

1 **CHAPTER 815. UNEMPLOYMENT INSURANCE**

2  
3 **PROPOSED RULES WITH PREAMBLE TO BE SUBMITTED TO THE TEXAS**  
4 **REGISTER. THIS DOCUMENT WILL HAVE NO SUBSTANTIVE CHANGES BUT IS**  
5 **SUBJECT TO FORMATTING CHANGES AS REQUIRED BY THE TEXAS REGISTER.**  
6

7 The Texas Workforce Commission (Agency) proposes amendments to the following sections of  
8 Chapter 815, relating to Unemployment Insurance:

- 9  
10 Subchapter A. General Provisions, §815.1  
11 Subchapter B. Benefits, Claims and Appeals, §815.12  
12 Subchapter F. Extended Benefits, §§815.170 - 815.172, 815.174  
13

14 The Agency proposes the repeal of the following sections of Chapter 815, relating to  
15 Unemployment Insurance:

- 16  
17 Subchapter B. Benefits, Claims, and Appeals, §815.29  
18 Subchapter F. Extended Benefits, §815.173  
19

20 The Agency proposes the following new subchapter to Chapter 815, relating to Unemployment  
21 Insurance:

- 22  
23 Subchapter G. CARES Act Provisions, §§815.180 - 815.185  
24

- 25 **PART I. PURPOSE, BACKGROUND, AND AUTHORITY**  
26 **PART II. EXPLANATION OF INDIVIDUAL PROVISIONS**  
27 **PART III. IMPACT STATEMENTS**  
28 **PART IV. COORDINATION ACTIVITIES**  
29

30 **PART I. PURPOSE, BACKGROUND, AND AUTHORITY**

31 The purpose of the proposed Chapter 815 rule change is to address the requirements of the  
32 Emergency Unemployment Insurance Stabilization and Access Act of 2020 (EUISAA), the  
33 Coronavirus Aid, Relief, and Economic Security Act (CARES Act) as well as to exercise the  
34 authority bestowed upon the Agency by Texas Labor Code §209.025.  
35

36 Federal Funding Under EUISSA  
37

38 On March 18, 2020, Congress enacted EUISAA, which provides states with emergency funding  
39 grants for the administration of their unemployment compensation (UC) programs. The purpose  
40 of these grants is to assist states with the unprecedented claim volumes associated with COVID-  
41 19.  
42

43 These grants are allocated into two separate allotments, Allotment I and II. Under EUISAA  
44 §4105, if a state meets the requirements of and obtains both Allotment I and II, the Federal  
45 Government will pay 100 percent of any Extended Benefits (EB), beginning on March 18, 2020  
46 until December 31, 2020.

1  
2 One of the requirements of Allotment I under EUISAA §4102(a) is that "the State requires  
3 employers to provide notification of the availability of unemployment compensation to  
4 employees at the time of separation from employment." The US Department of Labor has stated  
5 that this notice must be made individually to the separated employee.  
6

7 The Agency has the authority under Texas Labor Code §208.001(b) to require this individual  
8 notice. Texas Labor Code §208.001(b) provides that "The commission shall supply, without cost  
9 to each employer, printed notices that provide general information about filing a claim for  
10 unemployment benefits. Each employer shall post and maintain the notices in places accessible  
11 to the individuals in the employ of the employer." To clarify how this notice must be provided,  
12 the Commission has determined it prudent to amend Agency rules to define "places accessible"  
13 to include general notice in the workplace and an individual notice upon separation.  
14

15 Texas Labor Code §209.025 provides that "Notwithstanding any other provision of this  
16 subchapter, the commission by rule may adjust the extended benefit eligibility period as  
17 necessary to maximize the receipt of any fully funded federal extended unemployment benefits,  
18 if full federal funding for those benefits is available."  
19

20 Currently, Texas Labor Code Chapter 209 provides for an Insured Unemployment Rate (IUR)  
21 trigger for EB, with benefit eligibility lasting a maximum of 13 weeks. Federal law, however,  
22 provides for an alternate trigger, the Total Unemployment Rate (TUR) trigger. The TUR trigger  
23 also provides that in periods of high unemployment, an additional seven weeks of EB benefit  
24 eligibility is available.  
25

26 In order to maximize the receipt of fully funded federal EB anticipated by Texas Labor Code  
27 §209.025, the Agency must implement the optional TUR trigger with the high unemployment  
28 rate period. To ensure that the Agency maximizes the federal funding, a provision is being added  
29 to allow for additional weeks of benefit eligibility, in excess of the current seven, if provided for  
30 by federal law. Other provisions addressing coordination of benefit programs and the treatment  
31 of certain governmental and tribal employers are also addressed.  
32

33 Existing Chapter 815 Subchapter F is explicitly tied to the Tax Relief, Unemployment Insurance  
34 Reauthorization, and Job Creation Act of 2010 (P.L. 111 - 312). Subchapter F is being amended  
35 to be generally applicable and effective when full federal funding exists.  
36

### 37 Federal Extended Benefit Programs

38

39 Subsequently on March 27, 2020 Congress enacted the CARES Act. These provisions provide  
40 for new, limited duration, entitlement programs including, Federal Pandemic Unemployment  
41 Compensation (FPUC), Pandemic Emergency Unemployment Compensation (PEUC), Federally  
42 Reimbursed Waiting Week (FRWW), and Pandemic Unemployment Assistance (PUA). On  
43 March 28, 2020, under delegated authority from Texas Governor Greg Abbott, Agency  
44 Executive Director Ed Serna executed an agreement with the Secretary of Labor to carry out  
45 these provisions of the CARES Act.  
46

1 FPUC provides an additional \$600 payment on top of other UC payments from the period  
2 covering the benefit week ending April 4, 2020, through the benefit week ending July 25, 2020,  
3 unless extended. PEUC provides an additional 13 weeks of UC payments to eligible individuals  
4 who exhaust their regular compensation benefits and it expires with the benefit week ending  
5 December 26, 2020. FRWW will also expire with the benefit week ending December 26, 2020.  
6 PUA is a disaster UC program for an individual not eligible for regular compensation, EB, or  
7 PEUC, including those who have exhausted other UC programs. PUA currently provides for 39  
8 weeks of benefits, minus regular compensation and EB, and covers individuals not traditionally  
9 covered under UC, including independent contractors and the self-employed. PUA also expires  
10 with the benefit week ending December 26, 2020.

