

**Parents getting welfare in Brewster, Culbertson, El Paso,
Hudspeth, Jeff Davis and Presidio Counties:**

You cannot lose welfare benefits if you cannot find child care

**Some parents of children under 1 year old do not have to do
welfare work activities**

**This handbook explains the rights of parents who get welfare
benefits in Brewster, Culbertson, El Paso, Hudspeth, Jeff
Davis and Presidio Counties who cannot work because they
have a young child or because they do not have child care**

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This handbook was adapted from a handbook developed by a collaborative project of the Welfare Law Center, 275 Seventh Avenue, Suite 1205, New York, NY 10001-6708, (212) 633-6967, fax (212) 633-6371, www.welfarelaw.org; NOW Legal Defense and Education Fund, Inc., 395 Hudson Street, New York, NY 10014, (212) 925-6635, fax (212) 226-6635, www.nowldef.org; and Child Care Law Center, 221 Pine Street, 3rd Floor, San Francisco, CA 94104, (415) 394-7140, fax (415) 394-7144, www.childcarelaw.org; in partnership with Texas Legal Services Center, 815 Brazos, Suite 1100, Austin, TX 78701-2509, (512) 477-6000, fax (512) 477-6576, www.tlsc.org.

Drafting, publication and distribution of this handbook was supported by grants from the David and Lucile Packard Foundation, the John D. and Catherine T. MacArthur Foundation, the William Randolph Hearst Foundation, and the Texas Bar Foundation.

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Last Updated: March 20, 2003

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TERMS USED IN THIS HANDBOOK

Below are definitions of terms used in this handbook. Some terms mean one thing in this handbook and something different in other contexts. For example, welfare can refer to many public benefits programs, but in this handbook it refers to one specific program, Temporary Assistance for Needy Families (TANF).

Upper Rio Grande Workforce Development Board - The local organization oversees the Choices program in Brewster, Culbertson, El Paso, Hudspeth, Jeff Davis and Presidio Counties.

YWCA El Paso Del Norte Region - The organization that manages the child care subsidy system in the counties served by the Upper Rio Grande Workforce Development Board, which serves the counties of Brewster, Culbertson, El Paso, Hudspeth, Jeff Davis, and Presidio and helps families find child care.

Child care provider - A person or organization that provides child care to someone else's children. This can be a child care center, a person who takes care of a few children in her home or a relative who cares for your child.

Choices - The Texas welfare to work program. In the counties served by the Upper Rio Grande Workforce Development Board, this program is operated by Affiliated Computer Systems, State and Local Solutions, Inc. (ACS).

Department of Human Services (DHS) - The agency that runs the welfare program in Texas (but not welfare work programs).

Exemption - A decision by DHS that you don't have to do to be in the Choices program.

SSI - Supplemental Security Income. This is a federal cash assistance program for people with limited income who have a disability or are 65 or older.

Texas Workforce Center - The local office of the Choices program. In the counties served by the Upper Rio Grande Workforce Development Board, the Texas Workforce Centers are referred to as the Upper Rio Grande @ Work Career Centers.

Texas Workforce Commission - The State agency that has responsibility for welfare to work programs in Texas.

Welfare - The time-limited cash assistance program for dependent children and their parents and caretakers. This program is also called Temporary Assistance for Needy Families (“TANF”).

Welfare work activity - An activity that someone who gets welfare has to do to get welfare benefits. Paid work, subsidized work, on-the-job training, education and training, job readiness, and other activities can be work activities.

SOURCES USED FOR THIS HANDBOOK

This handbook is based on manuals and other materials from the Texas Department of Human Services (DHS) and Texas Workforce Commission (TWC), interviews with TWC and DHS staff, and the following TWC and DHS rules:

TWC rules:

- _____ 40 Texas Administrative Code § 3 (Texas Works)
- 40 Texas Administrative Code § 79 (fair hearings)

DHS rules:

- 40 Texas Administrative Code § 809 (child care)
- 40 Texas Administrative Code § 811 (Choices)
- 40 Texas Administrative Code § 823 (fair hearings)

All of these rules are posed on the DHS web site at www.dhs.state.tx.us. Click on “Agency Rules.” Part 1 is DHS rules. Part 20 is TWC rules.

