

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

3
4 **ADOPTED 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 JULY 31, 2018, THE TEXAS WORKFORCE COMMISSION ADOPTED THE RULES**
9 **BELOW WITH PREAMBLE TO BE SUBMITTED TO THE *TEXAS REGISTER*.**

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11 Estimated date of publication in the *Texas Register*: **August 17, 2018**

12 The rules will take effect: **August 21, 2018**

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14 The Texas Workforce Commission (TWC) adopts amendments to the following section of
15 Chapter 813, relating to Supplemental Nutrition Assistance Program Employment and Training
16 (SNAP E&T), with changes, as published in the May 4, 2018, issue of the *Texas Register* (43
17 TexReg 2719):

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

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

22 **PART II. EXPLANATION OF INDIVIDUAL PROVISIONS WITH COMMENTS AND RESPONSES**

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

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

28
29 The US Department of Agriculture Food and Nutrition Service (FNS) conducted a SNAP E&T
30 Management Evaluation (ME) review in June 2015 to evaluate TWC's operation and compliance
31 with established policies, regulatory requirements, and quality standards. FNS determined that
32 TWC's process with respect to good cause determination did not fully comply with federal law
33 and regulations requiring that only merit staff be permitted to conduct SNAP certifications, and
34 prohibiting SNAP E&T funds from being used for certification activities. FNS emphasized that
35 HHSC must be the agency responsible for determining good cause, with TWC's input limited to
36 forwarding all claims for good cause to HHSC for determination.

37
38 Section 813.13 of TWC's current SNAP E&T rules sets out the criteria for good cause
39 determinations, specifying that Local Workforce Development Boards (Boards) make good
40 cause determinations for mandatory work registrants and for exempt recipients who participate
41 voluntarily in SNAP E&T services. However, based on the finding by FNS during the ME
42 review, TWC must amend the rule to reflect that HHSC is the agency responsible for
43 determining good cause, limiting TWC's input to Board staff forwarding all claims for good
44 cause to HHSC for determination and to reflect that good cause does not apply to exempt
45 recipients who participate voluntarily in SNAP E&T services.

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

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

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

7 **TWC adopts the following amendments to Subchapter B:**

8
9 **§813.13. Good Cause for Mandatory Work Registrants Who Participate in SNAP E&T**
10 **Services**

11
12 Section 813.13 is renamed "Good Cause for Mandatory Work Registrants Who Participate in
13 SNAP E&T Services," because good cause does not apply to exempt recipients who voluntary
14 participate in SNAP E&T services.

15
16 Section 813.13(a):

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

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

20 --clarifies that all claims for good cause are forwarded to HHSC for determination.

21
22 Section 813.13(b) is deleted because Boards do not make good cause determinations.

23
24 Section 813.13(c):

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

27 --deletes "exempt recipient who voluntarily";

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

29 --is relettered as subsection (b).

30
31 Section 813.13(d) is relettered as subsection (c) and amended to clarify that Boards will monitor
32 good cause monthly and share results with HHSC if there is a change in the circumstances
33 surrounding the good cause exception. Paragraph (2) is deleted because Boards cannot extend
34 good cause.

35
36 No comments were received. However, TWC amended subsection (a) to remove unintended
37 ambiguity regarding the final authority over approval of good cause claims by more clearly
38 explaining that a Board shall ensure that all good cause claims are forwarded to HHSC for
39 determination.

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

43
44 The rule is adopted under Texas Labor Code §301.0015 and §302.002(d), which provide TWC
45 with the authority to adopt, amend, or repeal such a rule as it deems necessary for the effective
46 administration of TWC services and activities.

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- 2 The adopted rule affects Texas Labor Code, Title 4, particularly Chapters 301 and 302, as well as
- 3 Texas Government Code, Chapter 2308.

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5 **SUBCHAPTER B. ACCESS TO EMPLOYMENT AND TRAINING ACTIVITIES AND**
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7
8 **§813.13. Good Cause for Mandatory Work Registrants Who Participate in SNAP E&T**
9 **Services.**

- 10
11 (a) Good cause applies only to mandatory work registrants who are required to
12 participate in SNAP E&T services. A Board shall ensure that all good cause claims
13 are forwarded to HHSC for determination before SNAP benefits are denied when
14 mandatory work registrants state that they have a legitimate reason for:
15
16 (1) failing to respond to the outreach notification; and
17
18 (2) failing to participate in SNAP E&T activities.
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20
21 (b) For purposes of this chapter, the following are legitimate reasons for failing to
22 respond to outreach notifications or failing to participate in SNAP E&T activities:
23
24 (1) temporary illness or incapacitation;
25
26 (2) court appearance;
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28 (3) caring for a physically or mentally disabled household member who requires
29 the recipient's presence in the home;
30
31 (4) no available transportation and the distance prohibits walking; or no available
32 job within reasonable commuting distance, as defined by the Board;
33
34 (5) distance from the home of the mandatory work registrant who participates in
35 SNAP E&T services, to the Workforce Solutions Office, or employment
36 service provider requires commuting time of more than two hours a day (not
37 including taking a child to and from a child care facility), the distance prohibits
38 walking, and there is no available transportation;
39
40 (6) farmworkers who are away from their permanent residence or home base, who
41 travel to work in an agriculture or related industry during part of the year, and
42 are under contract or similar agreement with an employer to begin work within
43 30 days of the date that the individual notified the Board of his or her seasonal
44 farmwork assignment;
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- (7) an inability to obtain needed child care, as defined by the Board and based on the following reasons:
 - (A) informal child care by a relative or child care provided under other arrangements is unavailable or unsuitable, and based on, where applicable, Board policy regarding child care. Informal child care may also be determined unsuitable by the parent;
 - (B) eligible formal child care providers, as defined in Chapter 809 of this title (relating to Child Care Services), are unavailable;
 - (C) affordable formal child care arrangements within maximum rates established by the Board are unavailable; and
 - (D) formal or informal child care within a reasonable distance from home or the work site is unavailable;
 - (8) an absence of other support services necessary for participation;
 - (9) receipt of a job referral that results in an offer below the federal minimum wage, except when a lower wage is permissible under federal minimum wage law;
 - (10) an individual or family crisis or a family circumstance that may preclude participation, including substance abuse and mental health and disability-related issues, provided that the mandatory work registrant who participates in SNAP E&T services engages in problem resolution through appropriate referrals for counseling and support services; or
 - (11) an individual is a victim of family violence.
- (c) A Board shall ensure that good cause is 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.