11  
12 Under the CARES Act, FPUC, PEUC, and the FRWW require that a claimant, who receives  
13 benefits to which the claimant is not entitled, repay those benefits unless the payment was made  
14 to the claimant without fault and such repayment would be contrary to equity and good  
15 conscience. Current §815.12 contains these waiver and overpayment regulations for the  
16 Temporary Emergency Unemployment Compensation (TEUC) program of 2001, and by  
17 extension, the Emergency Unemployment Compensation (EUC) program of 2008. However, it  
18 does not contain corresponding provisions for the new pandemic programs FPUC, PEUC, and  
19 the FRWW.

20  
21 To remedy this, §815.12 is being amended to be generally applicable to conforming federal  
22 extended unemployment compensation programs. By doing so, if Congress were to pass another  
23 extended unemployment compensation program in line with previous extension programs, the  
24 rule language for waiver and overpayment would not require additional rulemaking. References  
25 to TEUC will be replaced with "federal extended unemployment compensation." Subsection  
26 815.12(i) will be removed because such a presumption of financial hardship is not generally  
27 applicable. Finally, the waiver provisions of §815.12 are being amended to reflect the more  
28 efficient practice whereby the waiver is automatically considered by the Agency rather than  
29 requiring the claimant request a waiver in writing.

30  
31 Section 815.29 contains the rule defining the coordination between Extended Unemployment  
32 Compensation and regular compensation as required by P.L. 111 - 205 §3. This section is being  
33 repealed as it is no longer applicable.

34  
35 For convenience and ease of use, new Subchapter G is being created to contain rules for the  
36 CARES Act. New Subchapter G will address definitions, coordination of programs, appeals,  
37 overpayments, and fraud.

38  
39 The definitions will define the CARES Act programs. The coordination rules will address the  
40 interactions between existing benefit programs and those provided for in the CARES Act. These  
41 rules are necessary to provide the order in which each of these benefit programs are paid to  
42 claimants.

43  
44 The appeals rules will address the appellate procedure for CARES Act programs. The  
45 overpayment rules will address the deduction of CARES Act program benefit payments to

1 recover previously overpaid benefits to which the claimant is not entitled. The fraud rules will  
2 address fraud penalties and PUA fraud.

3  
4 **PART II. EXPLANATION OF INDIVIDUAL PROVISIONS**

5 (Note: Minor editorial changes are made that do not change the meaning of the rules and,  
6 therefore, are not discussed in the Explanation of Individual Provisions.)

7  
8 **SUBCHAPTER A. GENERAL PROVISIONS**

9 **The Agency proposes the following amendments to Subchapter A:**

10  
11 **§815.1. Definitions.**

12 Section 815.1 is amended to add new paragraph (14), which defines "places accessible" as  
13 locations in which an employer shall provide required notices to an employee, as provided in the  
14 Act, Chapter 208.

15  
16 New subparagraph (A) provides that "places accessible" includes notices containing the required  
17 information are to be displayed in a manner reasonably calculated to be encountered by all  
18 employees.

19  
20 New subparagraph (B) provides that "places accessible" means an employer must provide the  
21 required notice information individually to an employee upon separation from employment. As  
22 the notice is provided directly to the individual, the employer has significant flexibility in how  
23 this information may be made known. Such information may be provided in a paper format,  
24 including by mail or with separation paperwork, email, text, or other means reasonably  
25 calculated to ensure the individual receives the required notification.

26  
27 Existing paragraphs (14) and (15) are renumbered to (15) and (16).

28  
29 **SUBCHAPTER B. BENEFITS, CLAIMS, AND APPEALS**

30 **The Agency proposes the following amendments to Subchapter B:**

31  
32 **§815.12. Waiver of Repayment and Recovery of Temporary Extended Unemployment**  
33 **Compensation Overpayments.**

34 Section 815.12 is amended as follows:

35  
36 Subsections (a) - (h) have been amended to change references to Temporary Extended  
37 Unemployment Compensation (TEUC) to federal extended unemployment compensation.

38  
39 Subsections (b) - (d) have been amended to reflect that an overpayment waiver determination  
40 will be made by the Agency or the Commission without a written request from a claimant. The  
41 decision may be appealed in accordance with Chapter 212 of the Act and under the  
42 administrative regulations of §§815.16 - 815.18.

43  
44 Subsections (i) and (j) are removed and subsection (k) is relettered to subsection (i). New  
45 subsection (j) is added to reflect that for the purposes of this section, a federal extended  
46 unemployment compensation program is an unemployment compensation program enacted by

1 Congress that provides additional federally funded benefits. It does not include EB under  
2 Chapter 815 Subchapter F or Chapter 209 of the Act.

3  
4 **§815.29. Coordination of Emergency Unemployment Compensation with Regular**  
5 **Compensation.**

6 Section 815.29 is repealed as it relates to legislation no longer in effect.

7  
8 **SUBCHAPTER F. EXTENDED BENEFITS**

9 **The Agency proposes the following amendments to Subchapter F:**

10  
11 **§815.170. State "On" and "Off" Indicator Weeks: Conditional Trigger.**

12 Section 815.170 is amended as follows:

13  
14 Subsection (a) provides that pursuant to §209.025 of the Act, if full federal funding for EB is  
15 available, a week is a state "on" indicator week if:

16  
17 -- the average rate of total unemployment in Texas (seasonally adjusted), as determined by the  
18 U.S. Secretary of Labor, for the period consisting of the most recent three months for which data  
19 for all states are published before the close of such week equals or exceeds 6.5 percent; and

20  
21 --the average rate of total unemployment in Texas (seasonally adjusted), as determined by the  
22 U.S. Secretary of Labor, for the three-month period referred to in paragraph (1) of this  
23 subsection, equals or exceeds 10 percent of such average rate for either, or both, of the  
24 corresponding three-month periods ending in the two preceding calendar years.

25  
26 Subsection (b) states that there is a state "off" indicator for a week if either the requirements of  
27 subsection (a)(1) or (a)(2) are not satisfied.

28  
29 Subsection (c) clarifies that notwithstanding this section, any week for which there would  
30 otherwise be a state "on" indicator under §209.022 of the Act, shall continue to be such a week  
31 and shall not be determined to be a week for which there is a state "off" indicator.

32  
33 Subsection (d) is deleted.

34  
35 **§815.171. High Unemployment Period: Maximum Total Extended Benefit Amount.**

36 Section 815.171 is amended as follows:

37  
38 Subsection (a) addresses periods of high unemployment under a TUR trigger under §815.170(a).  
39 If the conditions under §815.170(a) are met, and the average rate of total unemployment equals  
40 or exceeds 8 percent, a high unemployment period exists.

