

Chapter 813. Food Stamp, Employment and Training Rules

Part XX. Texas Workforce Commission

Chapter 813. Food Stamp Employment and Training

The Texas Workforce Commission (Commission) adopts the repeal of §§813.1 and 813.2 and adopts 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. Sections 813.1, 813.11-813.14, 813.21, 813.23, 813.31-813.33, 813.41-813.43 are adopted without changes and will not be republished. Sections 813.2 and 813.22 are adopted with changes to the proposed text as published in the July 31, 1998, issue of *Texas Register* (23 TexReg 7756), which volume was published as 24.

Adoption of these new rules governing the E&T Program is justified to ensure that the E&T Program is in compliance with the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 and the Balanced Budget Act of 1997.

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 80% of the 100% federal Food Stamp E&T funds for qualifying work activities for ABAWDs. The remaining 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 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 adopted rules contain these reimbursement rates. The adopted 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.

A public hearing was 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. No comments were offered.

Written comments requesting changes were offered by the Texas AFL-CIO. The Commission's response follows each comment.

Comment: The commenter asserts that there should be a provision in the rules clearly stating that displacement of current workers is prohibited in workfare situations and that this provision applies in Texas.

Response: Prohibitions against displacement are found in federal law and regulation. The Commission believes a restatement of federal provisions is unnecessary. Therefore, the Commission declines to make the suggested change.

Comment: The commenter believes that there should be a procedure for addressing displacement complaints so that victims and advocates will be aware of how to enforce the nondisplacement provisions. The commenter suggests expanding the procedure outlined in §813.43 for discrimination complaints to cover these situations.

Response: The Commission does not agree with this suggestion, as it would create new administrative burdens not required by the enabling federal statutes or regulations. The Commission is committed to administering this program

within the guidelines established by applicable federal law and regulation. Under current federal regulation the Commission has a duty to monitor the operating agencies of this program for compliance with the governing federal regulations, including those concerning displacement.

Comment: The commenter requests that a definition of "non-profit organization," for purposes of qualification for the program, be added.

Response: The Commission agrees and has added a definition of non-profit organization in §813.2, Definitions.

Comment: The commenter requests adding a requirement for competitive bidding and disclosure for those who wish to receive workfare participants. The commenter believes that this will eliminate the potential for insider dealing and corruption.

Response: The Commission does not agree with requiring this administrative burden. Any entity that meets the requirements is welcome to participate in the workfare program; as such, competitive bidding for workfare providers is not needed. The workfare program under the Food Stamp E&T Program complies with federal regulations in 7 C.F.R. §273.22, including the establishment of agreements between the Commission or Local Workforce Development Board and the entity providing workfare positions. The Commission therefore declines to require competitive bidding for workfare providers.

The Commission has amended §813.22, Other Activities for all E&T Program Mandatory Work Registrants. The proposed rules stated that these activities may be funded with the 20% of the 100% federal funds and the state matching funds. In order to provide flexibility, the revised rule changes the "and" to "or."

40 TAC §813.1 and §813.2

The repeals are adopted 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.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on September 10, 1998.

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J. Randel (Jerry) Hill

General Counsel

Texas Workforce Commission

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

Subchapter A. General Provisions

40 TAC §813.1, §813.2

The rules are adopted 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.

§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)

Nonprofit Organization - any corporation, trust, association, cooperative, or other organization that is operated primarily for scientific, educational service, charitable, or similar purpose in the public interest; is not organized primarily for-profit; and uses its net proceeds to maintain, improve, or expand its operations.

(7)

Participant -- a Food Stamp recipient participating in the E&T program.

(8)

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 adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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Subchapter B. Expenditure of Funds

40 TAC §§813.11-813.14

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Subchapter C. Allowable Activities for Participants

40 TAC §§813.21-813.23

The rules are adopted 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.

§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 or 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.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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Subchapter D. Support Services for Participants

40 TAC §§813.31-813.33

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This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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Subchapter E. Complaints and Appeals

40 TAC §§813.41-813.43

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