

Updates from the Office of the Commissioner Representing Employers

Texas BusinessToday

Aaron S. Demerson
Commissioner Representing Employers

March 2023

Texas Employers,

Welcome to the March issue of *Texas Business Today*! Texas is continuing to BOOM! At the beginning of the month, Governor Greg Abbott announced that Texas won [Site Selection Magazine's](#) Governor's Cup for a record-shattering 11th consecutive year and 19th win overall — records unmatched by any other state. This cup is awarded to the top state for job creation, business relocations and expansions. Texas is a state that always welcomes new employers and supports our homegrown businesses, offering them the tools they need to succeed and build on our continued success as a global economic leader.

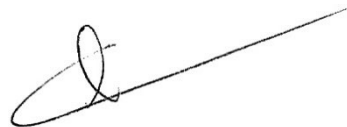


Texas also leads the nation in taking care of veterans by ensuring they have career opportunities when they transition back into civilian life. We recently recognized Samsung Austin Semiconductor for their efforts in hiring our nation's heroes through our We Hire Vets Employer Recognition Program. Their workforce is comprised of 17% veterans and they remain committed to hiring and retaining our Texas veterans!

Are you an employer that has at least 10% veterans? We want to recognize you! For more information on applying, click [HERE](#).

Lastly, don't forget to check out the list of our Texas Conference for Employers to see when we will be in your area. To check out the list of cities, please visit: <https://twc.texas.gov/texas-conference-employers>.

Let's Continue to Make Progress!



Aaron Demerson
Commissioner Representing Employers
Texas Workforce Commission



What Happens If You Miss an Unemployment Hearing?

By Mario Hernandez
Legal Counsel to Commissioner Aaron Demerson

It is not unusual for employers in our great state to be involved in unemployment claims. Sometimes, unemployment claims result in unemployment hearings. But what happens if an unemployment hearing is scheduled, and you miss the hearing? Do you get another chance? Is the case suddenly over? Is there no hope for it to be re-opened? This article will explore the term “good cause” as it relates to a non-appearance for an unemployment hearing.

Please note that this article only explores the issue of good cause to miss an unemployment hearing, which, for the purposes of this article, assumes that the employer has appealed in a timely manner, per Texas Workforce Commission (TWC) rules. This article does not explore the issue of missing the deadline to appeal in the first place. The latter situation is an issue of timeliness, which is a different and separate issue.

Good Cause at a Glance

First, missing an unemployment hearing is not always “game over” for the unemployment claim. Generally, a party must establish with credible and persuasive evidence that there was good cause to miss an unemployment hearing in order to re-open the case. The circumstances that constitute good cause to miss an unemployment hearing can vary depending on why the party missed the hearing. The TWC rules concerning good cause can be found in the Texas Administrative Code at the following link:

[https://texreg.sos.state.tx.us/public/readtac\\$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=20&ch=815&rl=16](https://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=20&ch=815&rl=16).

What Has Been Considered Good Cause?

Situations where good cause has been found (and not found) for missing an unemployment hearing are described in TWC’s Unemployment Benefits Appeals Policy & Precedent Manual, which can be found at the following link:

<https://twc.texas.gov/files/twc/appeals-policy-precedent-manual.pdf#page=175>.

Generally, good cause has been found for missing an unemployment hearing when a party was prevented from attending the hearing due to circumstances beyond the party’s control. (See: [Appeal No. 96-005851-10GC-051396](#) at the following link:

<https://twc.texas.gov/files/twc/appeals-policy-precedent-manual.pdf#page=177>).

Another situation where good cause has been found for missing an unemployment hearing is when a party has made a good faith effort to participate in the hearing. (See the following and their corresponding links: [Case No. 504981](#) <https://twc.texas.gov/files/twc/appeals-policy-precedent-manual.pdf#page=175>, [Appeal No. 93-012042-10*-082093](#) <https://twc.texas.gov/files/twc/appeals-policy-precedent-manual.pdf#page=179>, [Appeal No. 89-08868-10-081089](#) <https://twc.texas.gov/files/twc/appeals-policy-precedent-manual.pdf#page=179>).

What Has Not Been Considered Good Cause?

Just like there have been situations where good cause has been established, there is the other side of the coin where it has been concluded that a party did not have good cause for their non-appearance to an unemployment hearing.



For example, marking down the wrong date or time for the hearing on your calendar and then missing the hearing because of that error will generally not provide good cause for a non-appearance to an unemployment hearing. (See: [Appeal No. 95-004107-10*-032796](#) at the following link: <https://twc.texas.gov/files/twc/appeals-policy-precedent-manual.pdf#page=178>).

