

PART XX. Texas Workforce Commission

CHAPTER 813. Food Stamp Employment and Training

The Texas Workforce Commission (Commission) proposes the repeal of §§813.1 and 813.2 and new §§813.1, 813.2, 813.11-813.14, 813.21-813.23, 813.31-813.33, and 813.41-813.43 relating to the Food Stamp Employment and Training (E&T) Program.

The purpose of the repeal and new rules is to implement the federal statutes that affect the E&T Program and the recipients of Food Stamps.

Subchapter A sets out the General Provisions. Section 813.1 states the purpose and §813.2 sets out the definitions and terms used in this chapter.

Subchapter B sets out the provisions for Expenditure of Funds. Section 813.11 states who is to be served, §813.12 states what funds are designated for able-bodied adults without dependents (ABAWDs); §813.13 details the reimbursement basis; and §813.14 provides information regarding the other E&T Program funds.

Subchapter C sets out the Allowable Activities. Section 813.21 sets out the allowable activities for ABAWDs; §813.22 sets out the activities for all E&T mandatory work registrants; and §813.23 sets out the reimbursement rates.

Subchapter D sets out the Support Services for Participants. Section 813.31 is the general provision on support services, §813.32 discusses child care services; and §813.33 discusses the transportation assistance.

Subchapter E sets out Complaints and Appeals. Section 813.41 addresses appeals of decisions made on food stamp applications and benefits; §813.42 addresses appeals of E&T program decisions; and §813.43 addresses discrimination complaints.

The Food Stamp Act of 1977 requires able-bodied adults between the ages of 16-59, referred by the food stamp office, to register for work and take part in an E&T Program. Failure to comply with these requirements may result in disqualification from the receipt of Food Stamp benefits. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 requires ABAWDs to work or participate in specific activities in order to receive Food Stamp benefits. Failure of ABAWDs to comply with these federal requirements will limit their assistance to three out of thirty-six (36) months.

The Balanced Budget Act of 1997 mandates that the states utilize at least eighty percent (80%) of the 100% federal Food Stamp E&T funds for qualifying work activities for ABAWDs. The remaining twenty-percent (20%) may be used to provide work activities specified in the Texas State Plan, approved by the U.S.

Department of Agriculture, for all mandatory work registrants. The remaining twenty percent (20%) funds are not subject to the restrictions placed upon the 80% of the federal funds.

The Balanced Budget Act also provides the U.S. Secretary of Agriculture with the authority to set reimbursement rates for the E&T Program components provided to ABAWDs to ensure that they reflect reasonable cost for providing those activities. The U.S. Food and Nutrition Service (FNS) has set two levels for the maximum rates paid for both workfare and training components. One level is for a filled position and the other level is for an unfilled position.

The proposed rules contain these reimbursement rates. The proposed rules set out the method in which the 80% program services funds for ABAWDs will be provided to local workforce development boards. TWC plans to reimburse local boards for their allowable expenditures for education, training, and job search/workfare based on the maximum reimbursement rates specified in §813.23 of this title (relating to Reimbursement Rates), and up to the board's allocation amount of the designated ABAWD funds.

Randy Townsend, Chief Financial Officer, has determined that for the first five-year period the rules are in effect, the following statements will apply: there are no additional estimated cost to the state and to 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 and 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; and
there are no anticipated economic costs to persons required to comply with the rules.

Randy Townsend, Chief Financial Officer, has determined that there is no anticipated adverse impact on small businesses as a result of enforcing or administering the rules.

Mark Hughes, Director of Labor Market Information, has determined that the proposed rules would not affect private employment but that it would impact public employment by creating new workforce program slots. Nevertheless, the Director of Labor Market Information does not expect any significant impact upon overall employment conditions in the state as a result of the proposed rules.

Jean Mitchell, Director of Workforce Development and Assistance, has determined that for each year of the first five years the rules are in effect, the public benefit anticipated as a result of enforcing the rules will be serving the ABAWD population in compliance with federal law.

Comments on the proposal may be submitted to Gayla Gibler, Welfare Reform, Texas Workforce Commission Building, 101 East 15th Street, Room 434T, Austin, Texas 78778; fax (512) 463-7379. Comments may also be submitted via e-mail to Ms. Gibler at gayla.gibler@twc.state.tx.us. Comments must be received by the Commission within thirty (30) days from the date this proposal is published in the Texas Register. A public hearing will be held on August 11, 1998, at 2:30 p.m. in the Texas Workforce Commission Building; 101 East 15th Street, Room 644; Austin, Texas 78778.