TWC rules are also post on TWC’s website at www.twc.state.tx.us. Click on “Researchers and Policymakers” and “Laws and Rules” <http://www.twc.state.tx.us>.

EXEMPTIONS FROM WELFARE WORK ACTIVITIES

Most parents have to do welfare work activities to get welfare benefits. But some parents do not have to do them. This section of the handbook talks about some of the ways parents can be **exempt** from doing welfare work activities.

What is an exemption from welfare work activities?

If you are exempt from welfare work activities, it means you **do not have to do a welfare work activity** and you can **still get welfare benefits**. It also means that you don't have to be in the Choices program.

Exemption for some single parents of children under age 1

If you are a **single parent** of a child **under age 1 who was living with you when you first got welfare benefits**, you do not have to do a welfare work activity **until that child turns 1 year old**.

Exemption for some parents of children with disabilities

If **your child has a physical or mental disability** and you **need to stay at home to take care of the child full time**, you do not have to do welfare to work activities. To get this exemption, you need a doctor's letter unless your child gets government disability benefits such as SSI. Tell your DHS case worker if your child gets SSI or other disability benefits. If you need to stay at home part time to take care of a child with a disability, you may be allowed to do work activities part time. See page 24 for more information.

How do you get an exemption?

The **Department of Human Services (DHS)** decides if you are **exempt** from work activities. Ask for an exemption when you go to DHS to apply for welfare or soon as you know you should be exempt.

How long does an exemption last?

It depends. If you are exempt because your child is under 1 year old, you do not have to do welfare work activities until that child turns 1. If you are exempt because your child has a disability, you do not have to do welfare work activities as long as you are needed at home to take care of that child.

Can you get an exemption from a Workforce orientation session?

Yes. There are **different rules** for exemptions from Workforce orientation sessions. You are exempt if you have a **child under 4 months old**. This exemption applies whether or not the child was born when you first started getting welfare benefits. You are also exempt if you **be at home to take care of a child with a disability**.

Can DHS lower or stop welfare benefits if you qualify for an exemption and you do not do work activities?

No. DHS is not supposed to lower or stop your welfare benefits for not doing work activities if you qualify for an exemption.

How does an exemption affect welfare time limits?

Months in which you are exempt from welfare work activities do not count towards state time limits on welfare benefits. They do count towards the 60-month federal lifetime limit on welfare benefits.

HOW TO APPEAL DECISIONS ABOUT EXEMPTIONS

What if you think you should be exempt from work activities but DHS does not give you an exemption?

If you ask for an exemption and DHS says no, and you do not do welfare work activities, your welfare benefits will be lowered or stopped. If your application for benefits hasn't been approved yet, it will be denied. If you want to stop these things from happening, **if DHS says you are not exempt, ask DHS for a fair hearing.**

Does DHS give you a written notice saying you are not exempt?

No. Your DHS caseworker will tell you in person or over the phone. Even though DHS doesn't give you a written notice, you can ask DHS for a fair hearing as soon as your DHS case worker tells you that you are not exempt.

How do you ask for a fair hearing?

You can **give or send a letter** to your DHS caseworker saying that you want a fair hearing. If you get a notice from DHS, you can also **fill out the bottom of the notice** and give or send it to your DHS worker. You should **make a copy** of the letter or notice before you give or send it to DHS.

How long do you have to ask DHS for a fair hearing?

You have **90 calendar days** after the date on the notice you get from DHS, or 90 calendar days after the day your benefits are going to stop, whichever date is later. Since DHS does not send notices about exemptions, you have 90 calendar days after the day your benefits are going to stop.

What happens if you do not ask DHS for a fair hearing right away?

If you do not ask DHS for a fair hearing right away, and you don't go to the Choices program or welfare work activities, DHS will deny your application for benefits or lower or stop your benefits if you are already getting benefits. DHS is **supposed to send you a notice** telling you they are going to do this. You can also ask DHS for a fair hearing when you get this notice.

Does DHS always have to tell you before they lower or stop your welfare benefits?

