



December 20, 2001

No. 146

## Texas Board of Human Services to Consider Eliminating Nearly All TANF Work Exemptions

On December 28<sup>th</sup> the Board of the Texas Department of Human Services (DHS) will be considering a rule to eliminate nearly all work exemptions for recipients of Temporary Assistance for Needy Families (TANF). This would be a major change in state policy and does not take advantage of federal flexibility which allows states to provide appropriate exemptions from mandatory work requirements. The board has the option of proposing an alternative rule that would retain some of the current work exemptions.

**DHS Board members need to hear from you about the importance of maintaining some of these exemptions for clients who cannot work or are needed in the home.**

### BACKGROUND

Most adult TANF recipients are required to work as a condition of receiving public assistance. They will be enrolled in the Texas Workforce Commission's (TWC) *Choices* program operated by local workforce development boards. Currently, a person can be exempt from mandatory work requirements only when there are circumstances that make it unlikely they will be able to find and retain employment. DHS eligibility staff make this determination. Client circumstances are reviewed every six months to determine if the exemptions are still applicable. Texas currently exempts clients who are:

- caring for a child under age 1
- caring for a child who is ill or has a disability and requires the caretaker's presence in the home
- caring for an adult who is ill or has a disability and requires the caretaker's presence in the home
- permanently disabled as verified by a physician
- temporarily disabled (needs physician verification and lasts only as long as the client is incapacitated)
- age 60 or older
- pregnant and unable to work as a result of the pregnancy
- age 15, 16 or 17 and attending school full-time
- volunteers in the VISTA program
- living too far from any available employment or work services

These first two exemptions in the list above are contained in state law; all others exist only in state agency rules.

The rule being considered by the DHS board would eliminate all work exemptions except the two that exist in state law (the first two on the list above). This would mean that elderly caretakers, those caring for a disabled adult in their homes, pregnant women, and others would be required to attend work orientation classes at local workforce centers and begin looking for work as a condition of receiving assistance. Failure to meet these requirements will result in financial sanctions.

When clients fail to comply with work requirements, they can be eligible for temporary (3 month) "good cause" exceptions, at individual caseworker discretion. Unfortunately, current "good cause" guidelines used by *Choices* caseworkers do not address the circumstances covered in the above work exemptions. In visits to numerous local workforce boards, Center staff have discovered that workforce staff at both the management and caseworker levels believe only that "all work exemptions are going away" in April. There is no sense that they also understand that clients who are currently exempt could, or should, be offered a "good cause" exemption.

The current work exemptions have a long history in Texas' welfare-to-work programs and were maintained as part of major state welfare reforms in 1995. When Congress overhauled welfare programs in 1996 and created the TANF block grant, only one work exemption was specifically retained in federal law (for caretakers with a child under age 1). Discretion over all other work exemption policies was shifted to states. Texas' exemption policies that differed from federal law have been retained

under what is called a welfare “waiver.” Under this waiver, TANF clients exempted from work requirements under Texas’ rules do not count toward federal work participation rate calculations. When the waiver expires in April of 2002 these clients will be counted. However, due to the caseload reduction credit the state receives for moving so many recipients off public assistance, meeting federal work participation requirements will not be a problem and will not be affected by the relatively small numbers of exempted clients.

Unfortunately, state policymakers have been suggesting that state work exemption policies automatically “expire” along with our welfare waiver. This is inaccurate. The state has complete flexibility in this matter and can decide to retain all exemptions or modify them in whatever way best meets policy goals.

## RECOMMENDATIONS

Instead of eliminating the exemptions, the DHS board should take a reasoned approach to this policy change. Three questions should drive the decision-making: 1) which of the current exemptions addresses client circumstances that are likely to present long-term, even permanent, barriers to finding and keeping a job – these should be maintained as up-front work exemptions applied by DHS eligibility staff; 2) which of the current exemptions addresses client circumstances that present a temporary barrier to employment – these should shift to the “good cause” process utilized by *Choices* caseworkers in the workforce system; 3) which exemptions are in place because a client is already in some type of work activity – these should be eliminated so that *Choices* staff can manage the client’s work efforts.

Given these criteria, the Center recommends retaining the exemptions outlined below. Other current exemptions designed for temporary barriers to work should be incorporated into the good cause provisions of the *Choices* program (which will require rule changes at TWC as well). The remaining few exemptions for those already in a work or education activity can be eliminated. These situations are best managed by the *Choices* caseworkers.

### 1) Retain the TANF work exemption for those caretakers who are 60 years of age or older

**Why?** Most of these caretakers are very poor grandparents struggling to care for grandchildren whom they have taken into their homes. Of the more than 80,000 adults receiving TANF assistance, only 348 are exempt from

work requirements because they are 60 or over (Oct. 2001 DHS Exemption data). In recent years lawmakers have passed several bills to provide additional assistance to these grandparent caretakers, and to make it easier to get assistance. Requiring them to now seek employment and attend employment preparation classes, and be sanctioned if they do not, is directly at odds with these efforts. If grandparents did want help finding a job they would be automatically eligible for assistance. These grandparents are also providing a significant savings to the state. If the children for which they are caring were to enter the foster care system the state would pay a minimum of \$6,108 per year to provide care for the child. In the TANF program the maximum assistance paid to a grandparent and one child is \$3,160.

### 2) Retain work exemptions for those who are permanently disabled or who are caring for a disabled child or adult in their household.

**Why?** Clearly, persons who are disabled and unable to work should not be required to participate in employment services. While referrals to the Texas Rehabilitation Commission or other support services are appropriate, mandatory work activities with sanctions imposed for noncompliance are inappropriate.

Similarly, if a person is required in the home to take care of a disabled or incapacitated child or adult, he or she is already performing valuable “work” for both their family and the state. The cost to the state of providing care to disabled individuals is many times the small amount of cash assistance received in the TANF program. Also, long waiting lists for state disability services already exist.

### 3) Retain the exemption for those who are pregnant and cannot work because of their pregnancy.

**Why?** If an expectant mother has a physician’s verification that she should not be working, a work exemption is clearly the appropriate response. For some pregnant clients, the “work first” employment services of the *Choices* program may in fact be of questionable value. Center staff have spoken with more than one *Choices* caseworker who expressed concern that requiring a mother who is in the late stages of her pregnancy to go out on job searches and interviews seems like a waste of time because few, if any employers will hire her.

---

It is very important that the DHS board members hear from advocates about the importance of retaining the exemptions described above. Please send a message today to the members of the Texas Board of Human Services.

Contact information is provided below. Given the time frame, a fax may be the most useful mechanism. If you wish to offer public testimony, the DHS Board will meet to consider this, and other important rule changes on December 28, 2001 at 1:00 PM in the public hearing room at the Winters Complex – 701 West 51<sup>st</sup> Street, Austin, Texas.

Board Agenda: <http://www.dhs.state.tx.us/about/board/2001/December2001agenda.html>

The Texas Board of Human Services

Jon M. Bradley, Chair  
Jerry Kane, Vice Chair  
Dr. Abigail Rios Barrera  
John A. Cuellar  
Manson B. Johnson  
Terry Durkin Wilkinson

<http://www.dhs.state.tx.us/about/board.html>

**Correspondence to the Board should be addressed to:**

*Board Member's Name*  
Texas Department of Human Services  
John H. Winters Human Services Center  
Mail Code W-617  
P.O. Box 149030  
Austin, Texas 78714-9030

Phone: (512) 438-3046  
Fax: (512) 438-4220