40 TAC §813.1, §813.2

(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Workforce Commission or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The rules are repealed under Texas Labor Code, §301.061 which provides the Texas Workforce Commission with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of Commission programs.

Texas Labor Code, Title 4 and particularly Chapter 301 and Chapter 302 will be affected by the repeals.

§813.1. Expenditure of Funds.

§813.2. Allowable Activities.

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

Filed with the Office of the Secretary of State on July 20, 1998.

TRD-9811374

J. Randel (Jerry) Hill

General Counsel

Texas Workforce Commission

Earliest possible date of adoption: August 30, 1998

For further information, please call: (512) 463-8812

SUBCHAPTER A. General Provisions

40 TAC §813.1, §813.2

The rules are proposed under Texas Labor Code, §301.061 which provides the Texas Workforce Commission with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of Commission

programs.

Texas Labor Code, Title 4 and particularly Chapter 301 and Chapter 302 will be affected by the proposed rules.

§813.1. Purpose.

The Food Stamp Employment and Training (E&T) Program assists non-public assistance food stamp recipients in entering employment through participation in allowable job search, training, education, or workfare activities which promote self-sufficiency.

§813.2. Definitions.

The following words and terms, when used in this Chapter, shall have the following meanings unless the context clearly indicates otherwise.

- (1) ABAWD - able-bodied adults, age 18 to 50, without dependents.
- (2) Dependents -- individuals under 18 years of age.
- (3) E&T Program - the Food Stamp Employment and Training Program.
- (4) Mandatory work registrant -- a non-exempt food stamp household member, age 16 through 59, who is required to register for employment services.
- (5) Non-Public Assistance Food Stamp Recipients - a classification by the Department of Human Services for a food stamp household in which all or some of its members do not receive Temporary Assistance for Needy Families (TANF) or Refugee Cash Assistance.
- (6) Participant - a Food Stamp recipient participating in the E&T program.
- (7) Workfare Program - placement with a public or private nonprofit entity in an unpaid job assignment for the number of hours per month equal to an E&T Program participant's food stamp monthly allotment amount divided by the federal minimum wage.

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

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SUBCHAPTER B. Expenditure of Funds

40 TAC §§813.11-813.14

The rules are proposed under Texas Labor Code, §301.061 which provides the Texas Workforce Commission with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of Commission programs.

Texas Labor Code, Title 4 and particularly Chapter 301 and Chapter 302 will be affected by the proposed rules.

§813.11. Persons Served.

E&T Program services are provided to mandatory work registrants.

§813.12. Funds Designated for ABAWDs.

(a) Eighty percent of the state's allocation of 100% of the federal E&T Program funds must be spent on allowable work, education, or training activities for ABAWDs as listed in §813.21 of this title (relating to Activities for ABAWDs).

(b) The provisions pertaining to specific funding for ABAWDs in this section applies to state and local program fund allocations and administrative fund allocations as specified in §800.54 of this title (relating to the Food Stamp

Employment and Training Program).

§813.13. Reimbursements.

Local Workforce Development Boards will be reimbursed with the designated ABAWD funds within their allocations for expenses incurred in providing allowable activities to eligible ABAWDs. Reimbursements will be paid by the Texas Workforce Commission.

§813.14. Other E&T Funds.

All other federal and state E&T Program funds may be spent on any E&T Program activity listed in §813.22 of this title (relating to Other Activities for All Mandatory Work Registrants) for any eligible mandatory work registrant. This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

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SUBCHAPTER C. Allowable Activities for Participants

40 TAC §§813.21-813.23

The rules are proposed under Texas Labor Code, §301.061 which provides the Texas Workforce Commission with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of Commission programs.

Texas Labor Code, Title 4 and particularly Chapter 301 and Chapter 302 will be affected by the proposed rules.

§813.21. Activities for ABAWDs.

