, notify ESD if the job results in a direct placement.
  3. Notify the Tracker to send the 2583 notifying HHSC of the employment
  4. PSR will close TWIST records for services no longer being used by the customer
  5. Note in counselor notes the customers desire or not for post employment services
  6. Update or add TWIST employment plan to reflect post employment services other than child care
  
- If the customer has good cause not to cooperate she will be assigned to the PSR who determined the good cause. The PSR will guide the customer's work search for as long as she wants and needs The WorkSource services.
  1. The PSR will show good cause in all the appropriate areas of TWIST – Counselor notes- Good Cause tab- Service Activity for Good Cause
  2. The Program Tracking Specialist will discontinue or resume financial aid as directed by the PSR. The Program Tracking Specialist will assure appropriate changes in child care payments are initiated.
  3. The Program Tracking Specialist will check TWIST monthly to determine when the customer no longer has good cause not to cooperate or she may learn this from the PSR. The Program Tracking Specialist will then begin to look for records of cooperation from the customer.

- The PSR may determine that the customer does not have sufficient reason for noncooperation but the customer expresses an interest in beginning to cooperate with The WorkSource. The PSR will begin to guide her work search and do so for as long as she wants and needs The WorkSource services.
  1. The PSR will enter into TWIST/ Counselor notes a summary of the conversation.
  2. The Program Tracking Specialist will complete TWIST/Penalty tab to impose the penalty for non cooperation
  3. The Program Tracking Specialist will resume child care payments for the customer if they have been stopped. She will notify the appropriate contractor and include information in TWIST/Support Services
  4. The Program Tracking Specialist will enter any hours of participation provided by the customer
  
- If the customer has fulfilled her required cooperation hours but for some reason they are not recorded the PSR will assure that appropriate paper documents are on hand and hours are recorded in TWIST. The customer may continue to guide her own work search with the help of an Employment Counselor if she prefers.
  
- If the customer does not respond to the non cooperation letter or responds that she will not be cooperating
  1. The PSR records any conversation in TWIST/Counselor Notes including the PSR's offer of continued job search assistance from The WorkSource.
  2. The Program Tracking Specialist records the sanction in TWIST/Penalty tab and closes Services in TWIST /Service Tracking.
  3. The Program Tracking Specialist discontinues all financial aid contingent of the customer's cooperation. This may include completion of the paper form 2510 to stop child care payments.
  4. The Program Tracking Specialist inactivates the WorkInTexas.com work application
  5. In one month after the customer has indeed not cooperated the Program Tracking Specialist closes the customer record in TWIST/Program Detail/Final Completion reason.