Most of the time DHS has to tell you **in writing at least 10 calendar days before** your benefits are lowered or stopped. If the 10th day is on a weekend or holiday, your benefits can't be lowered or stopped until the next workday. The **10 calendar days start on the day the notice is mailed to you.** The notice is supposed to say how DHS plans to change your benefits and why. It should also tell you about your right to ask for a hearing to stop the change and what you need to do to keep getting benefits before the hearing and hearing decision.

In a few situations, DHS is allowed to stop your welfare benefits without sending you a notice 10 days before benefits stop. DHS can do this if you move away, go into a nursing home or other institution, if you sign a paper saying you don't want welfare benefits any more, and in a few other situations.

If you ask for a DHS fair hearing, do your welfare benefits stop anyway?

No. If your letter or notice asking for a hearing is **postmarked within 10 calendar days of the date on the notice** from DHS, you can keep getting welfare benefits up until the time that DHS makes a decision after the fair hearing. If you want to keep getting benefits until the hearing decision, **do not check the box** at the bottom of the

notice that says “I DO NOT want to continue receiving the amount of benefits I now receive until a hearing decision is made.”

DHS FAIR HEARINGS

Where is the DHS fair hearing?

The fair hearing may be at a DHS office, or it may be over the phone. If you cannot go to the DHS office for some reason, it can be at your home.

What happens at a DHS fair hearing?

A DHS fair hearing is decided by a hearing officer, who is usually someone who works for DHS who was not involved in your case before. Someone from DHS who is involved with your case will also be part of the hearing. That person usually does not come to the hearing but is on the phone. You have a right to have a lawyer or other person represent you, but DHS will not pay for this person. The hearing is taped with a tape recorder.

You have a **right to an interpreter** if it is hard for you to speak or understand English, or if you have trouble with your hearing. You should ask for an interpreter at least 2 days before the fair hearing if you need one.

How do you find someone to represent you at the hearing?

You may be able to get someone to represent you for free at the fair hearing. For more information, call your local legal services office. The name and address of this office is list on page 25 of this handbook. You can also go to the Texas Law Help web site at www.texaslawhelp.org.

How do you prove that DHS was wrong?

You will be allowed to **say why the decision** to lower or stop your

benefits is wrong and to **give the fair hearing officer copies of papers** that help show this. This could be a letter from a doctor, proof of your child's age, or other papers. You can also **bring other people** to the hearing who can help show that you are right. If it is a telephone hearing, these people can talk during the phone call. You can also **ask the person from DHS questions**.

Does the person from DHS get to talk at the fair hearing too?

Yes. The person from DHS will also be allowed to say why he or she thinks the decision was right and can give the hearing officer papers that help show this. The person from DHS can ask you questions. The person from DHS can also ask questions of anyone you ask to speak at the hearing. The hearing officer will listen to both sides and may ask questions.

How to get ready for the DHS fair hearing

Before the hearing, you have a **right to see any papers** that DHS will give the hearing officer to try to show that DHS was right. To do this, write or call the hearing officer whose name is on the notice you get about the fair hearing.

DHS has a handbook, called the **Fair Hearing, Fraud and Civil Rights Handbook** that has more information about fair hearings. Every DHS office is supposed to have a copy. You have a right to look at this handbook. If you can, you should go to a DHS office and look at it before the fair hearing. It is also on the DHS website at www.state.tx.us/handbooks/thfcr.

You can also look at the Texas Works Handbook, which has the rules and policies DHS must follow. The notice you get from DHS must tell you the specific section of the Texas Works Handbook that DHS is relying on to make the decision about your benefits. Every DHS office must have a copy of this handbook. It is also on the DHS website at www.state.tx.us/handbooks/TexasWorks.

The DHS fair hearing decision

The hearing officer has to make a decision **in writing** and send you a copy. **DHS must obey the fair hearing decision within 90 days** of when you asked for the fair hearing. If you win the fair hearing and you did not get welfare benefits while you were waiting for the hearing decision, you can get benefits for the time when DHS should have given you benefits but DHS did not give them to you.

The **hearing officer can also tell DHS to give you welfare benefits** while you are **waiting** for a fair hearing **decision**. If you have not been getting benefits, you may want to ask the hearing officer to do this.