41  
42 Subsection (b) provides that with respect to weeks beginning in a high unemployment period, the  
43 total extended benefit amount payable to an eligible claimant for the claimant's eligibility period  
44 is the lesser of:

1 --80 percent of the total amount of regular compensation payable to the claimant during the  
2 claimant's benefit year under the Act;

3  
4 --20 times the claimant's average weekly benefit amount; or

5  
6 --46 times the claimant's average weekly benefit amount, reduced by the regular compensation  
7 paid, during the claimant's benefit year under the Act.

8  
9 Subsection (c) provides that if the full federal funding for EB provides for an additional extended  
10 benefit amount payable to an eligible claimant in excess of that provided for in subsection (b),  
11 then that amount shall be the total extended benefit amount.

12  
13 **§815.172. Concurrent Emergency Unemployment Compensation Programs.**

14 Section 815.172 is amended to capitalize Extended Benefits.

15  
16 **§815.173. Eligibility Requirements during a Period of 100 Percent Federally Shared**  
17 **Benefits.**

18 Section 815.173 is repealed as it relates to legislation no longer in effect.

19  
20 **§815.174. Financing of Extended Benefits.**

21 Section 815.174 is amended as follows:

22  
23 Subsection(a) provides that if full federal funding for EB is available, the provisions of  
24 §209.082, Charges to Reimbursing Employer, and §209.083, Charges to Taxed Employer, of the  
25 Act shall not apply; however, subsection (b) states that the provisions of §209.084, Charges to  
26 Governmental Employer, and §209.0845, Charges to Indian Tribe, of the Act shall continue to  
27 apply.

28  
29 Subsection (c) is deleted.

30  
31 **SUBCHAPTER G. CARES ACT PROVISIONS**

32 **The Agency proposes new Subchapter G:**

33  
34 **§815.180. Definitions.**

35 New §815.180 defines the terms for Subchapter G.

36  
37 New paragraph (1) defines CARES Act as the Coronavirus Aid, Relief, and Economic Security  
38 Act, Public Law 116 - 136; TITLE II--Assistance for American Workers, Families, and  
39 Businesses; Subtitle A--Unemployment Insurance Provisions.

40  
41 New paragraph (2) defines FPUC as the Federal Pandemic Unemployment Compensation  
42 provisions of §2104 of the CARES Act.

43  
44 New paragraph (3) defines FRWW as the Federally Reimbursed Waiting Week provisions of  
45 §2105 of the CARES Act.

1 New paragraph (4) defines PEUC as the Pandemic Emergency Unemployment Compensation  
2 provisions of §2107 of the CARES Act.

3  
4 New paragraph (5) defines PUA as the Pandemic Unemployment Assistance provisions of §2102  
5 of the CARES Act.

6  
7 **§815.181. Coordination of CARES Act Programs.**

8 New §815.181 describes how CARES Act programs will be integrated into existing benefit  
9 programs.

10  
11 New subsection (a) provides for the program order in which a claimant can claim benefits. That  
12 order is as follows:

13  
14 For an individual who is eligible for regular compensation, including Unemployment  
15 Compensation for Federal Employees (UCFE) and Unemployment Compensation for Ex -  
16 servicemembers (UCX), the following order of payment applies:

17 --The claimant must first apply for and receive regular compensation. The amount and duration  
18 of these benefits are as defined by the Act;

19 --if the claimant exhausts regular compensation, the claimant may then be eligible to receive  
20 PEUC;

21 --if the claimant exhausts PEUC and the state has "triggered on" to EB under Chapter 209 of the  
22 Act, the claimant may then be eligible to receive EB;

23 --if the State is not "triggered on" to EB or the individual exhausts EB, the claimant may then be  
24 eligible to receive PUA. If the State " triggers on" to EB during the period in which the claimant  
25 is collecting PUA and the claimant has not previously exhausted entitlement to EB for the  
26 respective benefit year, then the claimant must stop collecting PUA and file for EB; and

27 --if the claimant meets the qualifications to receive Trade Readjustment Allowances (TRA), such  
28 benefits will be payable after regular compensation, PEUC, EB if "triggered on", and PUA.

29  
30 New subsection (b) describes that for a claimant who is not eligible for regular compensation,  
31 EB, or PEUC, and who meets the federal requirements, the individual may be eligible to collect  
32 PUA.

33  
34 New subsection (c) addresses the additional compensation provided by FPUC. FPUC provides  
35 for additional compensation to an individual collecting regular compensation, PEUC, PUA, EB,  
36 a Shared Work program under Chapter 215 of the Act, TRA, and Disaster Unemployment  
37 Assistance (DUA). Claimants will receive FPUC payments concurrently with the respective  
38 underlying program for which the claimant is eligible. This applies for the benefit week ending  
39 April 4, 2020, through the benefit week ending July 25, 2020 unless subsequently amended by  
40 federal law.

41  
42 **§815.182. Appeals**

1 New §815.182 specifies the appeals process for CARES Act programs.

2  
3 New subsection (a) states a claimant may appeal an adverse FPUC, FRWW, PEUC, or PUA  
4 determination pursuant to the provisions and timeframes of Chapter 212 of the Act and the  
5 provisions set out in §815.16 of this chapter (relating to Appeals to Appeal Tribunals from  
6 Determinations), §815.17 of this chapter (relating to Appeals to the Commission from  
7 Decisions), and §815.18 of this chapter (relating to General Rules for Both Appeal Stages).

8  
9 New subsection (b) clarifies an employer is not a "party of interest," pursuant to §815.15(c), to a  
10 FPUC, FRWW, PEUC, or PUA determination and therefore does not have appeal rights. An  
11 employer may appear at a FPUC, FRWW, PEUC, or PUA hearing to offer evidence.

12  
13 New subsection (c) relates to FPUC. It specifies that, when considering an appeal involving  
14 FPUC, the Appeal Tribunal and Commission shall look to the merits of the denial of the  
15 underlying benefit when determining eligibility for FPUC payments.

16  
17 **§815.183. Waiver**

18 New §815.183 lays out which CARES Act programs are subject to a potential waiver of  
19 overpayments.

20  
21 New subsection (a) states FPUC, the FRWW, and PEUC are federal extended unemployment  
22 compensation programs and therefore subject to §815.12.

23  
24 New subsection (b) clarifies that PUA, as provided by P.L. 116 - 136 §2102, is related to  
25 Disaster Unemployment Assistance programs regulated under Title 20, Part 625, Code of Federal  
26 Regulations. Therefore, PUA does not constitute a federal extended unemployment  
27 compensation program and the waiver provisions of §815.12 do not apply.

