

PROPOSED RULES WITH PREAMBLE TO BE SUBMITTED TO THE *TEXAS REGISTER*. THIS DOCUMENT WILL NOT HAVE ANY SUBSTANTIVE CHANGES BUT IS SUBJECT TO FORMATTING CHANGES AS REQUIRED BY THE *TEXAS REGISTER*.

**40 T.A.C. CHAPTER 815. UNEMPLOYMENT INSURANCE
SUBCHAPTER B. BENEFITS, CLAIMS AND APPEALS
§815.28 WORK SEARCH REQUIREMENTS**

ON SEPTEMBER 9, 2003 THE TEXAS WORKFORCE COMMISSION PROPOSED THE BELOW RULE WITH PREAMBLE TO BE SUBMITTED TO THE *TEXAS REGISTER*.

Estimated Publication Date of the Proposal in the *Texas Register*: September 26, 2003.
Estimated End of Comment Period: October 27, 2003.

The Texas Workforce Commission (Commission) proposes the repeal of and new §815.28 titled Work Search Requirements, to Chapter 815 Unemployment Insurance, Subchapter B. Benefits, Claims and Appeals, concerning the establishment of methodologies to be used in formulating a numerical assignment of work search contacts and claimant work search requirements.

The purpose of the rule is to set forth provisions regarding the work search requirements that claimants must comply with and the process to be utilized by Local Workforce Development Boards when formulating the numerical weekly work search contact requirements. It is also the purpose of the rule to promote and support a workforce system that offers employers, individuals and communities the opportunity to achieve and sustain economic prosperity, by re-attaching claimants to the workforce.

The Commission continues to instruct claimants stressing the importance of work search, and they are told specifically that they must retain a work search log documenting job contacts. Commission staff will continue to verify work search logs and failure to maintain the work search log could adversely affect the claimant's receipt of benefits. The Commission enforces the work search regulations by requiring claimants to make weekly work search contacts in order to maintain eligibility for benefits. In addition, the Agency runs a nightly computerized cross-match to identify claimants who have failed to adhere to profiling participation requirements. Those who do not participate may be held to be ineligible for benefits.

The Commission verifies the work search of the claimants using random sampling. Random sampling is utilized because it has been determined to be statistically valid.

This rule represents the integration of the Unemployment Compensation function and the Workforce Development Boards. The rule describes the procedure a Local Workforce Development Board shall use when establishing a number of weekly work search contacts that a claimant must make in order to maintain the claimant's benefits. When

filing a claim for unemployment insurance benefits, each claimant is instructed to register for work. The claimants are informed that they must have a work registration on file within seven days of filing an initial claim as part of the eligibility requirements to receive unemployment insurance benefits, and that they may do so via the Agency job matching website or through their nearest Workforce Center. The phone number to the Center is provided.

The name, location and phone number of the nearest Workforce Center is also included in the information packet mailed to each claimant immediately after filing. Verification of compliance with work registration is automated between the unemployment insurance process and the Job Service Matching System, and claimants failing to comply may be held ineligible for benefits.

The Commission has determined that to hasten their return to work, claimants need guidance as to what constitutes a productive work search. The proposed rule provides examples of productive work search activities. These activities are examples of the types of activities that the Commission has determined will assist a claimant in his attempt to return to work.

The Commission has determined that language to define rural counties is appropriate for inclusion in the rule and that the population necessary to help define a rural county should be based on objective population data. Based on objective population data, the Commission has determined that the number is 10,000.

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

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

There are no estimated reductions in costs to the state and to local governments as a result of enforcing or administering the rule;

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

There are no foreseeable implications relating to costs or revenue to the state or local governments as a result of enforcing or administering the rule; and

There are no anticipated economic costs to persons required to comply with the rule.

Mr. Townsend, Chief Financial Officer, has determined that there is no adverse impact on small businesses as a result of enforcing or administering this rule as the rule does not require businesses to take any actions.

LaSha Lenzy, Director, Unemployment Insurance and Regulation Division, has determined that for each year of the first five years that the rule will be in effect the public benefit anticipated as a result of the adoption of the proposed rule is to make the work search requirements for Unemployment Insurance Benefits more reflective of local work force conditions.

Mark Hughes, Acting Director, Labor Market Information, has determined that there is no foreseeable negative impact upon employment conditions in this state as a result of this proposed rule.

For information about the Commission please visit our web page at www.twc.state.tx.us.

Comments on the proposed section may be submitted to John Moore, General Counsel, Texas Workforce Commission, 101 East 15th Street, Room 608, Austin, Texas 78778; Fax Number 512-463-2220; or e-mailed to john.moore@twc.state.tx.us. Comments must be received by the Agency no later than thirty (30) days from the date this proposal is published in the *Texas Register*.

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

The proposed repeal affects Texas Labor Code, Title 4.

SUBCHAPTER B. BENEFITS, CLAIMS AND APPEALS

§815.28. Work Search Requirements.