What if you think the DHS fair hearing decision is wrong?

You can ask DHS for an **administrative review** of the decision. To do this, write to José Acosta, Regional Attorney, 401 E. Franklin, Ste. 450B, El Paso, Texas 79901. Your letter must be **postmarked within 30 days from the date of the hearing decision**.

What is the DHS administrative review like?

The administrative review is a paper review of the administrative hearing. The Regional Attorney will listen to the tape recording, read any papers that you or DHS gave to the hearing officer. During the administrative review, the regional attorney will make sure that the hearing followed the rules for how hearings are supposed to work. You are not allowed to give the Regional Attorney new papers or information that you didn't give the hearing officer at the hearing. The Regional Attorney will decide if the administrative hearing decision was right or the case goes back to the hearing officer to review once again. The decision is usually made within 60 days from the date of the request for an administrative review. However, the regional office does not have a deadline for making a decision.

If you lose the fair hearing, does DHS make you pay back the welfare benefits you got when you were waiting for the fair hearing decision?

Yes. If you lose the hearing, DHS makes you pay back any welfare benefits you got when you were waiting for the hearing and the hearing decision.

SOME PARENTS WHO AREN'T EXEMPT DON'T HAVE TO DO WORK ACTIVITIES

Even if you are not exempt from Choices and from welfare work activities, you may have a **good reason** for not doing welfare work activities for a while. If the Choices program agrees that you have good reason for not doing welfare work activities, the Choices program **can give you permission** not to do welfare work activities and you can still get welfare benefits.

What should you do if you think you have a good reason for not doing welfare work activities?

You have to ask the Choices program for permission not to do welfare work activities. Ask as soon as you know you cannot do them. It is harder to get permission if you ask after you stop doing them.

If you do not do welfare work activities and you don't get permission, your benefits will be lowered or stopped.

If you cannot find child care you do not have to do welfare work activities

If you need child care to do welfare work activities but you do not have child care, the Choices program considers this a **good reason** for not doing welfare work activities. You do not have to do welfare work activities if:

- **you cannot find child care; or**
- **something goes wrong with your child care.** This could happen if the person who takes care of your child is sick or cannot take care of your child for another reason.

How do you get child care if you need it to do welfare work activities?

If you need child care to do welfare work activities, tell your Choices case worker. If the case worker agrees, he or she will refer you to the **YWCA El Paso Del Norte Region**, which has staff in the Texas Workforce Centers. In the Upper Rio Grande Workforce Area, the Texas Workforce Centers are referred to as the Upper Rio Grander @ Work Career Centers. **YWCA El Paso Del Norte Region** will tell you about child care providers.

What does “cannot find child care” mean?

If you need child care to do welfare work activities, you have to look for it. That means you have to call or visit the child care providers the **YWCA** tells you about. But you may not be able to find child care because the child care providers you or visit:

- do not take children your child’s age
- do not have space for your child
- are not open or do not have space for your child during the days and hours that you need child care
- are too far from your home to work
- are unsafe for your child
- do not speak your child’s primary language
- you cannot find the type of child care that your child needs. You do not have to use a relative, neighbor or other “informal” child care provider if it is not right for your child. You have the right to choose the type of child care that is best for your child. If you cannot find it, child care is not available.

The Upper Rio Grander Workforce Development Board may have its own rules about when child care is too far from home or work or not right for a child. Ask your Choices case worker or the Upper Rio

Grande Workforce Development Board if these rules are available.

How do you prove that you cannot find child care?

_____ It is up to you to show that you cannot find child care. You should:

- **write down the dates** you visit or call child care providers and the name of the person you talk to
- **write down the reasons** you cannot or decide not to use each provider
- **ask** the child care providers you visit to **write a note** saying that you visited their program and explaining why your child cannot or should not go to their program.

Show these papers to your Choices case worker or other staff at the Choices program.

What if you cannot go to job search or employment planning sessions because you do not have child care?

If you cannot find child care, that is considered a good reason not to go to job search or employment planning sessions.

What should you do if you cannot go to job search or employment planning sessions because you do not have child care?

