

1 **CHAPTER 813. SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM**
2 **EMPLOYMENT AND TRAINING**

3
4 **PROPOSED RULES WITH PREAMBLE TO BE SUBMITTED TO THE TEXAS**
5 **REGISTER. THIS DOCUMENT WILL HAVE NO SUBSTANTIVE CHANGES BUT IS**
6 **SUBJECT TO FORMATTING CHANGES AS REQUIRED BY THE TEXAS REGISTER.**
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8 **ON APRIL 17, 2018, THE TEXAS WORKFORCE COMMISSION PROPOSED THE**
9 **BELOW RULES WITH PREAMBLE TO BE SUBMITTED TO THE TEXAS REGISTER.**

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11 Estimated Publication Date of the Proposal in the *Texas Register*: **May 4, 2018**

12 Estimated End of Comment Period: **June 4, 2018**

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14 The Texas Workforce Commission (TWC) proposes amendments to the following section of
15 Chapter 813, relating to Supplemental Nutrition Assistance Program Employment and Training
16 (SNAP E&T):

17
18 Subchapter B. Access to Employment and Training Activities and Support Services, §813.13

19
20 **PART I. PURPOSE, BACKGROUND, AND AUTHORITY**

21 **PART II. EXPLANATION OF INDIVIDUAL PROVISIONS**

22 **PART III. IMPACT STATEMENTS**

23 **PART IV. COORDINATION ACTIVITIES**

24
25 **PART I. PURPOSE, BACKGROUND, AND AUTHORITY**

26 The purpose of the proposed Chapter 813 rule change is to amend the rule to clarify the
27 respective roles of TWC and the Texas Health and Human Services Commission (HHSC) in the
28 good cause determination process.

29
30 The US Department of Agriculture Food and Nutrition Service (FNS) conducted a SNAP E&T
31 Management Evaluation (ME) review in June 2015 to evaluate TWC's operation and compliance
32 with established policies, regulatory requirements, and quality standards. FNS determined that
33 TWC's process with respect to good cause determination did not fully comply with federal law
34 and regulations requiring that only merit staff be permitted to conduct SNAP certifications, and
35 prohibiting SNAP E&T funds from being used for certification activities. FNS emphasized that
36 HHSC must be the agency responsible for determining good cause, with TWC's input limited to
37 a recommendation.

38
39 Section 813.13 of TWC's current SNAP E&T rules sets out the criteria for good cause
40 determinations, specifying that Local Workforce Development Boards (Boards) make good
41 cause determinations for mandatory work registrants and for exempt recipients who participate
42 voluntarily in SNAP E&T services. However, based on the finding by FNS during the ME
43 review, TWC must amend the rule to reflect that HHSC is the agency responsible for
44 determining good cause, limiting TWC's input to a recommendation made by Board staff and to
45 reflect that good cause does not apply to exempt recipients who participate voluntarily in SNAP
46 E&T services.

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2 **PART II. EXPLANATION OF INDIVIDUAL PROVISIONS**

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

5
6 **SUBCHAPTER B. ACCESS TO EMPLOYMENT AND TRAINING ACTIVITIES AND**
7 **SUPPORT SERVICES**

8 **TWC proposes the following amendments to Subchapter B:**

9
10 **§813.13. Good Cause for Mandatory Work Registrants Who Participate in SNAP E&T**
11 **Services**

12
13 Section 813.13 is renamed "Good Cause for Mandatory Work Registrants Who Participate in
14 SNAP E&T Services," because good cause does not apply to exempt recipients who voluntary
15 participate in SNAP E&T services.

16
17 Section 813.13(a):

18 --adds language to clarify that good cause applies only to work registrants who are required to
19 participate in SNAP E&T services;

20 --deletes "exempt recipients who voluntarily participate in SNAP E&T service"; and

21 --clarifies that good cause is recommended to HHSC for approval.

22
23 Section 813.13(b) is deleted because Boards do not make good cause determinations.

24
25 Section 813.13(c):

26 --deletes "reasons constitutes good cause" and adds "legitimate reasons for failing to participate
27 in SNAP E&T activities" for clarity;

28 --deletes "exempt recipient who voluntarily";

29 --changes "Texas Workforce Center" to "Workforce Solutions Office"; and

30 --is re-lettered as subsection (b).