28  
29 **§815.184. Overpayments**

30 New §815.184 explains how CARES Act program overpayments will be administered.

31  
32 New subsection (a) states that unless a FPUC, FRWW, or PEUC overpayment is otherwise  
33 recovered, or is waived, the Agency shall, during the three-year period after the date the claimant  
34 received the payment of FPUC, FRWW, or PEUC to which the claimant was not entitled,  
35 recover the overpayment by deductions from any sums payable to the claimant. No single  
36 deduction may exceed 50 percent of the amount otherwise payable to the claimant.

37  
38 New subsection (b) states that unless a PUA overpayment is otherwise recovered, the Agency  
39 shall recover the overpayment by deductions from any sums payable to the claimant. A PUA  
40 overpayment may not be waived per §815.183(b) and is not subject to the three-year period  
41 limitation stated in §815.184(a). No single deduction may exceed 50 percent of the amount  
42 otherwise payable to the claimant.

43  
44 New subsection (c) states that if a claimant has an unemployment benefits overpayment with an  
45 appropriate agency in another state, and the Agency has a reciprocal arrangement with that other



1 state agency under §211.004 of the Act, the Agency shall deduct 50 percent per each single  
2 deduction of the amount of FPUC, FRWW, PEUC, or PUA otherwise payable to the claimant.

3  
4 **§815.185. Fraud**

5 New §815.185 explains how certain instances of fraud will be handled by the Agency.

6  
7 New subsection (a) states a penalty for fraudulently obtaining benefits under §214.003 of the Act  
8 shall not apply to fraudulently obtained FPUC, FRWW, PEUC, and PUA benefits forfeited.

9  
10 New subsection (b) pertains to FPUC and clarifies that the Agency and the Commission shall  
11 examine the underlying payment or statement which precipitated the fraud determination when  
12 examining FPUC fraud.

13  
14 New subsection (c) states that under PUA, the Agency will apply the provisions of 20 C.F.R.  
15 §625.14(i) when determining disqualification for fraud.

16  
17 **PART III. IMPACT STATEMENTS**

18 Chris Nelson, Chief Financial Officer, has determined that for each year of the first five years the  
19 rules will be in effect, the following statements will apply:

20  
21 There are no additional estimated costs to the state and to local governments expected as a result  
22 of enforcing or administering the rules.

23  
24 There are no estimated cost reductions to the state and to local governments as a result of  
25 enforcing or administering the rules.

26  
27 There are no estimated losses or increases in revenue to the state or to local governments as a  
28 result of enforcing or administering the rules.

29  
30 There are no foreseeable implications relating to costs or revenue of the state or local  
31 governments as a result of enforcing or administering the rules.

32  
33 There are no anticipated economic costs to individuals required to comply with the rules.

34  
35 There is no anticipated adverse economic impact on small businesses, microbusinesses, or rural  
36 communities as a result of enforcing or administering the rules.

37  
38 Based on the analyses required by Texas Government Code §2001.024, the Agency has  
39 determined that the requirement to repeal or amend a rule, as required by Texas Government  
40 Code §2001.0045, does not apply to this rulemaking.

41  
42 **Takings Impact Assessment**

43 Under Texas Government Code, §2007.002(5), "taking" means a governmental action that  
44 affects private real property, in whole or in part or temporarily or permanently, in a manner that  
45 requires the governmental entity to compensate the private real property owner as provided by  
46 the Fifth and Fourteenth Amendments to the United States Constitution or the Texas

1 Constitution, §17 or §19, Article I, or restricts or limits the owner's right to the property that  
2 would otherwise exist in the absence of the governmental action, and is the producing cause of a  
3 reduction of at least 25 percent in the market value of the affected private real property,  
4 determined by comparing the market value of the property as if the governmental action is not in  
5 effect and the market value of the property determined as if the governmental action is in  
6 effect. The Commission completed a Takings Impact Analysis for the proposed rulemaking  
7 action under Texas Government Code, §2007.043. The primary purpose of this proposed  
8 rulemaking action, as discussed elsewhere in this preamble, is to ensure compliance with federal  
9 law with respect to extended unemployment compensation programs under the CARES Act and  
10 to maximize the state's ability to take advantage of full federal funding under EUISSA.

11  
12 The proposed rulemaking action will not create any additional burden on private real property.  
13 The proposed rulemaking action will not affect private real property in a manner that would  
14 require compensation to private real property owners under the United States Constitution or the  
15 Texas Constitution. The proposal also will not affect private real property in a manner that  
16 restricts or limits an owner's right to the property that would otherwise exist in the absence of the  
17 governmental action. Therefore, the proposed rulemaking will not cause a taking under Texas  
18 Government Code, Chapter 2007.

19  
20 Government Growth Impact Statement

21 The Agency has determined that during the first five years the proposed amendments will be in  
22 effect:

- 23 --the proposed amendments will not create or eliminate a government program;
- 24 --implementation of the proposed amendments will not require the creation or elimination of  
25 employee positions;
- 26 --implementation of the proposed amendments will not require an increase or decrease in future  
27 legislative appropriations to the Agency;
- 28 --the proposed amendments will not require an increase or decrease in fees paid to the Agency;
- 29 --the proposed amendments will not create a new regulation;
- 30 --the proposed amendments will not expand, limit, or eliminate an existing regulation;
- 31 --the proposed amendments will not change the number of individuals subject to the rules; and
- 32 --the proposed amendments will not positively or adversely affect the state's economy.

33  
34 Economic Impact Statement and Regulatory Flexibility Analysis

35 The Agency has determined that the proposed rules will not have an adverse economic impact on  
36 small businesses or rural communities, as the proposed rules place no requirements on small  
37 businesses or rural communities.

38  
39 Mariana Vega, Director of Labor Market and Career Information, has determined that there is no  
40 significant negative impact upon employment conditions in the state as a result of the rules.

41  
42 Clay Cole, Director, Unemployment Insurance Division, and Paul Carmona, Director,  
43 Regulatory Integrity Division, have determined that for each year of the first five years the rules  
44 are in effect, the public benefit anticipated as a result of enforcing the proposed rules will be to  
45 ensure that Texas remains eligible to receive full federal extended unemployment benefits during  
46 the COVID-19 pandemic and its aftermath.

1  
2 The Agency hereby certifies that the proposal has been reviewed by legal counsel and found to  
3 be within The Agency's legal authority to adopt.