If you cannot go to job search and employment planning sessions because you do not have child care:

- Call your Choices case worker as soon as you know and say why you cannot go.

- If the letter you get about the appointment has a number to call if you cannot go, call that number too.
- To be safe, call your DHS case worker too and tell the caseworker why you can't go the appointment.
- Write down the dates that you call Choices and DHS and the names of the people you talk to.
- If you can, ask someone you know to listen to your end of these phone calls so you can prove that you made these calls if you need to.

If you do not call and you don't go to job search or planning sessions, your benefits will be lowered or stopped.

If you have a good reason for not doing welfare work activities, how long are you excused from doing them?

In the Upper Rio Grande Development Workforce Board, the Choices program gives permission not to do welfare work activities for one month at a time. When you are given permission not to do welfare work activities, it is know as "good cause." The Choices program will not give you good cause for more than one month, except in domestic violence cases.

The Choices worker is supposed to contact you at least once a month when you have been given permission not to do welfare work activities. The Choices worker should contact you before the end of the month. However, if it is near the end of the month and you need to extend the good cause period, you should contact the Choices worker and ask for an extension. The Choices worker may ask you for papers showing that you need more time before you have to do work activities.

If the exemption period ends and you do not have permission not to do welfare work activities, your benefits will be lowered or stopped.

If you have a good reason for not doing welfare work activities, does the time count towards the welfare time limits?

The months in which you have permission not to do welfare work activities do not count towards the state time limits. They do count towards the 60-month lifetime federal time limit.

If you **don't get permission** not to do work activities and your welfare benefits are lowered, the months **will count** towards the state time limit.

Can your welfare benefits be lowered or stopped if you do not do welfare work activities for a good reason?

No. DHS is not supposed to lower or stop your welfare benefits for not doing welfare work activities if you have a good reason for not doing them, you tell the Choices program about this reason and give the Choices program letters or other papers showing that you have a good reason.

HOW TO APPEAL A DECISION BY THE CHOICES PROGRAM THAT YOU DO NOT HAVE A GOOD REASON FOR NOT DOING WELFARE WORK ACTIVITIES

Will the Choices program send you a notice saying you do not have a good reason for not doing welfare work activities?

_____ **No.** They will tell you in person or over the phone.

What if you think you have a good reason for not doing welfare work activities but the Choices program does not agree?

If you tell the Choices program why you cannot do welfare work activities but the Choices program thinks it is not a good reason, you **can ask for a review** of the decision from the Upper Rio Grande Workforce Development Board.

You can also talk to the site manager or project director at the Choices program. You do not have to do this, but it may be the fastest way to get the decision changed. If you want to do this and you want to appeal to the Upper Rio Grande Workforce Development Board, **do not wait** until after you speak with the Choices site supervisor or project director to appeal to the Upper Rio Grande Workforce Development Board.

What happens if you do not appeal right away?

If you do not appeal right away, you will probably get a notice from DHS saying that your **benefits will be lowered or stopped** because you are not doing welfare work activities.

If you get a DHS notice saying your welfare benefits are being

lowered or stopped because you did not do welfare work activities, what should you do?

Once you get a notice from DHS that your welfare benefits are being lowered or stopped, the only way to stop this from happening is to ask DHS for a fair hearing. Pages 10 to 13 of this handbook talk about DHS fair hearings.

When DHS decides to lower or stop your benefits because you did not have a good reason for not doing welfare work activities, your Choices case worker or someone else from the Choices program will also be part of the DHS fair hearing to explain the reason for that decision.

How do you appeal a decision of the Choices program if you want to appeal before you get a DHS notice?

_____ Write to: Quality Assurance Department, Upper Rio Grande Workforce Development Board, 221 N. Kansas, Ste. 1000, El Paso, Texas 79901, if you want to appeal a decision of the Choices program.

How much time do you to appeal?

You have **15 calendar days** from the time that the Choices program tells you that they do not think you have a good reason for not doing welfare work activities to appeal.

What should you say when you ask for an appeal?

_____ When you ask for the appeal:

- describe the decision of the Choices program that you think is wrong
- say what you want to happen instead

- include copies of papers that help show that the Choices program was wrong

The Upper Rio Grande Workforce Development Board may ask you for more information. If they do, you have to give it to them **within 15 calendar days**.