31
32 Section 813.13(d) is amended to clarify that Boards will monitor good cause monthly and share
33 results with HHSC if there is a change in the circumstances surrounding the good cause
34 exception. Paragraph (2) is deleted because boards cannot extend good cause.

35
36 **PART III. IMPACT STATEMENTS**

37 Randy Townsend, Chief Financial Officer, has determined that for each year of the first five
38 years the rule will be in effect, the following statements will apply:

39
40 There are no additional estimated costs to the state and to local governments expected as a result
41 of enforcing or administering the rule.

42
43 There are no estimated cost reductions to the state and to local governments as a result of
44 enforcing or administering the rule.

1 There are no estimated losses or increases in revenue to the state or to local governments as a
2 result of enforcing or administering the rule.

3
4 There are no foreseeable implications relating to costs or revenue of the state or local
5 governments as a result of enforcing or administering the rule.

6
7 There are no anticipated economic costs to individuals required to comply with the rule.

8
9 There is no anticipated adverse economic impact on small businesses, microbusinesses, or rural
10 communities as a result of enforcing or administering the rule.

11
12 Based on the analyses required by Texas Government Code §2001.024, TWC has determined
13 that the requirement to repeal or amend a rule, codified at Texas Government Code §2001.0045,
14 does not apply to this rulemaking.

15
16 Government Growth Impact Statement

17 TWC has determined that during the first five years the amendment will be in effect:

- 18 --the proposed amendment will not create or eliminate a government program;
- 19 --implementation of the proposed amendment will not require the creation or elimination of
20 employee positions;
- 21 --implementation of the proposed amendment will not require an increase or decrease in future
22 legislative appropriations to TWC;
- 23 --the proposed amendment will not require an increase or decrease in fees paid to TWC;
- 24 --the proposed amendment will not create a new regulation;
- 25 --the proposed amendment will not expand, limit, or eliminate an existing regulation;
- 26 --the proposed amendment will not change the number of individuals subject to the rule; and
- 27 --the proposed amendment will not positively or adversely affect the state's economy.

28
29 Economic Impact Statement and Regulatory Flexibility Analysis

30 TWC has determined that the proposed rule will not have an adverse economic impact on small
31 businesses or rural communities, as these proposed rules place no requirements on small
32 businesses or rural communities.

33
34 Doyle Fuchs, Director of Labor Market and Career Information, has determined that there is no
35 significant negative impact upon employment conditions in the state as a result of the rules.

36
37 Courtney Arbour, Director, Workforce Development Division, has determined that for each year
38 of the first five years the rule is in effect, the public benefit anticipated as a result of enforcing
39 the proposed rule will be to comply with statutory requirements and clarify rule language.

40
41 TWC hereby certifies that the proposal has been reviewed by legal counsel and found to be
42 within TWC's legal authority to adopt.

43
44 **PART IV. COORDINATION ACTIVITIES**

45 In the development of this rule for publication and public comment, TWC sought the
46 involvement of Texas' 28 Boards. TWC provided the concept paper regarding this rule

1 amendment to the Boards for consideration and review on October 31, 2017. TWC also
2 conducted a conference call with Board executive directors and Board staff on November 3,
3 2017, to discuss the concept paper. During the rulemaking process, TWC considered all
4 information gathered in order to develop rules that provide clear and concise direction to all
5 parties involved.

6
7 Comments on the proposed rule may be submitted to TWC Policy Comments, Workforce Policy
8 and Service Delivery, attn: Workforce Editing, 101 East 15th Street, Room 459T, Austin, Texas
9 78778; faxed to (512) 475-3577; or e-mailed to TWCPolicyComments@twc.state.tx.us.

10
11 Comments must be received or postmarked no later than 30 days from the date this proposal is
12 published in the *Texas Register*.

13
14 The rule is proposed under Texas Labor Code §301.0015 and §302.002(d), which provide TWC
15 with the authority to adopt, amend, or repeal such a rule as it deems necessary for the effective
16 administration of TWC services and activities.

17
18 The proposed rule affects Texas Labor Code, Title 4, particularly Chapters 301 and 302, as well
19 as Texas Government Code, Chapter 2308.