4  
5 **PART IV. COORDINATION ACTIVITIES**  
6 Comments on the proposed rules may be submitted to [TWCPolicyComments@twc.state.tx.us](mailto:TWCPolicyComments@twc.state.tx.us).  
7 Comments must be received no later than 30 days from the date this proposal is published in the  
8 *Texas Register*.

9  
10 The rules are proposed under Texas Labor Code §301.0015(a)(6) which provides the Agency  
11 with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective  
12 administration of Agency services and activities.

13  
14 The proposed rules affect Texas Labor Code, Title 4.



1 (D) A notification is not adequate if it provides only a general conclusion  
2 without substantiating facts. A general statement that a worker has been  
3 discharged for misconduct connected with the work is inadequate. The  
4 allegation may be supported by a summary of the events, which may  
5 include facts documenting the specific reason for the worker's discharge,  
6 such as, but not limited to:

7  
8 (i) policies or procedures;

9  
10 (ii) warnings;

11  
12 (iii) performance reviews;

13  
14 (iv) attendance records;

15  
16 (v) complaints; and

17  
18 (vi) witness statements.  
19

20 (4) Agency--The unit of state government that is presided over by the Commission  
21 and under the direction of the executive director, which operates the integrated  
22 workforce development system and administers the unemployment  
23 compensation insurance program in this state as established under Texas Labor  
24 Code, Chapter 301. It may also be referred to as the Texas Workforce  
25 Commission.  
26

27 (5) Appeal--A submission by a party requesting the Agency or the Commission to  
28 review a determination or decision that is adverse to that party. The  
29 determination or decision must be appealable and pertain to entitlement to  
30 unemployment benefits; chargeback as provided in the Act, Chapter 204,  
31 Chapter 208, and Chapter 212; fraud as provided in the Act, Chapter 214; tax  
32 coverage or contributions or reimbursements. This definition does not grant  
33 rights to a party.  
34

35 (6) Base period with respect to an individual--The first four consecutive completed  
36 calendar quarters within the last five completed calendar quarters immediately  
37 preceding the first day of the individual's benefit year, or any other alternate  
38 base period as allowed by the Act.  
39

40 (7) Benefit period--The period of seven consecutive calendar days, ending at  
41 midnight on Saturday, with respect to which entitlement to benefits is claimed,  
42 measured, computed, or determined.  
43

44 (8) Benefit wage credits--Wages used to determine an individual's monetary  
45 eligibility for benefits. Benefit wage credits consist of those wages an  
46 individual received for employment from an employer during the individual's

1 base period as well as any wages ordered to be paid to an individual by a final  
2 Commission order, pursuant to its authority under Texas Labor Code, Chapter  
3 61. Benefit wage credits awarded by a final Commission order that were due to  
4 be paid to the individual by an employer during the individual's base period  
5 shall be credited to the quarter in which the wages were originally due to be  
6 paid.  
7

- 8 (9) Board--Local Workforce Development Board created pursuant to Texas  
9 Government Code §2308.253 and certified by the Governor pursuant to Texas  
10 Government Code §2308.261. This includes a Board when functioning as the  
11 Local Workforce Investment Board as described in the Workforce Investment  
12 Act §117 (29 U.S.C.A. §2832), including those functions required of a Youth  
13 Council, as provided for under the Workforce Investment Act §117(i) (also  
14 referred to as an LWDB).  
15
- 16 (10) Commission--The three-member body of governance composed of Governor-  
17 appointed members in which there is one representative of labor, one  
18 representative of employers, and one representative of the public as established  
19 in Texas Labor Code §301.002, which includes the three-member governing  
20 body acting under the Act, Chapter 212, Subchapter D, and in Agency hearings  
21 involving unemployment insurance issues regarding tax coverage,  
22 contributions or reimbursements.  
23
- 24 (11) Day--A calendar day.  
25
- 26 (12) Landman--An individual who is qualified to do field work in the purchasing of  
27 right-of-way and leases of mineral interests, record searches, and related real  
28 property title determinations, and who is primarily engaged in performing the  
29 field work.  
30
- 31 (13) Person--May include a corporation, organization, government or governmental  
32 subdivision or agency, business trust, estate, trust, partnership, association, and  
33 any other legal entity.  
34
- 35 (14) Places accessible--Locations in which an employer shall provide required  
36 notices to an employee as provided in the Act, Chapter 208. This includes:  
37
- 38 (A) Notices providing general information about filing a claim for  
39 unemployment benefits shall be displayed in a manner reasonably  
40 calculated to be encountered by all employees; and  
41
- 42 (B) Upon separation from employment, an employer shall provide an  
43 employee individual notice of general information about filing a claim  
44 for unemployment benefits as set out in the printed notice referenced in  
45 §208.001(b) of the Act. As the notice is provided directly to the

individual, the employer has significant flexibility in how this information may be made known. Such information may be provided:

(i) in a paper format, including by mail or with separation paperwork;

(ii) by email;

(iii) by text; or

(iv) by other means reasonably calculated to ensure the individual receives the required notification.

~~(415)~~ Reopened claim--The first claim filed following a break in claim series during a benefit year which was caused by other than intervening employment, i.e., illness, disqualification, unavailability, or failure to report for any reason other than job attachment. The reopened claim reopens a claim series and is not a payable claim since it is not a claim for seven days of compensable unemployment.

~~(416)~~ Week--A period of seven consecutive calendar days ending at midnight on Saturday.

## SUBCHAPTER B. BENEFITS, CLAIMS, AND APPEALS

### §815.12. Waiver of Repayment and Recovery of Federal Extended Unemployment Compensation~~Temporary Extended Unemployment Compensation~~ Overpayments.