The Upper Rio Grande Workforce Development Board is supposed to make a decision within **30 calendar days** after you ask for the appeal or after the Board gets the information they ask for.

What is the Upper Rio Grande Workforce Development Board appeal process like?

When you appeal a decision of the Choices staff, the Board will read your letter, review documents and make a decision. The Board may request more information from you or from the Choices program. The Board must receive the information requested within 15 calendar days. The Board will send you a decision in writing within 30 calendar days after you ask for the review or if the Board asks you or the Choices program for more information, 30 calendar days after they get that information.

What if you do not agree with the decision of the Upper Rio Grande Workforce Development Board?

You can appeal a decision of the Upper Rio Grande Workforce Development Board to the **Texas Workforce Commission**. Do this by writing to: Appeals Department, Texas Workforce Commission, 101 East 15th Street, Room 410, Austin, Texas 78778-0001. You must ask for an appeal **withing 15 calendar days** from when you get the decision from the Upper Rio Grande Workforce Development Board.

In your letter:

- include your name, address, and welfare case number
- describe the decision of the Upper Rio Grande Workforce Development Board that you think is wrong
- say that you are asking the Texas Workforce Commission to review the decision
- ask for an interpreter if you need one

What type of review is it?

The Texas Workforce Commission review is a hearing. It is a lot like DHS fair hearings.

Where does the Texas Workforce Commission hearing take place?

The Texas Workforce Commission hearing is **usually** held on the **telephone**. Within 30 days after the Texas Workforce Commission gets your request for a hearing, and **at least 10 days before the hearing**, the Texas Workforce Commission will send you a notice telling you when the hearing will take place and whether it will be in person or over the phone.

What happens at the Texas Workforce Commission hearing?

The hearing is decided by a hearing officer. This is someone who was not involved in your case before. Someone from the Choices program will also be at the hearing or on the phone.

The hearing is taped with a tape recorder. You have a right to have a lawyer or someone else represent you at the hearing, but the Texas Workforce Commission will not pay for this person.

How do you prove that the Choices program was wrong?

You are allowed to explain why you think the decision was wrong. You can bring people who can talk about something that is important to the case. If it is a telephone hearing, these people can talk during the phone call. You can ask the person from the Choices program questions. You can give the hearing officer papers to help show why you are right. If it is a phone hearing, **you have to give copies of these papers to the Texas Workforce Commission and the Choices program before the hearing.**

Does the person from the Choices program get to talk too?

Yes. The person from Choices will get a chance to say why the Choices program made the right decision. That person can ask you questions. He or she can also question anyone you ask to speak.

How long does the Texas Workforce Commission have to make a decision?

_____ The Texas Workforce Commission must make a decision in writing **within 10 days** after the hearing.

What if you do not agree with the Texas Workforce Commission decision?

If you do not agree with the Texas Workforce Commission decision, contact a lawyer. Contact information for the legal services office in your area is on page 25 of this handbook.

If you get **new evidence** after the hearing that helps show that you are right, you can ask the Texas Workforce Commission for a **rehearing**. You have **30 days from the date the hearing decision is mailed to you** to do this.

OTHER SPECIAL WORK RULES FOR PARENTS

Special rule for parents of children under age 6

If you are a single parent taking care of a **child under age 6, you** have to do a welfare work activity 20 hours per week, instead of **30 or 35 hours**, if the welfare work activity is:

- Job search and job readiness help
- Paid employment
- On-the-job training
- Work Experience
- Community Service
- Vocational educational training
- Providing child care to children of other parents in the Choices program who are doing community service as a work activity

Special rule for parents who need to stay home part time to take care of a child who is sick or has a disability

In January 2003, the Texas Workforce Commission said it might allow parents who need to stay at home part time to take care of a child who is sick or has a disability to do fewer hours or work activities. When this handbook was finished the Commission had not made a final decision about whether it will let parents do this. If you need to stay at home part time for this reason, ask your Choices case worker if the Commission decided to let parents do this. If you need to stay at home full time for this reason, you should be exempt from work activities. See page 4 for more information.

For more information, contact:

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