

1 **CHAPTER 821. TEXAS PAYDAY RULES**

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3 **ADOPTED 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 ON **JUNE 16, 2020**, THE TEXAS WORKFORCE COMMISSION ADOPTED THE BELOW
7 RULES WITH PREAMBLE TO BE SUBMITTED TO THE *TEXAS REGISTER*.

8
9 Estimated date of publication in the *Texas Register*: **July 3, 2020**

10 The rules will take effect: **July 6, 2020**

11 The Texas Workforce Commission (TWC) adopts, without changes, as published in the April 3,
12 2020, issue of the *Texas Register* (45 TexReg 2283) amendments to the following section of
13 Chapter 821, relating to Texas Payday Rules:

14
15 Subchapter C. Wage Claims, §821.43

16
17 **PART I. PURPOSE, BACKGROUND, AND AUTHORITY**

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

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

21 The purpose of the Chapter 821 rule change is to clarify that a claimant can withdraw a wage
22 claim at any time up to the point at which TWC's written order becomes final. An order becomes
23 final for all purposes under the following circumstances:

24
25 --If either party does not file an appeal within 21 days from the date the Preliminary Wage
26 Determination Order is mailed

27
28 --If either party does not file an appeal within 14 days from the date the Wage Claim Appeal
29 Tribunal or Commission order is mailed

30
31 --A denial of a Motion for Rehearing becomes final 14 days after the date it is mailed.

32
33 --A denial of a Motion for Rehearing, or order of the Commission when no Motion for
34 Rehearing has been filed, becomes final 14 days from the date it is mailed regardless as to
35 whether a party files for judicial review of the decision

36
37 Per §821.43 as currently written, a claimant may withdraw a wage claim whether or not it has
38 become final. When a withdrawal request is submitted and approved, TWC no longer enforces
39 any orders issued (including administrative penalties) and releases all liens and freezes. It is as if
40 the claimant never filed the wage claim.

41
42 The Agency has determined that §821.43(a)(2) creates legal challenges by implying that the
43 wage claimant may alter or set aside a claim that has become final.

1 Because a claimant may not alter or set aside a claim after the TWC decision is final, TWC no
2 longer accepts a wage claim withdrawal submitted pursuant to §821.43(a)(2). Instead, in cases in
3 which a wage claim decision has become final and the claimant wants TWC to halt collection
4 action, the claimant may file a Satisfaction of Payment Declaration.

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6 A Satisfaction of Payment Declaration differs from a withdrawal in that TWC will still recognize
7 that an order has been issued, but the Collections and Civil Actions department will cease
8 collections action on wages owed by the employer to the claimant under a wage claim. The
9 employer will still be liable for any administrative penalties assessed on the claim. TWC will
10 release any liens or freezes on the claim once the employer pays any administrative penalties
11 owed.

12
13 TWC does not process contractual settlements between parties regarding wage claims. If the
14 parties reach an outside settlement, and the TWC order is not yet final, the claimant may
15 withdraw a wage claim. If an order has become final, the claimant may declare satisfaction of
16 payment with respect to the settlement. The Satisfaction of Payment Declaration has the effect of
17 ceasing the wage order collection process.

18
19 A claimant may not rescind a withdrawal of wage claim or Satisfaction of Payment Declaration
20 once it has been submitted. If the employer does not fulfill the terms of the settlement, the
21 claimant may not "undo" either action.

22 23 **PART II. EXPLANATION OF INDIVIDUAL PROVISIONS**

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

26 27 **SUBCHAPTER C. WAGE CLAIMS**

28 **TWC adopts the following amendments to Subchapter C:**

29 30 **§821.43. Wage Claim Withdrawal**

31 Section 821.43(a) is amended to delete paragraphs (1) and (2) to clearly stipulate that a claimant
32 may withdraw a wage claim at any point up to when TWC's written order becomes final.

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34 No comments were received.

35
36 TWC hereby certifies that the adoption has been reviewed by legal counsel and found to be
37 within TWC's legal authority to adopt.

38
39 The rules are adopted under Texas Labor Code §61.002(a)(2), which directs TWC to adopt rules
40 as necessary to implement Chapter 61, the Texas Payday Law.

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42 The adopted rules affect Texas Labor Code Chapter 61.

1 **Chapter 821. TEXAS PAYDAY RULES**

2
3 **SUBCHAPTER C. WAGE CLAIMS**

4
5 **§821.43. Wage Claim Withdrawal.**

- 6
7 (a) The Commission shall allow a claimant to withdraw a wage claim at any time
8 before the date when the Commission's written decision becomes final.
9
10 (b) A claimant withdrawing a wage claim shall submit a form as prescribed by the
11 Commission.
12
13 (c) The Commission shall apply the withdrawal of a wage claim to both
14 administrative penalties and wages.