- (a) When conforming with an applicable federal extended unemployment compensation program, ~~This section implements the Temporary Extended Unemployment Compensation (TEUC) waiver of repayment requirements program~~ by setting out the process that the Agency and Commission shall use to determine whether to waive the repayment and recovery of non-fraudulent overpayments. ~~The terms repayment and recovery will be referred to as repayment in this section, and Temporary Extended Unemployment Compensation~~ the federal extended unemployment compensation overpayment will be referred to as overpayment.
- (b) When a decision of the Agency or Commission results in a ~~an~~ federal extended unemployment compensation overpayment, the Agency or Commission will also determine whether the overpayment will be waived. ~~an appealable determination and a request for waiver of repayment of an overpayment are mailed to the claimant.~~
- (c) A claimant may appeal the underlying issue that created the ~~an~~ overpayment determination pursuant to the provisions of Chapter 212 of the Act and the provisions set out in §815.16 of this chapter (relating to Appeals to Appeal Tribunals from Determinations), §815.17 of this chapter (relating to Appeals to the

1 Commission from Decisions), and §815.18 of this chapter (relating to General Rules  
2 for Both Appeal Stages).

3 (d) A claimant may also appeal a denial of a request to waive the repayment of an  
4 overpayment in the same manner as stated in subsection (c) of this section.~~A~~  
5 ~~claimant's written request for waiver of repayment of an overpayment must be filed~~  
6 ~~within 14 days of the date a request to waive the repayment of an overpayment~~  
7 ~~notification is mailed by the Agency. The waiver request must be filed in~~  
8 ~~accordance with §815.16(1)(A) of this chapter (relating to Appeals to Appeal~~  
9 ~~Tribunals from Determinations) or mailed to the address on the request form.~~

10 (e) The Agency or Commission will deny a request to waive the repayment of a non-  
11 fraudulent overpayment if it determines that:

12 (1) the payment of ~~TEUC~~the federal extended unemployment compensation  
13 benefits is the fault of the claimant, or

14 (2) the repayment is not contrary to equity and good conscience.

15 (f) The Agency or Commission will waive the repayment of a non-fraudulent  
16 overpayment if it determines that:

17 (1) the payment of ~~TEUC~~the federal extended unemployment compensation  
18 benefits is not the fault of the claimant, and

19 (2) the repayment is contrary to equity and good conscience.

20 (g) In determining whether fault exists, the Agency or Commission shall consider the  
21 following:

22 (1) whether a material statement or representation was made by the claimant in  
23 connection with the application for the federal extended unemployment  
24 compensation ~~TEUC~~ that resulted in an overpayment, and whether the  
25 claimant knew or should have known that the statement or representation was  
26 inaccurate;

27 (2) whether the claimant failed or caused another to fail to disclose a material fact,  
28 in connection with an application for the federal extended unemployment  
29 compensation ~~TEUC~~ that resulted in an overpayment, and whether the  
30 claimant knew or should have known that the fact was material;

31 (3) whether the claimant knew or could have been expected to know that the  
32 claimant was not entitled to the federal extended unemployment compensation  
33 ~~the TEUC~~ payment; and

34 (4) whether, for any other reason, the overpayment resulted directly or indirectly,  
35 and partially or totally, from any act or omission of the claimant or of which



1 the claimant had knowledge, and which was erroneous or inaccurate or  
2 otherwise wrong.

3 (h) In determining whether equity and good conscience exists, the Agency or  
4 Commission shall consider the following factors:

5 (1) whether the overpayment is the result of a decision on appeal;

6 (2) whether the Agency gave notice to the claimant that the claimant may be  
7 required to repay the overpayment in the event of a reversal of the federal  
8 extended unemployment compensation ~~a TEUC~~-eligibility determination on  
9 appeal; and

10 (3) whether repayment of the federal extended unemployment compensation ~~the~~  
11 ~~TEUC~~-overpayment will cause financial hardship to the claimant.

12 ~~(i) The Commission has determined that requiring the claimant to repay a TEUC~~  
13 ~~overpayment will cause financial hardship to the claimant, because in order to~~  
14 ~~receive TEUC benefits, the claimant had to have been unemployed for an extended~~  
15 ~~period of time.~~

16 ~~(j) A claimant may appeal a denial of a request to waive the repayment of an~~  
17 ~~overpayment pursuant to subsection (e) of this Section.~~

18 ~~(k)~~ (i) Hearings under this ~~Section~~-section will be conducted in a fair and impartial manner  
19 in accordance with the provisions of §815.15 of this chapter (relating to Parties with  
20 Appeal Rights), §815.16 of this chapter (relating to Appeals to Appeal Tribunals  
21 from Determinations), §815.17 of this chapter (relating to Appeals to the  
22 Commission from Decisions), and §815.18 of this chapter (relating to General Rules  
23 for Both Appeal Stages), except to the extent that the sections are clearly  
24 inapplicable.

25 ~~(j)~~ For the purposes of this section, a federal extended unemployment compensation  
26 program is an unemployment compensation program enacted by Congress that  
27 provides additional federally funded benefits. It does not include Extended Benefits  
28 under Subchapter F of this chapter or Chapter 209 of the Act.

29  
30  
31 ~~§815.29. Coordination of Emergency Unemployment Compensation with Regular~~  
32 ~~Compensation~~

33 ~~(a) The Commission shall establish a new benefit year, but defer the payment of regular~~  
34 ~~compensation with respect to that new benefit year until exhaustion of all emergency~~  
35 ~~unemployment compensation payable with respect to the prior benefit year if the~~  
36 ~~individual's weekly benefit amount of regular compensation in the new benefit year~~

1 ~~is at least \$100 or 25 percent less than the individual's weekly benefit amount in the~~  
2 ~~immediately preceding benefit year.~~

3  
4 ~~(b) This section continues in effect as long as the provisions of P.L. 111-205 §3, or any~~  
5 ~~amendments thereto, remain in effect. At such time that these federal provisions are~~  
6 ~~no longer in effect, this section is repealed.~~  
7

## 8 9 SUBCHAPTER F. EXTENDED BENEFITS

### 10 §815.170. State "On" and "Off" Indicator Weeks: Conditional Trigger.

11  
12 (a) Pursuant to §209.025 of the Act, if full federal funding for Extended Benefits is  
13 available, a week is a state "on" indicator week if:

14 (1) the average rate of total unemployment in Texas (seasonally adjusted), as  
15 determined by the U.S. Secretary of Labor, for the period consisting of the  
16 most recent three months for which data for all states are published before the  
17 close of such week equals or exceeds 6.5 percent; and

18 (2) the average rate of total unemployment in Texas (seasonally adjusted), as  
19 determined by the U.S. Secretary of Labor, for the three-month period referred  
20 to in paragraph (1) of this subsection, equals or exceeds 110 percent of such  
21 average rate for either, or both, of the corresponding three-month periods  
22 ending in the two preceding calendar years.

23 (b) There is a state "off" indicator for a week if either the requirements of subsection  
24 (a)(1) or (a)(2) of this section are not satisfied.

25 (c) Notwithstanding this section, any week for which there would otherwise be a state  
26 "on" indicator under §209.022 of the Act, shall continue to be such a week and shall  
27 not be determined to be a week for which there is a state "off" indicator.