In addition, misreading the hearing notice, and then failing to appear at the hearing because of the misreading will generally not provide good cause for the non-appearance. (See: [Appeal No. 89-08533-10-081189](#) at the following link: <https://twc.texas.gov/files/twc/appeals-policy-precedent-manual.pdf#page=179>). However, there is a precedent case which states that "if a party's misreading of a hearing notice is a reasonable error and the party makes a good faith effort to participate after discovering the error, the party will have good cause to reopen under Commission Rule 16." (See: [Appeal No. 93-012042-10*-082093](#) at the following link: <https://twc.texas.gov/files/twc/appeals-policy-precedent-manual.pdf#page=179>).

Conclusion

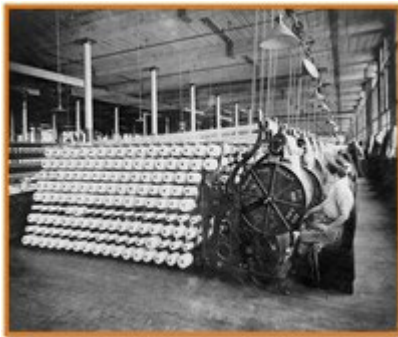
It should be noted that the scenarios above are not exhaustive, and each case stands alone to be decided on its own facts. An employer should not miss unemployment hearings, but the reality is that it can sometimes be unavoidable. Being familiar with the rules surrounding good cause can help the employer gain a better understanding of how non-appearances to unemployment hearings are analyzed.



Are Employers Required to Have Workers' Compensation Insurance in Texas?

By Melissa Gale
Director of Communications, Texas Department of Insurance,
Division of Workers' Compensation

Business owners have many decisions to make, including whether to provide workers' compensation coverage to their employees. Texas is the only state that gives private-sector employers that choice. Businesses that provide workers' compensation coverage are called "subscribers." Those who do not are called "non-subscribers."



The premise of workers' compensation is based on the Grand Bargain, a compromise between employers and employees that began to take hold nationally in the early 1900s.

This system, designed during the Industrial Revolution, protects employers from potentially crippling lawsuits brought by injured employees. In return for giving up their right to sue, employees are entitled to prompt medical treatment for their work-related injury or illness and income benefits to replace some of the wages they've lost. The system also

includes income benefits for beneficiaries of an employee who dies from a work-related injury.

The Texas Department of Insurance, Division of Workers' Compensation (DWC) doesn't pay benefits to injured employees. Our main role is to regulate the system and settle claim disputes between parties.

We also:

- Guide employers through the claims process when an employee is hurt.
- Help Texas employers create a safer workplace for their employees.
- Educate businesses about the system.

DWC also monitors the health of the workers' compensation system through our Research and Evaluation Group. Our latest research shows that in 2022, 83% of private-sector

employees worked for an employer that had workers' compensation coverage, the highest in 12 years.

Most employers who chose not to get workers' compensation coverage do carry alternative benefit plans, some of which are regulated by the Employee Retirement Income Security Act.

More employers are choosing to buy workers' compensation coverage mainly because the cost of premiums has dropped nearly 78% since 2003. Right now, the cost is \$0.51 per \$100 of payroll.

Workers' compensation is like other insurance. You don't know you need it...until you do.

While having workers' compensation coverage ensures your valued employees get medical treatment and replacement of some of their lost wages, there are other benefits. An experienced workers' compensation insurer can help you reduce lost productivity by getting your injured employees back to work faster and work with you to limit future claims to keep your premiums low.

Regardless of an employer's decision to get workers' compensation insurance, every Texas employer must report their coverage status to DWC every year between February 1 and April 30.

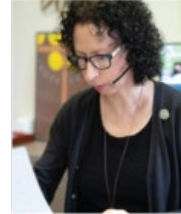
Find more info about:

- Reporting your coverage status tdi.texas.gov/wc/employer/cb007.html.
 - Workers' compensation rates tdi.texas.gov/wc/regulation/rcomp.html.
 - Other DWC employer resources tdi.texas.gov/wc/employer/index.html.
-

TEXAS EMPLOYER HOTLINE

1-800-832-9394

Hiring Issues · Medical Leave-Related Laws · Personnel Policies and Handbooks · Independent Contractors and Unemployment Tax Issues · The Unemployment Claims and Appeals Process · Texas and Federal Wage and Hour Laws



Employer Hotline Hours: M-F, 8am-5pm

Information provided by employment law attorneys in the Office of the Commissioner Representing Employers at the Texas Workforce Commission

Texas Business Today is provided to employers free of charge

Texas Business Today is a monthly update devoted to a variety of topics of interest to Texas employers. The views and analyses presented herein do not necessarily represent the policies or the endorsement of the Texas Workforce Commission. Articles containing legal analyses or opinions are intended only as a discussion and overview of the topics presented. Such articles are not intended to be comprehensive legal analyses of every aspect of the topics discussed. Due to the general nature of the discussions provided, this information may not apply in each and every fact situation and should not be acted upon without specific legal advice based on the facts in a particular case.

Connect with the Office of the Commissioner Representing Employers

Email: employerinfo@twc.texas.gov
Mail: Commissioner Representing Employers
101 E. 15th St., Rm 630
Austin, TX 78778