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4 **SUBCHAPTER B. ACCESS TO EMPLOYMENT AND TRAINING ACTIVITIES AND**
5 **SUPPORT SERVICES**

6
7 **§813.13. Good Cause for Mandatory Work Registrants ~~and Exempt Recipients~~ Who**
8 **~~Voluntarily~~ Participate in SNAP E&T Services.**

9
10 (a) Good cause applies only to mandatory work registrants who are required to
11 participate in SNAP E&T services~~and exempt recipients who voluntarily participate~~
12 ~~in SNAP E&T services~~. A Board shall ensure that good cause is ~~determined~~
13 recommended to HHSC for approval before SNAP benefits are denied when
14 mandatory work registrants state that they have a legitimate reason for:

- 15
16 (1) ~~mandatory work registrants state that they have a legitimate reason for~~ failing
17 to respond to the outreach notification; and
18
19 (2) ~~mandatory work registrants and exempt recipients who voluntarily participate~~
20 ~~in SNAP E&T services have legitimate reasons for~~ failing to participate in
21 SNAP E&T activities.

22
23 ~~(b) A Board shall ensure that a good cause determination:~~

- 24
25 ~~(1) is based on individual and family circumstances;~~
26
27 ~~(2) is based on face to face or telephone contact;~~
28
29 ~~(3) includes a temporary period when mandatory work registrants or exempt~~
30 ~~recipients who voluntarily participate in SNAP E&T services may be unable to~~
31 ~~attend scheduled appointments or participate in ongoing work activities; and~~
32
33 ~~(4) is made at the time the change in circumstances is made known to the Board's~~
34 ~~service provider.~~

35
36 **(b)(e)** For purposes of this chapter, the following ~~reasons constitute good cause~~
37 are
38 legitimate reasons for failing to respond to outreach notifications or failing to
39 participate in SNAP E&T activities:

- 40 (1) temporary illness or incapacitation;
41
42 (2) court appearance;
43
44 (3) caring for a physically or mentally disabled household member who requires
45 the recipient's presence in the home;
46

- 1 (4) no available transportation and the distance prohibits walking; or no available
2 job within reasonable commuting distance, as defined by the Board;
3
- 4 (5) distance from the home of the mandatory work registrant, ~~or exempt recipient~~
5 who ~~voluntarily~~ participates in SNAP E&T services, to the ~~Texas~~ Workforce
6 ~~Center~~ Solutions Office, or employment service provider requires commuting
7 time of more than two hours a day (not including taking a child to and from a
8 child care facility), ~~and~~ the distance prohibits walking, and there is no available
9 transportation;
10
- 11 (6) farmworkers who are away from their permanent residence or home base, who
12 travel to work in an agriculture or related industry during part of the year, and
13 are under contract or similar agreement with an employer to begin work within
14 30 days of the date that the individual notified the Board of his or her seasonal
15 farmwork assignment;
16
- 17 (7) an inability to obtain needed child care, as defined by the Board and based on
18 the following reasons:
19
- 20 (A) informal child care by a relative or child care provided under other
21 arrangements is unavailable or unsuitable, and based on, where
22 applicable, Board policy regarding child care. Informal child care may
23 also be determined unsuitable by the parent;
24
- 25 (B) eligible formal child care providers, as defined in Chapter 809 of this title
26 (relating to Child Care Services), are unavailable;
27
- 28 (C) affordable formal child care arrangements within maximum rates
29 established by the Board are unavailable; and
30
- 31 (D) formal or informal child care within a reasonable distance from home or
32 the work site is unavailable;
33
- 34 (8) an absence of other support services necessary for participation;
35
- 36 (9) receipt of a job referral that results in an offer below the federal minimum
37 wage, except when a lower wage is permissible under federal minimum wage
38 law;
39
- 40 (10) an individual or family crisis or a family circumstance that may preclude
41 participation, including substance abuse and mental health and disability-
42 related issues, provided that the mandatory work registrant ~~or exempt recipient~~
43 who ~~voluntarily~~ participates in SNAP E&T services, engages in problem
44 resolution through appropriate referrals for counseling and support services; or
45
- 46 (11) an individual is a victim of family violence.

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~~(c)(d)~~ A Board shall ensure that good cause:

~~(1)~~ is ~~reevaluated~~ monitored at least on a monthly basis; and results are shared with HHSC if there is a change in the circumstances surrounding the good cause exception.

~~(2)~~ is extended if the circumstances giving rise to the good cause exception are not resolved after available resources to remedy the situation have been considered; and based on the existence of family violence, does not exceed a total of 12 consecutive months per occurrence.