28 ~~(a) In addition to the state "on" indicator provisions for extended benefits in the Act, and~~  
29 ~~with respect to weeks of unemployment beginning on or after February 17, 2009, a~~  
30 ~~week is a state "on" indicator week if:~~

31 ~~(1) the average rate of total unemployment in Texas (seasonally adjusted), as~~  
32 ~~determined by the U.S. Secretary of Labor, for the period consisting of the~~  
33 ~~most recent three months for which data for all states are published before the~~  
34 ~~close of such week equals or exceeds 6.5 percent; and~~

35 ~~(2) the average rate of total unemployment in Texas (seasonally adjusted), as~~  
36 ~~determined by the U.S. Secretary of Labor, for the three-month period referred~~  
37 ~~to in paragraph (1) of this subsection, equals or exceeds 110 percent of such~~  
38 ~~average for either or both of the corresponding three-month periods ending in~~  
39 ~~the two preceding calendar years.~~

1 ~~(b) With respect to compensation for weeks of unemployment beginning after the date of~~  
2 ~~enactment of Tax Relief, Unemployment Insurance Reauthorization, and Job~~  
3 ~~Creation Act of 2010 (P.L. 111-312) and ending on or before the date established in~~  
4 ~~federal law permitting this provision, a week is a state "on" indicator week if:~~

5 ~~—(1) the average rate of total unemployment in Texas (seasonally adjusted), as~~  
6 ~~determined by the U.S. Secretary of Labor, for the period consisting of the~~  
7 ~~most recent three months for which data for all states are published before the~~  
8 ~~close of such week equals or exceeds 6.5 percent; and~~

9 ~~—(2) the average rate of total unemployment in Texas (seasonally adjusted), as~~  
10 ~~determined by the U.S. Secretary of Labor, for the three-month period referred~~  
11 ~~to in paragraph (1) of this subsection, equals or exceeds 110 percent of such~~  
12 ~~average for any or all of the corresponding three-month periods ending in the~~  
13 ~~three preceding calendar years.~~

14 ~~(c) In addition to the state "off" indicator provisions for extended benefits in the Act,~~  
15 ~~there is a state "off" indicator for only a week if, for the period consisting of such~~  
16 ~~week and the immediately preceding twelve weeks, none of the options specified in~~  
17 ~~subsection (a) or (b) of this section result in an "on" indicator.~~

18 ~~(d) This section continues in effect until the week ending four weeks prior to the last~~  
19 ~~week of unemployment for which 100 percent federal sharing is available under P.L.~~  
20 ~~111-5, Division B, Title II, §2005(a), without regard to the extension of federal~~  
21 ~~sharing for certain claims as provided under §2005(e) of such law.~~

22 **§815.171. High Unemployment Period: Maximum Total Extended Benefit Amount.**

23 (a) If the conditions under §815.170(a) of this subchapter are met, and the average rate  
24 of total unemployment equals or exceeds 8 percent, a high unemployment period  
25 shall exist.

26 (b) Effective with respect to weeks beginning in a high unemployment period, the total  
27 extended benefit amount payable to an eligible claimant for the claimant's eligibility  
28 period is the lesser of:

29 (1) 80 percent of the total amount of regular compensation payable to the claimant  
30 during the claimant's benefit year under the Act;

31 (2) 20 times the claimant's average weekly benefit amount; or

32 (3) 46 times the claimant's average weekly benefit amount, reduced by the regular  
33 compensation paid, during the claimant's benefit year under the Act.

34 (c) Pursuant to §209.025 of the Act, if the full federal funding for Extended Benefits  
35 provides for an additional extended benefit amount payable to an eligible claimant in  
36 excess of that provided for in subsection (b) of this section, that amount shall be the  
37 total extended benefit amount.

1 ~~(a) If the conditions under §815.170(a) or (b) of this subchapter are met except that the~~  
2 ~~average rate of total unemployment equals or exceeds 8 percent, a high~~  
3 ~~unemployment period shall exist.~~

4 ~~(b) Effective with respect to weeks beginning in a high unemployment period, the total~~  
5 ~~extended benefit amount payable to an eligible individual for the individual's~~  
6 ~~eligibility period is 80 percent of the total amount of regular benefits that were~~  
7 ~~payable to the individual under the Act in the individual's benefit year.~~

8 ~~(c) This section applies as long as §815.170 of this subchapter is in effect.~~

9 **§815.172. Concurrent Emergency Unemployment Compensation Programs.**

10 The Agency may pay unemployment compensation benefits under other emergency  
11 unemployment compensation programs that may be in effect prior to paying ~~extended~~  
12 Extended benefits ~~Benefits~~ under this subchapter.

13  
14 ~~§815.173. Eligibility Requirements during a Period of 100 Percent Federally Shared~~  
15 ~~Benefits.~~

16 ~~(a) Notwithstanding other eligibility provisions for extended benefits in the Act, an~~  
17 ~~individual's eligibility period shall include any eligibility period provided for in P.L.~~  
18 ~~111-5, Division B, Title II, §2005(b).~~

19 ~~(b) This section applies as long as §815.170 of this subchapter is in effect.~~

20 **§815.174. Financing of Extended Benefits.**

21 ~~(a) Pursuant to §209.025 of the Act, if full federal funding for Extended Benefits is~~  
22 ~~available, the provisions of §209.082, Charges to Reimbursing Employer, and~~  
23 ~~§209.083, Charges to Taxed Employer, of the Act shall not apply.~~

24 ~~(b) The provisions of §209.084, Charges to Governmental Employer, and §209.0845,~~  
25 ~~Charges to Indian Tribe, of the Act shall continue to apply.~~

26 ~~(a) If there is 100 percent federal sharing for extended benefits pursuant to P.L. 111-5,~~  
27 ~~Division B, Title II, §2005, the provisions of Subchapter E, Chapter 209 of the Act~~  
28 ~~relating to taxed employers shall not apply.~~

29 ~~(b) The provisions of §209.084, regarding Charges to Governmental Employer, and~~  
30 ~~§209.0845, regarding Charges to Indian Tribe, of the Act shall continue to apply.~~

31 ~~(c) This section applies as long as §815.170 of this subchapter is in effect.~~

1 SUBCHAPTER G. CARES ACT PROVISIONS

2  
3 §815.180. Definitions.

4 The following definitions shall apply to this subchapter:

- 5  
6 (1) CARES Act--refers to the Coronavirus Aid, Relief, and Economic Security  
7 Act, Public Law 116 - 136; TITLE II--Assistance for American Workers,  
8 Families, and Businesses; Subtitle A--Unemployment Insurance Provisions.  
9  
10 (2) FPUC--refers to the Federal Pandemic Unemployment Compensation  
11 provisions of §2104 of the CARES Act.  
12  
13 (3) FRWW--refers to the Federally Reimbursed Waiting Week provisions of  
14 §2105 of the CARES Act.  
15  
16 (4) PEUC--refers to the Pandemic Emergency Unemployment Compensation  
17 provisions of §2107 of the CARES Act.  
18  
19 (5) PUA--refers to the Pandemic Unemployment Assistance provisions of §2102  
20 of the CARES Act.