*n

The new rule is proposed under Texas Labor Code §301.061, which provides the Texas Workforce Commission with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of Agency services and activities.

The proposed rule affects Texas Labor Code, Title 4.

~~§815.28. Work Search Requirements.~~

~~A claimant shall be considered available for work when the claimant has made a reasonable search for suitable work. Mere registration for work does not establish that the claimant is making a reasonable search for suitable work. It is essential that the claimant make a personal and diligent search for work. The reasonableness of a search for work will, in part, depend upon the employment opportunities in the claimant's labor market area. A work search that may be appropriate in a labor market area with limited opportunities may be totally unacceptable in an area with greater opportunities. Unreasonable limitations by a claimant as to salary, hours, or conditions of work indicate that a claimant is not making a reasonable search for suitable work. The Agency expects~~

~~each claimant to act in the same manner as a prudent person who is out of work and seeking work.~~

<new>§815.28. Work Search Requirements.

- (a) Purpose. The purpose of this rule is to describe the work search requirements and process that must be met for claimants to continue to receive unemployment compensation benefits. A claimant is required to register for work, to actively seek work and be available for work, as well as accept suitable work. The rule also describes the process to be utilized by Local Workforce Development Boards when formulating the numerical weekly work search contact requirements.
 - (1) A claimant shall be considered available for work during the time the claimant is making a reasonable search for suitable work as defined by this section.
 - (A) Work registration alone does not establish that the claimant is making a reasonable search for suitable work.
 - (B) The claimant shall make a personal and diligent search for work.
 - (C) Unreasonable limitations by a claimant as to salary, hours, or conditions of work indicate that a claimant is not making a reasonable search for suitable work.
 - (D) The Agency expects each claimant to act in the same manner as a prudent person who is out of work and seeking work.
 - (2) The reasonableness of a search for work will, in part, depend upon the employment opportunities in the claimant's labor market area. A work search that may be appropriate in a labor market area with limited opportunities may be totally unacceptable in an area with greater opportunities.
- (b) General Work Search Requirements. A claimant shall make the minimum number of weekly work search contacts as required by the Agency.
 - (1) The claimant will be notified of the minimum number of weekly work search contacts required.
 - (2) If there is a change to the minimum weekly number of work search contacts, the claimant shall be notified of the change in writing by U.S. mail.

- (3) Claimants are required to maintain weekly work search contact logs and may be required to submit weekly work search contact logs, using an acceptable method as determined by the Agency.
 - (4) The Agency shall provide to and publish guidelines for claimants describing the types of activities that may constitute a work search contact for purposes of a productive search for suitable work. Examples of such activities include, but are not limited to:
 - (A) utilizing employment resources available at Workforce Centers that directly lead to obtaining employment, such as
 - (i) using local labor market information;
 - (ii) identifying skills the claimant possesses that are consistent with targeted or demand occupations in the local workforce development area;
 - (iii) attending job search seminars, or other employment workshops that offer instruction in developing effective work search or interviewing techniques;
 - (iv) obtaining job postings and seeking employment for suitable positions needed by local employers;
 - (B) attending job search seminars, job clubs, or other employment workshops that offer instruction in improving individuals' skills for finding and obtaining employment;
 - (C) interviewing with potential employers, in-person or by telephone;
 - (D) registering for work with a private employment agency, placement facility of a school, or college or university if one is available to the claimant in his or her occupation or profession;
 - (E) other work search activities as may be provided in Agency guidelines.
 - (5) Failure to comply with work search requirements, without good cause, could result in an ineligibility determination, and discontinuance of benefits.
- (c) Number of Work Search Requirements. The minimum number of weekly contacts assigned shall be three work search contacts for all claimants, unless otherwise provided by this section.
 - (d) A Local Workforce Development Board (Board), based on specific local labor market information and conditions, may advise the Agency that a claimant

residing in the Board's area should make more than three work search contacts per week.

- (e) Rural Counties. In counties designated as "rural" by the Agency the minimum number of weekly work search contacts may be reduced in response to specific local labor market information and conditions. "Rural" counties are defined as those counties having a population estimated by the Texas State Data Center at Texas A&M University to be not more than 10,000 as of July 1 of the most recent year for which county population estimates have been published.
- (f) Local Boards shall have the flexibility within the guidelines provided in this section to formulate the appropriate number of work search contacts for their respective area, using appropriate guidelines to be developed in consultation with agency staff, and shall maintain written documentation. Boards shall review the assigned number of contacts for each area at least once per year on a date to be determined by the Agency.
- (g) Local Policies. A Local Board shall develop, adopt, and modify its policies to promulgate the appropriate methodology for formulating the appropriate number of work search contacts for its area in a public process consistent with the procedures required for compliance with the Texas Open Meetings Act, Texas Government Code, Chapter 551 *et seq.* A Board shall maintain written copies of the policies that are required by federal and state law or as requested by the Agency and make such policies available to the Agency and the public upon request. A Board shall also submit any modifications, amendments, or new policies to the Agency no later than two weeks after adoption of the policy by the Board.

*n