Allowable E&T Program activities for ABAWDs through funds designated in §813.12 of this title (relating to Funds Designated for ABAWDs) are limited to the following:

- (1) twenty hours or more per week of participation in work programs under the Trade Adjustment Act of 1974;
- (2) twenty hours or more per week of participation in programs under the Job Training Partnership Act (29 U.S.C. 1501, et.seq);
- (3) twenty hours or more per week of participation in education and training; or
- (4) participation in a state approved workfare program in the public or private non-profit sectors, which includes a 30-day job search phase prior to placement in an available workfare position.

§813.22. Other Activities for all E&T Program Mandatory Work Registrants.

The following activities may be provided for all E&T Program mandatory work registrants, including ABAWDs, as long as they are funded with the 20% of the 100% federal funds and the state matching funds:

- (1) job search;
- (2) job readiness;
- (3) vocational training;
- (4) non-vocational education;
- (5) work experience; or
- (6) other activities approved in the current Food Stamp Employment and Training State Plan located at the Texas Workforce Commission state office building.

§813.23. Reimbursement Rates.

Expenditures of E&T Program funds for work, education and training activities for ABAWDs are subject to federally established maximum reimbursement rates. The following rates apply to both workfare position slots and education or training slots:

(1) A filled slot is reimbursed \$175. A slot is considered "filled" when a participant reports to the workfare, education, or training site to begin activities.

(2) An offered, but unfilled slot is reimbursed \$30. A slot is considered offered but "unfilled" when an actual workfare, education, or training opportunity is made available to a participant, but the participant either refuses the assignment or fails to report to the assignment.

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

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J. Randel (Jerry) Hill

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SUBCHAPTER D. Support Services for Participants

40 TAC §§813.31-813.33

The rules are proposed under Texas Labor Code, §301.061 which provides the Texas Workforce Commission with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of Commission programs.

Texas Labor Code, Title 4 and particularly Chapter 301 and Chapter 302 will be affected by the proposed rules.

§813.31. Provision of Support Services.

Support services identified in this subchapter shall be provided, if needed, to an E&T Program participant to remove barriers from participation in the program, subject to the availability of resources and funding.

§813.32. Child Care Services.

Child care services are governed by rules contained in Chapter 809 of this title (relating to Child Care and Development).

§813.33. Transportation Assistance.

(a) Transportation assistance may be provided for E&T Program participants if alternative transportation resources are not available to the participant.

(b) The methods and amounts used to provide transportation assistance shall be determined by each local workforce development board, consistent with state policy which requires use of the most economical means of transportation that meets the participant's needs.

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

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SUBCHAPTER E. Complaints and Appeals

40 TAC §§813.41-813.43

The rules are proposed under Texas Labor Code, §301.061 which provides the Texas Workforce Commission with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of Commission programs.

Texas Labor Code, Title 4 and particularly Chapter 301 and Chapter 302 will be affected by the proposed rules.

§813.41. Appeals of Decisions Made on Food Stamp Applications and Benefits.

Applicants and recipients of Food Stamp benefits may appeal adverse action taken on their application for benefits or the amount of benefits to the Department of Human Services (DHS) in accordance with DHS rules pursuant to §3.3406 of this title (relating to Right to Appeal).

§813.42. Appeals of E&T Program Decisions.

(a) E&T Program staff shall inform participants of their right to appeal a decision related to employment services or support services and the procedures for requesting a fair hearing.

(b) Food Stamp E&T Program participants who are dissatisfied with E&T Program decisions affecting activities or support services, may have an informal review of these decisions through procedures established by the Commission or Local Workforce Development Boards.

(c) Participants may also file an appeal of the decision under the general hearings process as contained in the Commission rules in Chapter 823 of this title (relating to General Hearings). The request must be submitted in writing to the Appeals Department, Texas Workforce Commission Building, 101 East 15th Street, Room 410; Austin, Texas 78778-0001, within 30 calendar days of the date of the decision.

§813.43. Discrimination Complaints.

(a) Any participant alleging discrimination on the basis of age, race, color, national origin, or physical or mental disability has a right to file a written complaint of alleged discriminatory acts within 180 calendar days from the date of the alleged discriminatory act. Complaints must be submitted to the Texas Workforce Commission Equal Opportunity Department, 101 East 15th Street, Room 220, Austin, TX 78778-0001.

(b) Commission staff, Local Workforce Development Boards or their service providers, and any other service provider must advise individuals who express an interest in filing a discrimination complaint of their right to file a complaint and the complaint procedures.

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

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