21  
22 §815.181. Coordination of Emergency Unemployment Compensation CARES Act  
23 Programs with Regular Compensation.

- 24 (a) For an individual who is eligible for regular compensation, including Unemployment  
25 Compensation for Federal Employees (UCFE) and Unemployment Compensation  
26 for Ex-servicemembers (UCX), the following order of payment applies:  
27  
28 (1) The claimant must first apply for and receive regular compensation. The  
amount and duration of these benefits are as defined by the Act;  
29  
30 (2) if the claimant exhausts regular compensation, the claimant may then be  
eligible to receive PEUC;  
31  
32 (3) if the claimant exhausts PEUC and the state has "triggered on" to Extended  
33 Benefits (EB) under Chapter 209 of the Act, the claimant may then be eligible  
to receive EB;  
34  
35 (4) if the State is not "triggered on" to EB or the individual exhausts EB, the  
36 claimant may then be eligible to receive PUA. If the State "triggers on" to EB  
37 during the period in which the claimant is collecting PUA and the claimant has  
38 not previously exhausted entitlement to EB for the respective benefit year, then  
the claimant must stop collecting PUA and file for EB; and

1           (5) if the claimant meets the qualifications to receive Trade Readjustment  
2           Allowances (TRA), such benefits will be payable after regular compensation,  
3           PEUC, EB if "triggered on", and PUA.

4           (b) For a claimant who is not eligible for regular compensation, EB, or PEUC, and who  
5           meets the federal requirements, the individual may be eligible to collect PUA.

6           (c) FPUC provides for additional compensation to an individual collecting regular  
7           compensation, PEUC, PUA, EB, a Shared Work program under Chapter 215 of the  
8           Act, TRA, and Disaster Unemployment Assistance (DUA). Claimants will receive  
9           FPUC payments concurrently with payments under these programs. This applies for  
10           the benefit week ending April 4, 2020 through the benefit week ending July 25, 2020  
11           unless subsequently amended by federal law.

12           ~~(a) The Commission shall establish a new benefit year, but defer the payment of regular~~  
13           ~~compensation with respect to that new benefit year until exhaustion of all emergency~~  
14           ~~unemployment compensation payable with respect to the prior benefit year if the~~  
15           ~~individual's weekly benefit amount of regular compensation in the new benefit year~~  
16           ~~is at least \$100 or 25 percent less than the individual's weekly benefit amount in the~~  
17           ~~immediately preceding benefit year.~~

18  
19           ~~(b) This section continues in effect as long as the provisions of P.L. 111 205 §3, or any~~  
20           ~~amendments thereto, remain in effect. At such time that these federal provisions are~~  
21           ~~no longer in effect, this section is repealed.~~

### 22 23           §815.182. Title Appeals.

24  
25           (a) A claimant may appeal an adverse FPUC, FRWW, PEUC, or PUA determination  
26           pursuant to the provisions and timeframes of Chapter 212 of the Act and the  
27           provisions set out in §815.16 of this chapter (relating to Appeals to Appeal Tribunals  
28           from Determinations), §815.17 of this chapter (relating to Appeals to the  
29           Commission from Decisions), and §815.18 of this chapter (relating to General Rules  
30           for Both Appeal Stages).

31           (b) An employer is not a "party of interest", pursuant to §815.15(c) of this chapter  
32           (relating to Parties with Appeal Rights), to a FPUC, FRWW, PEUC, or PUA  
33           determination and therefore does not have appeal rights. An employer may appear at  
34           a FPUC, FRWW, PEUC, or PUA hearing to offer evidence when appropriate.

35  
36           (c) When considering an appeal involving FPUC, the Appeal Tribunal and Commission  
37           shall look to the merits of the denial of the underlying benefit when determining  
38           eligibility for FPUC payments.

### 39 40           §815.183. Waiver.

41  
42           (a) FPUC, the FRWW, and PEUC are federal extended unemployment compensation  
43           programs and therefore subject to §815.12 of this chapter (relating to Waiver of

1 Repayment and Recovery of Federal Extended Unemployment Compensation  
2 Overpayments).

3 (b) PUA, as provided by P.L. 116 - 136 §2102, is related to Disaster Unemployment  
4 Assistance programs regulated under Title 20, Part 625, Code of Federal  
5 Regulations. Therefore, PUA does not constitute a federal extended unemployment  
6 compensation program and the waiver provisions of §815.12 of this chapter do not  
7 apply.

8  
9 **§815.1834. Title Overpayments.**

10  
11 (a) Unless a FPUC, FRWW, or PEUC overpayment is otherwise recovered, or is  
12 waived, the Agency shall, during the three-year period after the date the claimant  
13 received the payment of FPUC, FRWW, or PEUC to which the claimant was not  
14 entitled, recover the overpayment by deductions from any sums payable to the  
15 claimant. No single deduction may exceed 50 percent of the amount otherwise  
16 payable to the claimant.

17 (b) Unless a PUA overpayment is otherwise recovered, the Agency shall recover the  
18 overpayment by deductions from any sums payable to the claimant. A PUA  
19 overpayment may not be waived per §815.183(b) of this chapter and is not subject to  
20 the three-year period limitation stated in subsection(a) of this section. No single  
21 deduction may exceed 50 percent of the amount otherwise payable to the claimant.

22 (c) If a claimant has an unemployment benefits overpayment with an appropriate agency  
23 in another state, and the Agency has a reciprocal arrangement with that other state  
24 agency under §211.004 of the Act, the Agency shall deduct 50 percent per each  
25 single deduction of the amount of FPUC, FRWW, PEUC, or PUA otherwise payable  
26 to the claimant.

27  
28 **§815.185. Fraud.**

29  
30 (a) A penalty for fraudulently obtaining benefits under §214.003 of the Act shall not  
31 apply to fraudulently obtained FPUC, FRWW, PEUC, and PUA benefits forfeited.

32 (b) The Agency and the Commission shall examine the underlying payment or statement  
33 which precipitated the fraud determination when examining FPUC fraud.

34  
35 (c) In determining disqualification for fraud under PUA, the provisions of 20 C.F.R.  
36 §625.14(i) shall apply.